

ACT 177

H.B. NO. 668

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that one of the top recommendations of the “Medical Cannabis Working Group Report to the Hawaii State Legislature” in 2010 was the transfer of the administration of Hawaii’s medical use of marijuana program from the department of public safety to the department of health. The status of the medical use of marijuana program as a public health program is more in line with the mission and expertise of the department of health. The department of health is experienced in working with patients and health programs, including important tasks such as public outreach and education, and safeguarding patient privacy.

The purpose of this Act is to transfer the State’s medical use of marijuana program from the department of public safety to the department of health.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- Medical marijuana registry special fund; established. (a) There is established within the state treasury the medical marijuana registry special fund. The fund shall be expended at the discretion of the director of health:

- (1) To offset the cost of the processing and issuance of patient registry identification certificates and primary caregiver registration certificates;
- (2) To fund positions authorized by the legislature;

- (3) To establish and manage a secure and confidential database; and
- (4) For any other expenditure necessary, as authorized by the legislature, to implement a medical marijuana registry program.

(b) The fund shall consist of all moneys derived from fees collected pursuant to subsection (c). All fees collected pursuant to subsection (c) shall be deposited into the medical marijuana registry special fund.

(c) The department, upon completion of the transfer of the medical use of marijuana program, shall charge a medical marijuana registration fee of no more than \$35.”

SECTION 3. Section 329-59, Hawaii Revised Statutes, is amended to read as follows:

“§329-59 Controlled substance registration revolving fund; established. (a) There is established within the state treasury the controlled substance registration revolving fund. The fund shall be expended at the discretion of the director of public safety for the purpose of:

- (1) Offsetting the cost of the electronic prescription accountability system, investigation of violations of this chapter, the registration and control of the manufacture, distribution, prescription, and dispensation of controlled substances and regulated chemicals listed under section 329-61, within the State [~~and the processing and issuance of a patient registry identification certificate designated under part IX~~];
- (2) Funding positions authorized by the legislature by law; and
- (3) Funding the narcotics enforcement division’s forensic drug laboratory facility.

(b) The fund shall consist of all moneys derived from fees collected pursuant to sections 329-31[;] and 329-67[;] ~~and 329-123(b)~~ and legislative appropriations. All fees collected pursuant to sections 329-31[;] and 329-67[;] ~~and 329-123(b)~~ shall be deposited in the controlled substance registration revolving fund.”

SECTION 4. (a) No later than January 1, 2015, all rights, powers, functions, and duties of the department of public safety relating to the medical use of marijuana under part IX of chapter 329, Hawaii Revised Statutes, shall be transferred to the department of health.

(b) All employees who occupy civil service positions and whose functions are transferred to the department of health by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreement), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee’s exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment require-

ments for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of health may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

SECTION 5. The department of public safety shall facilitate the transfer of functions pursuant to this Act by collaborating with, cooperating with, and assisting the department of health with assuming jurisdiction of and responsibilities for the medical use of marijuana program.

In order to facilitate the transfer of functions pursuant to this Act, until all relevant records are transferred to the department of health, the duties of the department of public safety shall include but not be limited to maintaining a confirmation service of the registration and certification of physicians, qualifying patients, and primary caregivers, pursuant to section 329-123, Hawaii Revised Statutes, which service shall operate twenty-four hours per day, seven days per week, and shall be accessible to the department of health.

SECTION 6. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, or acquired exclusively for the medical use of marijuana program, or held by the department of public safety relating to the functions transferred to the department of health shall be transferred with the functions to which they relate.

SECTION 7. All surplus moneys collected exclusively for the medical use of marijuana program by the department of public safety pursuant to section 329-123(b), Hawaii Revised Statutes, on or before June 30, 2013, and placed into the controlled substance registration revolving fund established by section 329-59, Hawaii Revised Statutes, after all medical use of marijuana program expenses have been paid by the department of public safety, shall be transferred, into the medical marijuana registry special fund by September 1, 2013. On January 1, 2015, any surplus moneys collected exclusively for the medical use of marijuana program by the department of public safety pursuant to section 329-123(b), Hawaii Revised Statutes, between September 1, 2013, and December 31, 2014, shall be transferred into the medical marijuana registry special fund.

SECTION 8. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of public safety that are reenacted or made applicable to the department of health by this Act shall remain in full force and effect until amended or repealed by the department of health pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of public safety or director of public safety in those rules, policies, procedures, guidelines, and other material is amended to refer to the department of health or director of health, as appropriate.

SECTION 9. All designated forms for written certifications issued by the department of public safety shall be valid under the department of health until the department of health issues new designated forms.

SECTION 10. The department of public safety and the department of health shall develop and implement a plan for transferring the medical use of marijuana program from the department of public safety to the department of health with implementation of the transfer completed by January 1, 2015, pursu-

ant to this Act. The plan shall include recommendations regarding the staffing and operational expenses of the program once the transfer to the department of health is completed and a timeline for the transfer that includes, but is not limited to, a plan for the promulgation of rules by the department of health, for the establishment and management of a secure and confidential database, and for a confirmation service of the registration and certification of qualifying patients and primary caregivers.

SECTION 11. The department of public safety and the department of health shall submit a joint report on the transfer of the medical use of marijuana program, including the plan and timeline for the transfer, and the progress made, to the legislature no later than twenty days prior to the convening of the regular sessions of 2014 and 2015.

SECTION 12. There is appropriated out of the medical marijuana registry special fund of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to effectuate the transfer of the medical use of marijuana program from the department of public safety to the department of health.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 14. This Act shall take effect upon its approval; provided that section 3 of this Act shall take effect on January 1, 2015.

(Approved June 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.