

## ACT 108

H.B. NO. 1082

A Bill for an Act Relating to Medical Cannabis.

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

SECTION 1. Section 329-121, Hawaii Revised Statutes, is amended by amending the definition of “written certification” to read as follows:

““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 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 2. Section 329D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: ““Waiting room” means a designated area at the public entrance of a retail dispensing location that may be accessed by a member of the general public who

is waiting for, assisting, or accompanying a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient who enters or remains on the premises of a retail dispensing location for the purpose of a transaction conducted pursuant to sections 329D-6 and 329D-13; provided that the storage, display, and retail sale of cannabis and manufactured cannabis products shall be prohibited within the waiting room area.”

2. By amending the definition of “manufactured cannabis product” to read:

““Manufactured cannabis product” means ~~[any]~~:

- (1) Any capsule, lozenge, oil or oil extract, tincture, ointment or skin lotion, pill, transdermal patch, or pre-filled and sealed container used to aerosolize and deliver cannabis orally~~[-]~~ or by inhalation, such as an inhaler ~~[or]~~, nebulizer, or device that provides safe pulmonary administration, that has been manufactured using cannabis~~[-]~~;
- (2) Edible cannabis products;
- (3) Pre-rolled cannabis flower products; or ~~[any]~~
- (4) Any other products as specified by the department pursuant to section 329D-10(a)(11).”

SECTION 3. Section 329D-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (o) to read:

“(o) A dispensary shall not:

- (1) Display cannabis or manufactured cannabis products in windows or in public view; or
- (2) Post any signage other than ~~[a single sign]~~ one or two signs, each no greater than one thousand six hundred square inches bearing only the business or trade name in text without any pictures or illustrations; provided that if any applicable law or ordinance restricting outdoor signage is more restrictive, that law or ordinance shall govern.”

2. By amending subsection (r) to read:

“(r) The department may authorize a dispensary to purchase cannabis and manufactured cannabis products from another dispensary in a manner prescribed by the department by rules adopted pursuant to ~~[this chapter and chapter 94;]~~ section 329D-27; provided that:

- (1) The purchasing dispensary establishes to the department’s satisfaction that:
  - (A) The purchase is necessary to ensure that qualifying patients have continuous access to cannabis for medical use; or
  - (B) The cannabis and manufactured cannabis products are for medical, scientific, or other legitimate purposes approved by the State;
- (2) The selling dispensary may transport no more than eight hundred ounces, or other amounts with prior approval by the department, of cannabis or manufactured cannabis products to the purchasing dispensary within a thirty-day period;
- (3) The cannabis and manufactured cannabis products are transported between the dispensaries for medical, scientific, or other legitimate purposes approved by the State; and
- (4) Nothing in this subsection shall relieve any dispensary of its responsibilities and obligations under this chapter and chapter 329.”

SECTION 4. 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, set by rules adopted pursuant to chapter 91, for:
  - (A) 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;
  - (B) The submission of applications and renewals for each additional production center; and
  - (C) Dispensary-to-dispensary sales authorized by section 329D-6(r); provided that no designated fee shall increase by more than two and one-half per cent annually;
- (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; and
  - (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 329-123.5 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 recording 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(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, 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, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient any combination of cannabis and manufactured cannabis 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 patient, primary 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 patient, primary 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; provided that this registration process may commence no sooner than January 1, 2018~~[-]; and~~
- (19) Security requirements and restrictions regarding waiting rooms, including but not limited to:
  - (A) Security measures to prevent unauthorized access to any area within the retail dispensing location outside of the waiting room;
  - (B) Restrictions on marketing and advertising within the waiting room;
  - (C) Restrictions on signage within the waiting room; and
  - (D) Other reasonable security measures or restrictions as deemed necessary by the department.”

SECTION 5. 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~~[-]~~ or by inhalation, such as ~~[with]~~ an inhaler ~~[or]~~, nebulizer~~[-]~~, or device that provides safe pulmonary administration; provided that ~~[containers]~~:

- (A) 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~~;~~ or purchased from another dispensary pursuant to section 329D-6(r); but 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]~~
- (B) For devices that provide safe pulmonary administration ~~;~~ provided that:
- ~~[(A)]~~ (i) The heating element of the device, if any, [is] shall be made of inert materials such as glass, ceramic, or stainless steel, and not of plastic or rubber;
- ~~[(B)]~~ (ii) The device [is] shall be 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)]~~ (iii) There [is] shall be a temperature control on the device that is regulated to prevent the combustion of cannabis oil; and
- ~~[(E)]~~ (iv) The device need not be manufactured by the licensed dispensary;
- (9) Pre-rolled cannabis flower products, as specified by the department;
- (10) ~~[Other products, including edible]~~ Edible cannabis products, as specified by the department; and
- (11) Other products as specified by the department.”

SECTION 6. Section 329D-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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 in colors approved by the department 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, 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.”

SECTION 7. Section 329D-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The following shall be subject to background checks conducted by the department or its designee, including but not limited to criminal history record checks in accordance with section 846-2.7:

- (1) Each applicant and licensee for a medical cannabis dispensary license, including the individual applicant and all officers, directors, members of a limited liability corporation; shareholders with at least twenty-five per cent or more ownership interest in a corporation; and managers of an entity applicant;
- (2) Each employee of a medical cannabis dispensary;
- (3) Each employee of a subcontracted production center or retail dispensing location;
- (4) All officers, directors, members of a limited liability corporation; and shareholders with at least twenty-five per cent or more ownership interest in a corporate owner of a subcontracted production center or retail dispensing location; and
- (5) Any person permitted to enter and remain in a ~~[dispensary facility]~~ retail dispensing location or production center pursuant to section 329D-15(a)(4) or 329D-16(a)(3).

The person undergoing the background check shall provide written consent and all applicable processing fees to the department or its designee to conduct the background checks.”

SECTION 8. Section 329D-15, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) 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, primary caregiver, 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]~~ retail dispensing location for a specific purpose for that ~~[dispensary;]~~ retail dispensing location including but not limited to construction, maintenance, repairs, legal counsel, providers of paratransit or other assistive services required by a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient to access a retail ~~[dispensary]~~ dispensing 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;]~~ retail dispensing location; provided that construction and maintenance personnel who are not normally engaged in the business of cultivating, processing, or selling medical cannabis need not be accompanied on a full-time basis, but shall

be reasonably monitored by an individual licensee or registered employee of the dispensary while in areas not containing any cannabis or manufactured cannabis products;

- (E) The person is only permitted within those portions of the ~~[dispensary facility]~~ retail dispensing location as necessary to fulfill the person's purpose for entering;
- (F) The person is only permitted within the ~~[dispensary facility]~~ retail dispensing location 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,]~~ retail dispensing location, 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~~[-]~~;

provided that a member of the general public may enter or remain within the waiting room of a retail dispensing location.

(b) No individual licensee or registered employee of a medical cannabis dispensary with control over or responsibility for a retail dispensing location shall intentionally or knowingly allow another to enter or remain upon the premises of the retail dispensing location, unless the other is permitted to enter and remain as specified in subsection (a)~~[-]~~, except in an emergency situation to repair infrastructure at a retail dispensing location by a person not on the department-approved list; provided that the repair worker shall be escorted at all times, and the licensee shall notify the department of the use of this individual immediately."

SECTION 9. Section 329D-16, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No person shall intentionally or knowingly enter or remain upon the premises of a medical cannabis production center unless the person is:

- (1) An individual licensee or registered employee of the production center;
- (2) A government employee or official acting in the person's official capacity; or
- (3) 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]~~ production center for a specific purpose for that ~~[dispensary,]~~ production center, including but not limited to construction, maintenance, repairs, legal counsel, 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]~~ production center at all times while in the ~~[dispensary facility;]~~ production center; provided that construction and maintenance personnel not normally engaged in the business of cultivating, processing, or selling medical cannabis need not be accompanied on a full-time basis, but shall be reasonably monitored by an individual licensee or



- registered employee of the production center while in areas not containing any cannabis or manufactured cannabis products;
- (E) The person is only permitted within those portions of the [dispensary facility] production center as necessary to fulfill the person's purpose for entering;
  - (F) The person is only permitted within the [dispensary facility] production center during the times and for the duration necessary to fulfill the person's purpose for entering;
  - (G) The [dispensary] production center shall keep an accurate record of each person's identity, date and times upon entering and exiting the [dispensary facility,] production center, purpose for entering, and the identity of the escort; and
  - (H) The approved list shall be effective for one year from the date of department approval.

(b) No individual licensee or registered employee of a medical cannabis dispensary with control over or responsibility for a production center shall intentionally or knowingly allow another to enter or remain upon the premises of the production center, unless the other is permitted to enter and remain as specified in subsection (a)[-], except in an emergency situation to repair infrastructure at a production center by a person not on the department-approved list; provided that the repair worker shall be escorted at all times, and the licensee shall notify the department of the use of this individual immediately."

SECTION 10. Section 329D-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any person who violates any of the provisions of this chapter or the rules adopted pursuant thereto shall be fined not less than \$100 nor more than \$1,000 for each [violation.] separate violation. Each day on which a violation occurs or continues shall be counted as a separate violation."

SECTION 11. Section 329D-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department, in conjunction with medical cannabis dispensaries and physicians and advanced practice registered nurses who issue written certifications pursuant to section 329-123, shall conduct a continuing education and training program to explain and clarify the purposes and requirements of this chapter or to provide substance abuse prevention and education. The program shall target community partner agencies, physicians and other health care providers, patients and caregivers, law enforcement agencies, law and policy makers, and the general public. The program shall include, at minimum, education and outreach regarding:

- (1) The updated, publicly-available list of medical cannabis dispensaries, physicians, and other health care providers participating in the program under this chapter;
- (2) Lawful activities, unlawful activities, and applicable penalties for a medical cannabis dispensary, qualifying patient, primary caregiver, qualifying out-of-state patient, caregiver of a qualifying out-of-state patient, and other entity performing related activities; and
- (3) The methods and associated requirements for a medical cannabis dispensary, qualifying patient, primary caregiver, or other entity to produce cannabis and manufactured cannabis products, as applicable."

SECTION 12. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

**ACT 108**

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

SECTION 14. This Act shall take effect on July 1, 2023.

(Approved June 22, 2023.)