

ACT 116

H.B. NO. 2729

A Bill for an Act Relating to Cannabis for Medical Use.

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

PART I

SECTION 1. The legislature also finds that certain amendments to the State's existing laws on cannabis for medical use and medical cannabis dispensaries are necessary to ensure the fair administration of the State's interjurisdictional reciprocity program, maintain appropriate safeguards and protections for qualifying patients and primary caregivers, ease unnecessary administrative burdens on qualifying patients with chronic conditions, and provide medical cannabis dispensaries with a mechanism to retest batches of cannabis or manufactured cannabis products when appropriate.

The legislature finds that any reciprocity process for out-of-state medical cannabis patients must meet specific criteria that uphold the integrity and rigor of the State's medical cannabis program. A reciprocity program in Hawaii must not significantly diminish the safety and security aspects of Hawaii's approach to medical cannabis; must be implemented in a way that is fair and equitable to Hawaii medical cannabis patients and does not confer greater access to out-of-state medical cannabis patients than to Hawaii patients; must provide a timely process for qualifying out-of-state patients who visit Hawaii to legally obtain medical cannabis from Hawaii-licensed medical cannabis dispensaries; and must provide protection from state law enforcement for registered qualifying out-of-state patients who possess medical cannabis in Hawaii.

The legislature further finds that under existing law, a qualifying patient's written certification for the medical use of cannabis is valid for only one year from the time of signing. However, many of the debilitating medical conditions that qualify a patient for a written certification are chronic in nature, and there is some concern that annual renewal requirements may result in a lapse in treatment for some qualifying patients.

Accordingly, the purpose of this part is to:

- (1) Establish a criteria and requirements for a reciprocity process for medical cannabis patients, which requires the department of health to register qualifying out-of-state patients and caregivers of qualifying out-of-state patients;
- (2) Clarify law enforcement safeguards for qualifying out-of-state patients and caregivers of qualifying out-of-state patients who possess medical cannabis within the State;
- (3) Authorize the department of health to extend the maximum period of validity of a written certification to three years for qualifying patients with debilitating medical conditions that are chronic; and
- (4) Clarify a dispensary licensee's ability to retest, at its own expense, a batch of cannabis or manufactured cannabis products that do not meet the department of health's standards for patient safety according to initial test results.

SECTION 2. Chapter 329, Hawaii Revised Statutes, is amended by adding a new section to part IX to be appropriately designated and to read as follows:

“§329- Registration requirements; qualifying out-of-state patient; caregiver of a qualifying out-of-state patient. (a) Notwithstanding section 329-123, a

qualifying out-of-state patient and a caregiver of a qualifying out-of-state patient shall register with the department of health as established by rule. The registration shall be effective for no more than sixty days and may be renewed for no more than one additional sixty-day period that begins no later than twelve months after the preceding registration date; provided that the department shall not register any qualifying out-of-state patient for a period that exceeds the term of validity of the qualifying out-of-state patient's authority to use medical cannabis in the qualifying out-of-state patient's home jurisdiction.

(b) A qualifying out-of-state patient aged eighteen or older, at a minimum, shall meet the following criteria for registration:

- (1) Provide a valid government-issued medical cannabis card issued to the qualifying out-of-state patient by another state, United States territory, or the District of Columbia; provided that the medical cannabis card has an expiration date and has not expired;
- (2) Provide a valid photographic identification card or driver's license issued by the same jurisdiction that issued the medical cannabis card; and
- (3) Have a debilitating medical condition, as defined in section 329-121.

(c) A qualifying out-of-state patient under eighteen years of age may be registered pursuant to this section only if the qualifying patient has a debilitating medical condition as defined in section 329-121 and the caregiver of the qualifying out-of-state patient, at a minimum, meets the requirements of paragraphs (1) and (2) of subsection (b) and consents in writing to:

- (1) Allow the qualifying out-of-state patient's medical use of cannabis;
- (2) Undertake the responsibility for managing the well-being of the qualifying out-of-state patient who is under eighteen years of age, with respect to the medical use of cannabis; and
- (3) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying out-of-state patient who is under eighteen years of age.

(d) In the case of any qualifying out-of-state patient who is under eighteen years of age, the department of health shall register the qualifying out-of-state patient and the caregiver of the qualifying out-of-state patient; provided that the department may register two caregivers for a qualifying out-of-state patient if each caregiver is the parent, guardian, or person having legal custody of the qualifying out-of-state patient who is under eighteen years of age.

(e) Each qualifying out-of-state patient shall pay a fee of \$45 for each registration and renewal.

(f) Upon inquiry by a law enforcement agency, the department of health shall immediately verify whether the subject of the inquiry has registered with the department of health and may provide reasonable access to the registry information for official law enforcement purposes. An inquiry and verification under this subsection may be made twenty-four hours a day, seven days a week.

(g) The department of health may temporarily suspend the registration of a qualifying out-of-state patient or a registered caregiver of a qualifying out-of-state patient for a period of up to thirty days if the department of health determines that the registration process for qualifying patients or primary caregivers is being adversely affected or the supply of cannabis for medical use available in licensed dispensaries is insufficient to serve qualifying patients and qualifying out-of-state patients. A temporary suspension may be extended by thirty-day periods until the department of health determines that:

- (1) Adequate capacity exists to register qualifying out-of-state patients and caregivers of qualifying out-of-state patients in addition to qualifying patients and primary caregivers; and

- (2) The licensed dispensaries are able to meet the demands of qualifying patients.”

SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department, upon completion of the transfer of the medical use of cannabis program, shall charge a medical cannabis registration fee to each qualifying [patients] patient, other than a qualifying out-of-state patient, of no more than \$35[-] per year.”

SECTION 4. Section 329-121, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

““Adequate supply for a qualifying out-of-state patient” means an amount of cannabis individually possessed by a qualifying out-of-state patient or jointly possessed by a qualifying out-of-state patient who is under eighteen years old and the caregiver of the qualifying out-of-state patient that is not more than is reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of alleviating the symptoms or effects of the qualifying out-of-state patient’s debilitating medical condition; provided that an “adequate supply for a qualifying out-of-state patient” shall not exceed four ounces of usable cannabis at any given time and shall not include live plants. The four ounces of usable cannabis shall include any combination of usable cannabis and manufactured cannabis products, as provided in chapter 329D; provided that the usable cannabis in the manufactured products shall be calculated using information provided pursuant to section 329D-9(c).

“Caregiver of a qualifying out-of-state patient” means a parent, guardian, or person having legal custody of a qualifying out-of-state patient who is under the age of eighteen years.

“Qualifying out-of-state patient” or “registered qualifying out-of-state patient” means a person who is registered for the medical use of cannabis in another state, a United States territory, or the District of Columbia.”

2. By amending the definition of “medical use” to read:

““Medical use” means the acquisition, possession, cultivation, use, distribution, or transportation of cannabis or paraphernalia relating to the administration of cannabis to alleviate the symptoms or effects of a qualifying patient’s debilitating medical condition[-]; provided that “medical use” does not include the cultivation or distribution of cannabis or paraphernalia by a qualifying out-of-state patient or the caregiver of a qualifying out-of-state patient. For the purposes of “medical use”, the term [distribution] “distribution” is limited to the transfer of cannabis and paraphernalia.”

3. By amending the definition of “written certification” to read:

““Written certification” means the qualifying patient’s medical records or a statement signed by a qualifying patient’s physician or advanced practice registered nurse, stating that in the physician’s or advanced practice registered nurse’s professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of cannabis would likely outweigh the health risks for the qualifying patient. The department of health may require, through its rulemaking authority, that all written certifications comply with a designated form. “Written certifications” are valid for [only] one year from the time of signing[-]; provided that the department of health may allow for the validity of any written certification for up to three years if the qualifying

patient's physician or advanced practice registered nurse states that the patient's debilitating medical condition is chronic in nature."

SECTION 5. Section 329-122, Hawaii Revised Statutes, is amended to read as follows:

"§329-122 Medical use of cannabis; conditions of use. (a) Notwithstanding any law to the contrary, the medical use of cannabis by a qualifying patient shall be permitted only if:

- (1) The qualifying patient has been diagnosed by a physician or advanced practice registered nurse as having a debilitating medical condition;
- (2) The qualifying patient's physician or advanced practice registered nurse has certified in writing that, in the physician's or advanced practice registered nurse's professional opinion, the potential benefits of the medical use of cannabis would likely outweigh the health risks for the particular qualifying patient; and
- (3) The amount of cannabis possessed by the qualifying patient does not exceed an adequate supply.

(b) Subsection (a) shall not apply to a qualifying patient under the age of eighteen years, unless:

- (1) The qualifying patient's physician or advanced practice registered nurse has explained the potential risks and benefits of the medical use of cannabis to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and
- (2) A parent, guardian, or person having legal custody consents in writing to:
 - (A) Allow the qualifying patient's medical use of cannabis;
 - (B) Serve as the qualifying patient's primary caregiver; and
 - (C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

(c) Notwithstanding any law to the contrary, the medical use of cannabis within the State by a qualifying out-of-state patient aged eighteen years or older legally authorized to use cannabis for medical purposes in another state, a United States territory, or the District of Columbia shall be permitted only if the qualifying out-of-state patient:

- (1) Provides to the department of health a valid medical use of cannabis card with an explicit expiration date that has not yet passed from the issuing jurisdiction and a valid photographic identification card or driver's license issued by the same jurisdiction;
- (2) Attests under penalty of law pursuant to section 710-1063 that the condition for which the qualifying out-of-state patient is legally authorized to use cannabis for medical purposes is a debilitating medical condition as defined in section 329-121;
- (3) Provides consent for the department of health to obtain information from the qualifying out-of-state patient's certifying medical provider and from the entity that issued the medical cannabis card for the purpose of allowing the department of health to verify the information provided in the registration process;
- (4) Pays the required fee for out-of-state registration to use cannabis for medical purposes;
- (5) Registers with the department of health pursuant to section 329- to use cannabis for medical purposes;

- (6) Receives a medical cannabis registry card from the department of health; and
- (7) Abides by all laws relating to the medical use of cannabis, including not possessing an amount of cannabis that exceeds an adequate supply.
- (d) Notwithstanding any law to the contrary, the medical use of cannabis by a qualifying out-of-state patient under eighteen years of age shall only be permitted if:
- (1) The caregiver of the qualifying out-of-state patient provides the information required pursuant to subsection (c); and
 - (2) The caregiver of the qualifying out-of-state patient consents in writing to:
 - (A) Allow the qualifying out-of-state patient's medical use of cannabis;
 - (B) Undertake the responsibility for managing the well-being of the qualifying out-of-state patient who is under eighteen years of age with respect to the medical use of cannabis; and
 - (C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying out-of-state patient who is under eighteen years of age.
- ~~(e)~~ (e) The authorization for the medical use of cannabis in this section shall not apply to:
- (1) The medical use of cannabis that endangers the health or well-being of another person;
 - (2) The medical use of cannabis:
 - (A) In a school bus, public bus, or any moving vehicle;
 - (B) In the workplace of one's employment;
 - (C) On any school grounds;
 - (D) At any public park, public beach, public recreation center, recreation or youth center; or
 - (E) At any other place open to the public; provided that a qualifying patient, primary caregiver, qualifying out-of-state patient, caregiver of a qualifying out-of-state patient, or an owner or employee of a medical cannabis dispensary licensed under chapter 329D shall not be prohibited from transporting cannabis or any manufactured cannabis product, as that term is defined in section 329D-1, in any public place; provided further that the cannabis or manufactured cannabis product shall be transported in a sealed container, not be visible to the public, and shall not be removed from its sealed container or consumed or used in any way while it is in the public place; and
 - (3) The use of cannabis by a qualifying patient, parent, ~~or~~, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient, for purposes other than medical use permitted by this part.
- ~~(f)~~ (f) For the purposes of this section, "transport" means the transportation of cannabis, usable cannabis, or any manufactured cannabis product between:
- (1) A qualifying patient and the qualifying patient's primary caregiver;
 - (2) A qualifying out-of-state patient under eighteen years of age and the caregiver of a qualifying out-of-state patient;
- ~~(2)~~ (3) The production centers and the retail dispensing locations under a dispensary licensee's license; or

- (3) (4) A production center, retail dispensing location, qualifying patient, [øf] primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and a certified laboratory for the purpose of laboratory testing; provided that a qualifying patient [øf], primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may only transport up to one gram of cannabis per test to a certified laboratory for laboratory testing and may only transport the product if the qualifying patient [øf], primary caregiver[;], qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient:
- (A) Secures an appointment for testing at a certified laboratory;
 - (B) Obtains confirmation, which may be electronic, that includes the specific time and date of the appointment and a detailed description of the product and amount to be transported to the certified laboratory for the appointment; and
 - (C) Has the confirmation, which may be electronic, available during transport.

For purposes of interisland transportation, “transport” of cannabis, usable cannabis, or any manufactured cannabis product, by any means is allowable only between a production center or retail dispensing location and a certified laboratory for the sole purpose of laboratory testing pursuant to section 329D-8, as permitted under section 329D-6(m) and subject to section 329D-6(j), and with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State. Allowable transport pursuant to this section does not include interisland transportation by any means or for any purpose between a qualified patient [øf], primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and any other entity or individual, including an individual who is a qualified patient [øf], primary caregiver[;], qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient.”

SECTION 6. Section 329-123, Hawaii Revised Statutes, is amended to read as follows:

“§329-123 Registration requirements[;]; qualifying patients; primary caregivers. (a) Physicians or advanced practice registered nurses who issue written certifications shall provide, in each written certification, the name, address, patient identification number, and other identifying information of the qualifying patient. The department of health shall require, in rules adopted pursuant to chapter 91, that all written certifications comply with a designated form completed by or on behalf of a qualifying patient. The form shall require information from the applicant, primary caregiver, and physician or advanced practice registered nurse as specifically required or permitted by this chapter. The form shall require the address of the location where the cannabis is grown and shall appear on the registry card issued by the department of health. The certifying physician or advanced practice registered nurse shall be required to have a bona fide physician-patient relationship or bona fide advanced practice registered nurse-patient relationship, as applicable, with the qualifying patient. All current active medical cannabis permits shall be honored through their expiration date.

(b) Qualifying patients shall register with the department of health. The registration shall be effective until the expiration of the certificate issued by the department of health and signed by the physician or advanced practice registered nurse. Every qualifying patient shall provide sufficient identifying information to establish the personal identities of the qualifying patient and the primary caregiver. Qualifying patients shall report changes in information within ten

working days. Every qualifying patient shall have only one primary caregiver at any given time. The department of health shall issue to the qualifying patient a registration certificate, and shall charge \$35 per year.

(c) Primary caregivers shall register with the department of health. Every primary caregiver shall be responsible for the care of only one qualifying patient at any given time~~[-], unless the primary caregiver is the parent, guardian, or person having legal custody of more than one minor qualifying patient, in which case the primary caregiver may be responsible for the care of more than one minor qualifying patient at any given time; provided that the primary caregiver is the parent, guardian, or person having legal custody of all of the primary caregiver's qualifying patients.~~ The department of health may permit registration of up to two¹ primary caregivers for a minor qualifying patient; provided that both primary caregivers are the parent, guardian, or person having legal custody of the minor qualifying patient.

(d) Upon inquiry by a law enforcement agency, which inquiry may be made twenty-four hours a day, seven days a week, the department of health shall immediately verify whether the subject of the inquiry has registered with the department of health and may provide reasonable access to the registry information for official law enforcement purposes.

(e) This section shall not apply to registration of a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient."

SECTION 7. Section 329-125, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

"§329-125 Protections afforded to a qualifying patient ~~[or]~~, primary caregiver~~[-]~~, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient. (a) A qualifying patient ~~[or the]~~, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may assert the medical use of cannabis authorized under this part as an affirmative defense to any prosecution involving ~~[[cannabis or marijuana]]~~ under this part or part IV; or part IV of chapter 712; provided that the qualifying patient ~~[or the]~~, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient strictly complied with the requirements of this part.

(b) Any qualifying patient ~~[or]~~, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient not complying with the permitted scope of the medical use of cannabis shall not be afforded the protections against searches and seizures pertaining to the misapplication of the medical use of cannabis."

SECTION 8. Section 329-125.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§329-125.5]]~~ Medical cannabis patient and caregiver protections. (a) No school shall refuse to enroll or otherwise penalize, and no landlord shall refuse to lease property to or otherwise penalize, a person solely for the person's status as a qualifying patient or primary caregiver in the medical cannabis program under this part, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation; provided that the qualifying patient or primary caregiver strictly complied with the requirements of this part; provided further that the qualifying patient or primary caregiver shall present a medical cannabis registry card or certificate and photo identification, to ensure that the qualifying patient or primary caregiver is validly registered with the department of health pursuant to section 329-123.

(b) For the purposes of medical care, including organ transplants, a registered qualifying patient's use of cannabis in compliance with this part shall be considered the equivalent of the use of any other medication under the direction of a physician and shall not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

(c) No qualifying patient or primary caregiver under this part shall be denied custody of, visitation with, or parenting time with a minor, and there shall be no presumption of neglect or child endangerment, for conduct allowed under this part; provided that this subsection shall not apply if the qualifying patient's or primary caregiver's conduct created a danger to the safety of the minor, as established by a preponderance of the evidence.

(d) This section shall apply to qualifying patients, primary caregivers, qualifying out-of-state patients, and caregivers of qualifying out-of-state patients who are validly registered with the department of health pursuant to this part and the administrative rules of the department of health."

SECTION 9. Section 329-127, Hawaii Revised Statutes, is amended to read as follows:

~~“~~**§329-127**~~”~~ **Protection of cannabis and other seized property.** (a) Cannabis, paraphernalia, or other property seized from a qualifying patient or primary caregiver in connection with a claimed medical use of cannabis under this part shall be returned immediately upon the determination by a court that the qualifying patient or primary caregiver is entitled to the protections of this part, as evidenced by a decision not to prosecute, dismissal of charges, or an acquittal; provided that law enforcement agencies seizing live plants as evidence shall not be responsible for the care and maintenance of such plants.

(b) This section shall also apply to qualifying out-of-state patients and caregivers of qualifying out-of-state patients who are validly registered with the department of health pursuant to this part and the administrative rules of the department of health; provided that notwithstanding subsection (a) to the contrary, under no circumstances shall cannabis, paraphernalia, or other property be returned to any location outside of the island from which it was seized."

SECTION 10. Section 329-128, Hawaii Revised Statutes, is amended to read as follows:

§329-128 Fraudulent misrepresentation; penalty. (a) Notwithstanding any law to the contrary, fraudulent misrepresentation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution under this part or chapter 712 shall be a petty misdemeanor and subject to a fine of \$500.

(b) Notwithstanding any law to the contrary, fraudulent misrepresentation to a law enforcement official of any fact or circumstance relating to the issuance of a written certificate by a physician or advanced practice registered nurse not covered under section 329-126 for the medical use of cannabis shall be a misdemeanor. This penalty shall be in addition to any other penalties that may apply for the non-medical use of cannabis. ~~[Nothing in this section is intended to preclude the conviction of any person under section 710-1060 or for any other offense under part V of chapter 710.]~~

(c) Notwithstanding any law to the contrary, fraudulent misrepresentation to the department of an entitlement to use cannabis for medical purposes in another state, a United States territory, or the District of Columbia for the purpose of registering as a qualifying out-of-state patient or caregiver of a qualify-

ing out-of-state patient shall be a misdemeanor. This penalty shall be in addition to any other penalties that may apply for the non-medical use of cannabis.

(d) Nothing in this section is intended to preclude the conviction of any person under section 710-1060 or for any other offense under part V of chapter 710 or any other offense.”

SECTION 11. Section 329-129, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No qualifying patient [øø], primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient shall use butane to extract tetrahydrocannabinol from cannabis plants.”

SECTION 12. Section 329-130, Hawaii Revised Statutes, is amended to read as follows:

“§329-130 Authorized sources of medical cannabis. (a) After December 31, 2023, a qualifying patient shall obtain medical cannabis or manufactured cannabis products only:

- (1) From a dispensary licensed pursuant to chapter 329D; provided that the cannabis shall be purchased and paid for at the time of purchase; or
- (2) By cultivating cannabis in an amount that does not exceed an adequate supply for the qualifying patient, pursuant to section 329-122; provided that each location used to cultivate cannabis shall be used by no more than five qualifying patients.

After December 31, 2023, no primary caregiver shall be authorized to cultivate cannabis for any qualifying patient.

(b) This section shall not apply to:

- (1) A qualifying patient who is a minor or an adult lacking legal capacity and the primary caregiver is the parent, guardian, or person having legal custody of a qualifying patient described in this paragraph; or
- (2) A qualifying patient on any island on which there is no medical cannabis dispensary licensed pursuant to chapter 329D.

(c) A qualifying out-of-state patient and a caregiver of a qualifying out-of-state patient shall be authorized to obtain cannabis for medical use only from retail dispensing locations of dispensaries licensed pursuant to chapter 329D.”

SECTION 13. Section 329D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

““Caregiver of a qualifying out-of-state patient” shall have the same meaning as in section 329-121.

“Qualifying out-of-state patient” and “registered qualifying out-of-state patient” shall have the same meaning as in section 329-121.”

2. By amending the definition of “dispense” or “dispensing” to read:

““Dispense” or “dispensing” means the act of a licensed dispensary providing cannabis or manufactured cannabis products to a qualifying patient [øø æ], primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient for a fee.”

3. By amending the definition of “manufacture” to read:

““Manufacture” means the preparation, propagation, compounding, conversion, or processing of a substance containing cannabis or its principal

psychoactive constituent tetrahydrocannabinol, either directly or indirectly, by a person other than a qualifying patient ~~[or]~~, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient for the qualifying patient's or qualifying out of state patient's use, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.”

4. By amending the definition of “retail dispensing location” to read:

““Retail dispensing location” means an establishment owned, operated, or subcontracted by a medical cannabis dispensary where cannabis and manufactured cannabis are made available for retail sale to a qualifying [patients or] patient, primary [earegivers.] caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient.”

SECTION 14. Section 329D-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (g) to read:

“(g) In all dispensary facilities, only the licensee, if an individual, registered employees of the dispensary licensee, registered employees of a subcontracted production center or retail dispensing location, employees of a certified laboratory for testing purposes, state employees authorized by the director of health, and law enforcement and other government officials acting in their official capacity shall be permitted to touch or handle any cannabis or manufactured cannabis products, except that a qualifying patient ~~[or the]~~, primary caregiver ~~[of a qualifying patient]~~, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may receive manufactured cannabis products at a retail dispensing location following completion of a sale.”

2. By amending subsections (j) and (k) to read:

“(j) The department shall establish, maintain, and control a computer software tracking system that shall have real time, twenty-four-hour access to the data of all dispensaries.

(1) The computer software tracking system shall collect data relating to:

- (A) The total amount of cannabis in possession of all dispensaries from either seed or immature plant state, including all plants that are derived from cuttings or cloning, until the cannabis, cannabis plants, or manufactured cannabis product is sold or destroyed pursuant to section 329D-7;
- (B) The total amount of manufactured cannabis product inventory, including the equivalent physical weight of cannabis that is used to manufacture manufactured cannabis products, purchased by a qualifying patient ~~[and]~~, primary caregiver, qualifying out-of-state patient, and caregiver of a qualifying out-of-state patient from all retail dispensing locations in the State in any fifteen-day period;
- (C) The amount of waste produced by each plant at harvest; and
- (D) The transport of cannabis and manufactured cannabis products between production centers and retail dispensing locations, including tracking identification issued by the tracking system, the identity of the person transporting the cannabis or manufactured cannabis products, and the make, model, and license number of the vehicle being used for the transport;

- (2) The procurement of the computer software tracking system established pursuant to this subsection shall be exempt from chapter 103D; provided that:
- (A) The department shall publicly solicit at least three proposals for the computer software tracking system; and
 - (B) The selection of the computer software tracking system shall be approved by the director of the department and the chief information officer; and
- (3) Notwithstanding any other provision of this subsection to the contrary, once the department has authorized a licensed dispensary to commence sales of cannabis or manufactured cannabis products, if the department's computer software tracking system is inoperable or is not functioning properly, as an alternative to requiring dispensaries to temporarily cease operations, the department may implement an alternate tracking system that will enable a qualifying [patients] patient, primary caregiver, qualifying out-of-state patient, and caregiver of a qualifying out-of-state patient to purchase cannabis or manufactured cannabis products from a licensed dispensary on a temporary basis. The department shall seek input regarding the alternate tracking system from medical cannabis licensees. The alternate tracking system may operate as follows:
- (A) The department may immediately notify all licensed dispensaries that the computer software tracking system is inoperable; and
 - (B) Once the computer software tracking system is operational and functioning to meet the requirements of this subsection, the department may notify all licensed dispensaries, and the alternate tracking system in this subsection shall be discontinued.
- (k) A dispensary licensed pursuant to this chapter shall purchase, operate, and maintain a computer software tracking system that shall:
- (1) Interface with the department's computer software tracking system established pursuant to subsection (j);
 - (2) Allow each licensed dispensary's production center to submit to the department in real time, by automatic identification and data capture, all cannabis, cannabis plants, and manufactured cannabis product inventory in possession of that dispensary from either seed or immature plant state, including all plants that are derived from cuttings or cloning, until the cannabis or manufactured cannabis product is sold or destroyed pursuant to section 329D-7;
 - (3) Allow the licensed dispensary's retail dispensing location to submit to the department in real time for the total amount of cannabis and manufactured cannabis product purchased by a qualifying patient [and], primary caregiver, qualifying out-of-state patient, and caregiver of a qualifying out-of-state patient from the dispensary's retail dispensing locations in the State in any fifteen day period; provided that the software tracking system shall impose an automatic stopper in real time, which cannot be overridden, on any further purchases of cannabis or manufactured cannabis products, if the maximum allowable amount of cannabis has already been purchased for the applicable fifteen day period; provided further that additional purchases shall not be permitted until the next applicable period; and
 - (4) Allow the licensed dispensary to submit all data required by this subsection to the department and permit the department to access the data if the department's computer software tracking system is

not functioning properly and sales are made pursuant to the alternate tracking system under subsection (j).”

3. By amending subsection (n) to read:

“(n) A dispensary shall be prohibited from off-premises delivery of cannabis or manufactured cannabis products to a qualifying [patients or to] patient, primary [caregivers of qualifying patients.] caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient.”

SECTION 15. Section 329D-7, Hawaii Revised Statutes, is amended to read as follows:

“§329D-7 **Medical cannabis dispensary rules.** The department shall establish standards with respect to:

- (1) The number of medical cannabis dispensaries that shall be permitted to operate in the State;
- (2) A fee structure for the submission of applications and renewals of licenses to dispensaries; provided that the department shall consider the market conditions in each county in determining the license renewal fee amounts;
- (3) Criteria and procedures for the consideration and selection, based on merit, of applications for licensure of dispensaries; provided that the criteria shall include but not be limited to an applicant’s:
 - (A) Ability to operate a business;
 - (B) Financial stability and access to financial resources; provided that applicants for medical cannabis dispensary licenses shall provide documentation that demonstrates control of not less than \$1,000,000 in the form of escrow accounts, letters of credit, surety bonds, bank statements, lines of credit or the equivalent to begin operating the dispensary;
 - (C) Ability to comply with the security requirements developed pursuant to paragraph (6);
 - (D) Capacity to meet the needs of qualifying patients[;] and qualifying out-of-state patients;
 - (E) Ability to comply with criminal background check requirements developed pursuant to paragraph (8); and
 - (F) Ability to comply with inventory controls developed pursuant to paragraph (13);
- (4) Specific requirements regarding annual audits and reports required from each production center and dispensary licensed pursuant to this chapter;
- (5) Procedures for announced and unannounced inspections by the department or its agents of production centers and dispensaries licensed pursuant to this chapter; provided that inspections for license renewals shall be unannounced;
- (6) Security requirements for the operation of production centers and retail dispensing locations; provided that, at a minimum, the following shall be required:
 - (A) For production centers:
 - (i) Video monitoring and recording of the premises; provided that recordings shall be retained for fifty days;
 - (ii) Fencing that surrounds the premises and that is sufficient to reasonably deter intruders and prevent anyone outside the premises from viewing any cannabis in any form;
 - (iii) An alarm system; and

- (iv) Other reasonable security measures to deter or prevent intruders, as deemed necessary by the department;
- (B) For retail dispensing locations:
 - (i) Presentation of a valid government-issued photo identification and a valid identification as issued by the department pursuant to section 329-123[~~]~~ by a qualifying patient or caregiver, or section 329- by a qualifying out-of-state patient or caregiver of a qualifying out-of-state patient, upon entering the premises;
 - (ii) Video monitoring and recording of the premises; provided that recordings shall be retained for fifty days;
 - (iii) An alarm system;
 - (iv) Exterior lighting; and
 - (v) Other reasonable security measures as deemed necessary by the department;
- (7) Security requirements for the transportation of cannabis and manufactured cannabis products between production centers and retail dispensing locations and between a production center, retail dispensing location, qualifying patient, ~~primary caregiver~~, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and a certified laboratory, pursuant to section ~~[329-122(d)]~~ 329-122(f);
- (8) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, subcontractors and their employees, and prospective employees of medical cannabis dispensaries to operate a dispensary; provided that the standards, at a minimum, shall exclude from licensure or employment any person convicted of any felony;
- (9) The training and certification of operators and employees of production centers and dispensaries;
- (10) The types of manufactured cannabis products that dispensaries shall be authorized to manufacture and sell pursuant to sections 329D-9 and 329D-10;
- (11) Laboratory standards related to testing cannabis and manufactured cannabis products for content, contamination, and consistency;
- (12) The quantities of cannabis and manufactured cannabis products that a dispensary may sell or provide to a qualifying patient ~~or~~, primary caregiver~~]~~, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient; provided that no dispensary shall sell or provide to a qualifying patient ~~or~~, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient any combination of cannabis and manufactured products that:
 - (A) During a period of fifteen consecutive days, exceeds the equivalent of four ounces of cannabis; or
 - (B) During a period of thirty consecutive days, exceeds the equivalent of eight ounces of cannabis;
- (13) Dispensary and production center inventory controls to prevent the unauthorized diversion of cannabis or manufactured cannabis products or the distribution of cannabis or manufactured cannabis products to a qualifying ~~patients or~~ patient, primary ~~caregivers~~ caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient in quantities that exceed limits established

by this chapter; provided that the controls, at a minimum, shall include:

- (A) A computer software tracking system as specified in section 329D-6(j) and (k); and
 - (B) Product packaging standards sufficient to allow law enforcement personnel to reasonably determine the contents of an unopened package;
- (14) Limitation to the size or format of signs placed outside a retail dispensing location or production center; provided that the signage limitations, at a minimum, shall comply with section 329D-6(o)(2) and shall not include the image of a cartoon character or other design intended to appeal to children;
 - (15) The disposal or destruction of unwanted or unused cannabis and manufactured cannabis products;
 - (16) The enforcement of the following prohibitions against:
 - (A) The sale or provision of cannabis or manufactured cannabis products to unauthorized persons;
 - (B) The sale or provision of cannabis or manufactured cannabis products to a qualifying ~~[patients or] patient, primary [caregivers] caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient~~ in quantities that exceed limits established by this chapter;
 - (C) Any use or consumption of cannabis or manufactured cannabis products on the premises of a retail dispensing location or production center; and
 - (D) The distribution of cannabis or manufactured cannabis products, for free, on the premises of a retail dispensing location or production center;
 - (17) The establishment of a range of penalties for violations of this chapter or rule adopted thereto; and
 - (18) A process to recognize and register patients who are authorized to purchase, possess, and use medical cannabis in another state, a United States territory, or the District of Columbia as qualifying out-of-state patients ~~[in this State]~~; provided that this registration process may commence no sooner than January 1, 2018.”

SECTION 16. Section 329D-8, Hawaii Revised Statutes, is amended to read as follows:

“§329D-8 Laboratory standards and testing; laboratory certification.

- (a) The department shall establish and enforce standards for laboratory-based testing of cannabis and manufactured cannabis products for content, contamination, and consistency; provided that in establishing these standards, the department shall:
 - (1) Review and take guidance from the testing programs and standards utilized in other jurisdictions;
 - (2) Consider the impact of the standards on the retail cost of the product to the qualifying patient;
 - (3) Review and take guidance from the testing programs and standards for pesticides under the regulations of the United States Environmental Protection Agency;
 - (4) For the testing for microbiological impurities, consider the benefits of organically grown cannabis that features the use of bacteria in lieu of pesticides; and

- (5) Include permission for qualifying patients and primary caregivers to obtain testing services directly from certified laboratories on the island where the qualifying patient and primary caregiver reside.
- (b) The department may certify laboratories that can test cannabis and manufactured cannabis products prior to the sale of cannabis and manufactured cannabis products.
- (c) If a dispensary licensee obtains a laboratory result indicating that a sample of a batch of its cannabis or manufactured cannabis products does not meet the department's standards for patient safety, the dispensary licensee, at its own expense, may have the same sample or a different sample from the same batch retested by the same laboratory or a different laboratory. If a retest at a different laboratory yields a different result, the department shall determine which result controls whether the batch may be approved for sale or whether further testing shall be required."

SECTION 17. Section 329D-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) This section shall not apply to:

- (1) ~~[Qualifying patients and their]~~ A qualifying patient, primary [caregivers] caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient who [enter] enters or [remain] remains on the premises of a retail dispensing location for the purpose of a transaction conducted pursuant to sections 329D-6 and 329D-13; or
- (2) Government officials and employees acting in an official capacity and employees of a certified laboratory who enter or remain on the premises of a retail dispensing location or production center for any purpose authorized by this chapter."

SECTION 18. Section 329D-13, Hawaii Revised Statutes, is amended to read as follows:

~~"[§329D-13] Qualifying patients and primary caregivers; dispensing limits; other states].~~ (a) A qualifying patient [or a], primary caregiver [on behalf of a qualifying patient], qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient shall be allowed to purchase no more than four ounces of cannabis within a consecutive period of fifteen days, or no more than eight ounces of cannabis within a consecutive period of thirty days.

(b) A qualifying patient [or a], primary caregiver [on behalf of a qualifying patient], qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may purchase cannabis from any dispensary location in the State, subject to the limits set forth in subsection (a).

(c) Beginning on January 1, 2018, this section may apply to qualifying out-of-state patients from other states, territories of the United States, or the District of Columbia; provided that the patient [is verified as a patient in their home state and registers with the department through a registration process established by the department.] meets the registration requirements of section 329- ."

SECTION 19. Section 329D-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person shall intentionally or knowingly enter or remain upon the premises of a medical cannabis retail dispensing location unless the individual is:

- (1) An individual licensee or registered employee of the dispensary;
- (2) A qualifying patient ~~[or], primary caregiver [of a qualifying patient],~~ qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient;
- (3) A government employee or official acting in the person’s official capacity; or
- (4) Previously included on a current department-approved list provided to the department by the licensee of those persons who are allowed into that dispensary’s facilities for a specific purpose for that dispensary, including but not limited to construction, maintenance, repairs, legal counsel, providers of paratransit or other assistive services required by a qualifying patient to access a retail dispensary location, or investors; provided that:
 - (A) The person has been individually approved by the department to be included on the list;
 - (B) The person is at least twenty-one years of age, as verified by a valid government issued identification card;
 - (C) The department has confirmed that the person has no felony convictions;
 - (D) The person is escorted by an individual licensee or registered employee of the dispensary at all times while in the dispensary facility;
 - (E) The person is only permitted within those portions of the dispensary facility as necessary to fulfill the person’s purpose for entering;
 - (F) The person is only permitted within the dispensary facility during the times and for the duration necessary to fulfill the person’s purpose for entering;
 - (G) The dispensary shall keep an accurate record of each person’s first and last name, date and times upon entering and exiting the dispensary facility, purpose for entering, and the identity of the escort; and
 - (H) The approved list shall be effective for one year from the date of the department approval.”

SECTION 20. Section 329D-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A person commits the offense of promoting medical cannabis or medical cannabis products to a minor if the person intentionally or knowingly distributes any amount of cannabis or manufactured cannabis products that came from a dispensary or production center to a minor who is not a registered qualifying patient~~[-]~~ or a registered qualifying out-of-state patient under eighteen years of age.”

SECTION 21. Section 329D-24, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§329D-24]]~~ **Cultivation of medical cannabis by qualifying patients and primary caregivers.** Nothing in this chapter shall be construed as prohibiting a qualifying patient or primary caregiver from cultivating or possessing an adequate supply of medical cannabis pursuant to part IX of chapter 329.

A qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient shall not be authorized to cultivate cannabis.”

SECTION 22. Section 329D-25, Hawaii Revised Statutes, is amended to read as follows:

“~~§329D-25~~ Coordination among state and federal agencies. The department shall initiate ongoing dialogue among relevant state and federal agencies to identify processes and policies that ensure the privacy of qualifying patients and qualifying out-of-state patients and the compliance of qualifying patients, primary caregivers, qualifying out-of-state patients, and caregivers of qualifying out-of-state patients and medical cannabis dispensaries with state laws and regulations related to medical cannabis.”

PART II

SECTION 23. The legislature finds that Act 241, Session Laws of Hawaii 2015, codified as chapter 329D, Hawaii Revised Statutes, established a license scheme for a statewide system of medical cannabis dispensaries to ensure access to medical cannabis for qualifying patients and was later amended by Act 230, Session Laws of Hawaii 2016, and Acts 41 and 170, Session Laws of Hawaii 2017.

The legislature further finds that additional amendments to the law are necessary to allow for adequate patient access based on discussions of the working group established by Act 230, Session Laws of Hawaii 2016.

The purpose of this part is to allow a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth.

SECTION 24. Section 329-126, Hawaii Revised Statutes, is amended to read as follows:

“§329-126 Protections afforded to a treating physician or advanced practice registered nurse. (a) No physician or advanced practice registered nurse shall be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for providing written certification for the medical use of cannabis for a qualifying patient; provided that:

- (1) The physician or advanced practice registered nurse has diagnosed the patient as having a debilitating medical condition, as defined in section 329-121;
- (2) The physician or advanced practice registered nurse has explained the potential risks and benefits of the medical use of cannabis, as required under section 329-122;
- (3) The written certification is based upon the physician's or advanced practice registered nurse's professional opinion after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship or bona fide advanced practice registered nurse-patient relationship, as applicable; and
- (4) The physician or advanced practice registered nurse has complied with the registration requirements of section 329-123.

(b) For purposes of this section, a bona fide physician-patient relationship may be established via telehealth, as defined in section 453-1.3(j), and a bona fide advanced practice registered nurse-patient relationship may be established via telehealth, as defined in section 457-2; provided that treatment recommendations that include certifying a patient for the medical use of cannabis via

telehealth shall be allowed only after an initial in-person consultation between the certifying physician or advanced practice registered nurse and the patient.”

SECTION 25. Section 453-1.3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing opiates or certifying a patient for the medical use of cannabis, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient.”

PART III

SECTION 26. The legislature finds that medical cannabis products that provide safe pulmonary administration can allow for more precise dosage administration and can be more effective for certain patients. The legislature also finds that, as with all packaged products, smaller sizes are always more expensive for consumers than larger products. Under existing law, the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products may impact certain patients, many of whom may have conditions and symptoms that require larger doses of tetrahydrocannabinol for relief.

Accordingly, the purpose of this part is to:

- (1) Add certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed; and
- (2) Increase the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products.

SECTION 27. Section 329D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The types of medical cannabis products that may be manufactured and distributed pursuant to this chapter shall be limited to:

- (1) Capsules;
- (2) Lozenges;
- (3) Pills;
- (4) Oils and oil extracts;
- (5) Tinctures;
- (6) Ointments and skin lotions;
- (7) Transdermal patches;
- (8) Pre-filled and sealed containers used to aerosolize and deliver cannabis orally, such as with an inhaler or nebulizer; [and] provided that containers need not be manufactured by the licensed dispensary but shall be filled with cannabis, cannabis oils, or cannabis extracts manufactured by the licensed dispensary; shall not contain nicotine, tobacco-related products, or any other non-cannabis derived products; and shall be designed to be used with devices used to provide safe pulmonary administration of manufactured cannabis products;
- (9) Devices that provide safe pulmonary administration; provided that:

- (A) The heating element of the device, if any, is made of inert materials such as glass, ceramic, or stainless steel, and not of plastic or rubber;
 - (B) The device is distributed solely for use with single-use, pre-filled, tamper-resistant, sealed containers that do not contain nicotine or other tobacco products;
 - (C) The device is used to aerosolize and deliver cannabis by inhalation, such as an inhaler, medical-grade nebulizer, or other similar medical grade volatilization device;
 - (D) There is a temperature control on the device that is regulated to prevent the combustion of cannabis oil; and
 - (E) The device need not be manufactured by the licensed dispensary; and
- [(9)] (10) Other products as specified by the department.”

SECTION 28. Section 329D-11, Hawaii Revised Statutes, is amended to read as follows:

“~~§§329D-11~~ **Advertising and packaging.** (a) The department shall establish standards regarding the advertising and packaging of cannabis and manufactured cannabis products; provided that the standards, at a minimum, shall require the use of packaging that:

- (1) Is child-resistant and opaque so that the product cannot be seen from outside the packaging;
- (2) Uses only black lettering on a white background with no pictures or graphics;
- (3) Is clearly labeled with the phrase “For medical use only”;
- (4) Is clearly labeled with the phrase “Not for resale or transfer to another person”;
- (5) Includes instructions for use and “use by date”;
- (6) Contains information about the contents and potency of the product;
- (7) Includes the name of the production center where cannabis in the product was produced, including the batch number and date of packaging;
- (8) Includes a barcode generated by tracking software; and
- (9) In the case of a manufactured cannabis product, ~~[a listing]~~ includes a:
 - (A) Listing of the equivalent physical weight of the cannabis used to manufacture the amount of the product that is within the packaging, pursuant to section 329D-9(c)[-];
 - (B) Clearly labeled warning stating that the product:
 - (i) Is a medication that contains cannabis, and is not a food;
and
 - (ii) Should be kept away from children; and
 - (C) Date of manufacture.

(b) Any capsule, lozenge, or pill containing cannabis or its principal psychoactive constituent tetrahydrocannabinol shall be packaged so that one dose, serving, or single wrapped item contains no more than ten milligrams of tetrahydrocannabinol; provided that no manufactured cannabis product that is sold in a pack of multiple doses, servings, or single wrapped items, nor any containers of oils, shall contain more than a total of one ~~hundred~~ thousand milligrams of tetrahydrocannabinol per pack or container[-]; provided further that no dispensary shall exceed the dispensing limits imposed by section 329D-7.

(c) All manufactured cannabis products shall be individually wrapped at the original point of manufacture.”

PART IV

SECTION 29. The legislature finds that section 329D-6(d), Hawaii Revised Statutes, restricts Hawaii medical cannabis dispensaries from employing an individual if the person was convicted of a felony. This appears unduly restrictive, as other states that have legalized medical cannabis dispensaries allow the employment of felons unless convicted for a limited set of offenses. Section 329D-6(d), Hawaii Revised Statutes, does not provide the opportunity for any exceptions based on the nature of the individual’s felony record.

The purpose of this part is to specify certain felonies and conditions that will preclude employment, and other felonies that may preclude employment, at medical cannabis dispensaries, rather than make ineligible for employment all individuals who have been convicted of any felony at any time.

SECTION 30. Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding any other law to the contrary, including but not limited to sections 378-2 and 378-2.5, ~~[no dispensary shall employ a person convicted of a felony.]~~ dispensaries:

- (1) Shall deny employment to any individual who has been:
 - (A) Convicted of murder in any degree;
 - (B) Convicted of a class A or class B felony; or
 - (C) Convicted of a class C felony involving trafficking, distributing, or promoting a schedule I or II controlled substance other than cannabis within the last ten years; and
- (2) May deny employment to any individual who has been convicted of a class C felony involving:
 - (A) Fraud, deceit, misrepresentation, embezzlement, or theft; or
 - (B) Endangering the welfare of a minor.

Employment under this chapter shall be exempt from section 378-2(a)(1), as it relates to arrest and court record discrimination, and section 378-2.5.”

PART V

SECTION 31. (a) The office of medical cannabis control and regulation, established pursuant to H.B. 2742, HD1, SD1, CD1, and enacted as Act ,² Session Laws of Hawaii 2018, shall establish a medical use of cannabis outstanding issues working group to consider and make recommendations regarding:

- (1) Employment issues involving an employee who is a registered qualifying patient for whom the medical use of cannabis is permitted pursuant to sections 329-122 and 329-123, Hawaii Revised Statutes; and
 - (2) Authorization and regulation of the manufacture and dispensing of edible cannabis products by a licensed medical cannabis dispensary.
- (b) The working group shall consider the following issues related to the employment of a qualifying patient registered according to section 329-123, Hawaii Revised Statutes:
- (1) Actions taken in other states regarding employment of qualifying medical cannabis patients, particularly in regard to substance abuse on-site screening tests administered by an employer;

- (2) Protections available in other states against employment discrimination and suspension or discharge from employment based on an individual's status as a qualifying medical cannabis patient;
 - (3) Allowable substance abuse screening tests for employees whose job requires the employee to not be under the influence of substances, such as employees in positions that require operation of a vehicle or heavy machinery, employees in inherently dangerous positions such as construction workers, or other employees subject to generally-applicable safety requirements;
 - (4) The requirements applicable to both employees and employers contained in controlling federal law that requires employees to submit to substance abuse screening tests, including regulations of the Federal Aviation Administration, United States Department of Transportation, United States Department of Defense, United States Coast Guard, Department of Labor, and any other federal agency;
 - (5) Applicable requirements for privacy of medical information and prohibitions on discrimination based on health or disability status contained in state and federal law; and
 - (6) Any other issues related to employment of registered qualifying patients for whom the medical use of cannabis is permitted, at the discretion of the working group.
- (c) The working group shall consider the following issues related to the manufacture and dispensing of edible cannabis products by licensed medical cannabis dispensaries:
- (1) Actions taken and regulatory systems established by other states;
 - (2) Standards for testing and labeling of edible cannabis products for product content, potency, and dosage;
 - (3) Requirements and limitations for the types of allowable edible cannabis products, including restrictions on products such as gummies, brightly colored candies, or other products with a design likely to appeal to children or designed to resemble commercially available products marketed to children or adolescents;
 - (4) Requirements and limitations applicable to liquid products;
 - (5) Health and safety standards applicable to the manufacture of edible cannabis products, including standards for the protection of both consumers of the products and employees who manufacture the products; and
 - (6) Any other issues related to the manufacture and dispensing of edible cannabis products, at the discretion of the working group.
- (d) The working group shall consist of the following:
- (1) The program manager of the office of medical cannabis control, who shall serve as the chair of the working group;
 - (2) The chairs of the senate committee on commerce, consumer protection, and health and house committee on consumer protection and commerce, or their designees;
 - (3) The chair of the house committee on health and human services, or the chair's designee;
 - (4) A member of the senate who is selected by the president of the senate to serve on the working group;
 - (5) A representative of the department of health's food safety consultative and education program, to be selected by the director of health;
 - (6) A representative of the department of health's sanitation branch, to be selected by the director of health;

- (7) Two participants in Hawaii’s medical cannabis program, one of whom is a qualifying patient eighteen years of age or older, and one of whom is a parent or legal guardian of a qualifying patient who is under the age of ten;
 - (8) A medical cannabis dispensary licensee, to be selected by the program manager of the office of medical cannabis control and regulation; and
 - (9) Any other member selected by the members of the working group, subject to approval by the chair.
- (e) The working group shall be officially convened at the pleasure of the chair of the working group, but no later than August 1, 2018.
- (f) The working group may request assistance and feedback from subject matter experts and other stakeholders, as needed, to enable the working group to carry out its work.
- (g) The working group shall provide periodic updates to the legislature and shall make recommendations for any legislative or administrative action the working group deems appropriate to address issues surrounding the employment of qualifying patients and the manufacture and dispensing of edible cannabis products. The working group shall submit a final report, including recommendations for further action, to the legislature no later than twenty days before the convening of the regular session of 2019.
- (h) The working group shall be dissolved on June 30, 2019.

PART VI

SECTION 32. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 33. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.³

SECTION 34. This Act shall take effect on July 1, 2018.

(Approved July 5, 2018.)

Notes

- 1. So in original.
- 2. HB2742, HD1, SD1, CD1 became Act 159.
- 3. Edited pursuant to HRS §23G-16.5.