
A BILL FOR AN ACT

RELATING TO MENTAL HEALTH TREATMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, in clinical trials,
2 psilocybin has shown promising potential for treating mental
3 health conditions. Research suggests that psilocybin may be
4 effective in reducing symptoms and improving outcomes for
5 conditions such as depression, anxiety, post-traumatic stress
6 disorder, and addiction. Studies have demonstrated psilocybin's
7 ability to induce profound and transformative experiences,
8 leading to increased neural plasticity and psychological
9 flexibility, reduced depressive and anxious states, and enhanced
10 emotional processing. There is sufficient medical and anecdotal
11 evidence to support the proposition that these conditions may
12 respond favorably to the regulated and therapeutic use of
13 psilocybin.

14 The legislature understands that scientific evidence on the
15 medicinal benefits of psilocybin should be recognized. The
16 legislature further recognizes that the Federal Drug
17 Administration has twice granted psilocybin breakthrough therapy



1 designation in 2018 and 2019 for mental health treatments and
2 will likely approve the medical use of psilocybin for treatment-
3 resistant depression and other ailments in the next few years.
4 Additionally, a number of states are already taking the
5 initiative to license and regulate the use of psilocybin for
6 medical and wellness purposes. Voter initiatives permitting the
7 medical use of psilocybin have passed in Colorado and Oregon,
8 and current complementary state initiatives are being considered
9 in California, Connecticut, Illinois, Iowa, Kentucky, Maine,
10 Massachusetts, Missouri, Montana, Nevada, New Hampshire, New
11 York, Vermont, Virginia, Washington, and the District of
12 Columbia. Bills to create task forces, committees, or working
13 groups, along with bills to authorize research on psilocybin
14 have been created in many more states.

15 Accordingly, the purpose of this Act is to ensure that
16 people who struggle with trauma and treatment-resistant mental
17 health ailments are not penalized by the State for the use of
18 psilocybin for therapeutic purposes when the qualifying
19 patient's licensed mental health professional provides a
20 professional recommendation that the benefits of therapeutic use



1 of psilocybin would likely outweigh the health risks for the
2 qualifying patient.

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

6 "PART . THERAPEUTIC USE OF PSILOCYBIN

7 §329-A Definitions. As used in this part:

8 "Administration session" means a session during which a
9 qualifying patient purchases, consumes, and experiences the
10 effects of psilocybin under the supervision of a facilitator.

11 "Debilitating mental health condition" includes:

- 12 (1) Post-traumatic stress disorder;
- 13 (2) Treatment-resistant depression or major depressive
14 disorder;
- 15 (3) End-of-life anxiety, existential stress, and
16 demoralization;
- 17 (4) Anorexia, bulimia, and other eating disorders;
- 18 (5) Addiction;
- 19 (6) Obsessive compulsive disorder; and
- 20 (7) Any other mental health condition approved by the
21 department of health pursuant to administrative rules



1 adopted in response to a request from a potential
2 qualifying patient or licensed mental health
3 professional.

4 "Facilitator" means an individual who facilitates the
5 administration of psilocybin to one or more qualifying patients
6 in the State.

7 "Integration session" means a meeting between a qualifying
8 patient and facilitator in which the facilitator provides
9 ongoing care to the qualifying patient and informs the
10 qualifying patient about additional peer support and other
11 resources.

12 "Licensed mental health professional" includes marriage and
13 family therapists licensed pursuant to chapter 451J; advanced
14 practice registered nurses or clinical nurse specialists
15 licensed under chapter 457 with psychiatric or mental health
16 training; physicians, including psychiatrists, licensed under
17 chapter 453; psychologists licensed under chapter 465; and
18 clinical social workers licensed pursuant to chapter 467E.

19 "Preparation session" means a meeting between a qualifying
20 patient and facilitator that occurs before the qualifying
21 patient participates in an administration session.



1 "Psilocybin" includes psilocybin and psilocin.

2 "Qualifying patient" means a person who has been identified
3 by a licensed mental health professional as having a
4 debilitating mental health condition.

5 "Therapeutic use" means the acquisition, possession,
6 cultivation, use, distribution, or transportation of psilocybin,
7 psilocybin derivatives, or paraphernalia relating to the
8 administration of psilocybin to alleviate the symptoms or
9 effects of a qualifying patient's debilitating mental health
10 condition. As used in this definition, "distribution" means the
11 transfer of psilocybin, psilocybin derivatives, and psilocybin
12 paraphernalia from the primary caregiver or facilitator to the
13 qualifying patient.

14 "Written certification" means the qualifying patient's
15 medical records or a statement signed by a qualifying patient's
16 licensed mental health professional, stating that in the
17 licensed mental health professional's professional opinion, the
18 qualifying patient has a debilitating mental health condition
19 and the potential benefits of the therapeutic use of psilocybin
20 would likely outweigh the health risks for the qualifying
21 patient.



1 **§329-B Therapeutic use of psilocybin; conditions of use.**

2 (a) Notwithstanding any law to the contrary, the therapeutic
3 use of psilocybin by a qualifying patient shall be permitted
4 only if:

- 5 (1) The qualifying patient has been identified by a
6 licensed mental health professional as having a
7 debilitating mental health condition;
- 8 (2) The qualifying patient's licensed mental health
9 professional has issued a written certification
10 authorized under this part to the qualifying patient;
11 and
- 12 (3) The amount of psilocybin to be administered does not
13 exceed five grams per session.

14 (b) The authorization for the therapeutic use of
15 psilocybin in this section shall not apply to:

- 16 (1) The therapeutic use of psilocybin that endangers the
17 health or well-being of another person;
- 18 (2) The therapeutic use of psilocybin:
 - 19 (A) In a school bus, public bus, or any moving
20 vehicle;
 - 21 (B) In the workplace of one's employment;



1 (C) On any school grounds;

2 (D) At any public park, public beach, or recreation
3 or youth center; or

4 (E) At any other place open to the public; and

5 (3) The use of psilocybin by a qualifying patient or
6 primary caregiver for purposes other than therapeutic
7 use permitted by this chapter.

8 (c) Each qualifying patient shall have only one primary
9 caregiver at any given time and each primary caregiver shall be
10 responsible for the care of only one qualifying patient at any
11 given time.

12 (d) Each qualifying patient shall attend a preparation
13 session before attending any administration session or
14 integration session. After completion of the preparation
15 session and administration session, the applicable facilitator
16 shall offer to provide the qualifying patient with an
17 integration session; provided that nothing herein shall be
18 construed as requiring the qualifying patient to participate in
19 an integration session.

20 (e) The qualifying patient shall determine the location at
21 which the preparation session, administration session, and



1 integration session shall be held; provided that, in making this
2 determination, the qualifying patient may seek guidance from the
3 facilitator.

4 **§329-C Written certification; validity.** Each written
5 certification issued pursuant to this part shall be valid for
6 one year from the date of signing by the qualifying patient's
7 licensed mental health professional.

8 **§329-D Insurance requirements.** Nothing in this part shall
9 be construed as requiring insurance coverage for the therapeutic
10 use of psilocybin.

11 **§329-E Facilitator eligibility requirements.** Each
12 facilitator shall:

- 13 (1) Be twenty-one years of age or older;
- 14 (2) Have received a high school diploma or equivalent
15 degree;
- 16 (3) Complete a psychedelic integration training program
17 having a curriculum approved by the office of wellness
18 and resilience;
- 19 (4) Be a resident of the State; and
- 20 (5) Support each qualifying patient during the three
21 components of psilocybin services, including a



1 preparation session, an administration session, and an
2 integration session without directing the qualifying
3 patient's experience; provided that nothing in this
4 section shall be construed as requiring the
5 facilitator to be physically present for the
6 administration of psilocybin to the applicable
7 qualifying patient.

8 **§329-F Qualifying patient or primary caregiver**

9 **protections.** (a) Each qualifying patient or primary caregiver
10 may assert the therapeutic use of psilocybin as an affirmative
11 defense to any prosecution involving psilocybin under this
12 chapter or chapter 712; provided that the qualifying patient or
13 primary caregiver shall have complied with the requirements of
14 this part.

15 (b) No qualifying patient or primary caregiver who fails
16 to comply with the scope of the therapeutic use of psilocybin
17 permitted under this part shall be afforded the protections
18 against searches and seizures pertaining to the misapplication
19 of the therapeutic use of psilocybin.



1 (c) No person shall be subject to arrest or prosecution
2 solely for being in the presence or vicinity of any therapeutic
3 use of psilocybin permitted under this part.

4 **§329-G Licensed mental health professional protections.**

5 No licensed mental health professional shall be subject to
6 arrest or prosecution, penalized in any manner, or denied any
7 right or privilege for providing a written certification for the
8 therapeutic use of psilocybin for a qualifying patient; provided
9 that:

- 10 (1) The licensed mental health professional has diagnosed
11 the qualifying patient as having a debilitating mental
12 health condition;
- 13 (2) The licensed mental health professional has explained
14 the potential risks and benefits of the therapeutic
15 use of psilocybin; and
- 16 (3) The written certification was based upon the licensed
17 mental health professional's professional opinion
18 after having completed a full assessment of the
19 qualifying patient's mental health history and current
20 mental health condition made in the course of a bona
21 fide health care provider-patient relationship.



1 **§329-H Seized property.** (a) Any psilocybin, psilocybin
2 paraphernalia, or other property seized from a qualifying
3 patient or primary caregiver in connection with a claimed
4 therapeutic use of psilocybin under this part shall be returned
5 immediately upon the determination by a court that the
6 qualifying patient or primary caregiver is entitled to the
7 protections of this part, as evidenced by a decision not to
8 prosecute, a dismissal of charges, or an acquittal.

9 (b) Any law enforcement agency that seizes any live plants
10 or fungi as evidence shall not be responsible for the care and
11 maintenance of the plants or fungi.

12 **§329-I Fraudulent misrepresentation; penalty.** (a)
13 Notwithstanding any law to the contrary, fraudulent
14 misrepresentation to a law enforcement official of any fact or
15 circumstance relating to:

16 (1) The therapeutic use of psilocybin to avoid arrest or
17 prosecution under this part or chapter 712 shall be a
18 petty misdemeanor and subject to a fine of \$500; and

19 (2) The issuance of a written certification for the
20 therapeutic use of psilocybin by a licensed mental
21 health professional that is not in compliance with



1 this part shall be a misdemeanor; provided that this
2 penalty shall be in addition to any other penalties
3 that may apply for the non-therapeutic use of
4 psilocybin.

5 (b) Nothing in this section shall be construed as
6 precluding the conviction of any person for any offense under
7 part V of chapter 710."

8 SECTION 3. Section 453-8, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) In addition to any other actions authorized by law,
11 any license to practice medicine and surgery may be revoked,
12 limited, or suspended by the board at any time in a proceeding
13 before the board, or may be denied, for any cause authorized by
14 law, including but not limited to the following:

15 (1) Procuring, or aiding or abetting in procuring, an
16 abortion that is unlawful under the laws of this State
17 or that would be unlawful under the laws of this State
18 if performed within this State;

19 (2) Employing any person to solicit patients for one's
20 self;



- 1 (3) Engaging in false, fraudulent, or deceptive
- 2 advertising, including but not limited to:
- 3 (A) Making excessive claims of expertise in one or
- 4 more medical specialty fields;
- 5 (B) Assuring a permanent cure for an incurable
- 6 disease; or
- 7 (C) Making any untruthful and improbable statement in
- 8 advertising one's medical or surgical practice or
- 9 business;
- 10 (4) Being habituated to the excessive use of drugs or
- 11 alcohol; or being addicted to, dependent on, or a
- 12 habitual user of a narcotic, barbiturate, amphetamine,
- 13 hallucinogen, or other drug having similar effects;
- 14 (5) Practicing medicine while the ability to practice is
- 15 impaired by alcohol, drugs, physical disability, or
- 16 mental instability;
- 17 (6) Procuring a license through fraud, misrepresentation,
- 18 or deceit, or knowingly permitting an unlicensed
- 19 person to perform activities requiring a license;



- 1 (7) Professional misconduct, hazardous negligence causing
- 2 bodily injury to another, or manifest incapacity in
- 3 the practice of medicine or surgery;
- 4 (8) Incompetence or multiple instances of negligence,
- 5 including but not limited to the consistent use of
- 6 medical service, [~~which~~] that is inappropriate or
- 7 unnecessary;
- 8 (9) Conduct or practice contrary to recognized standards
- 9 of ethics of the medical profession as adopted by the
- 10 Hawaii Medical Association, the American Medical
- 11 Association, the Hawaii Association of Osteopathic
- 12 Physicians and Surgeons, or the American Osteopathic
- 13 Association;
- 14 (10) Violation of the conditions or limitations upon which
- 15 a limited or temporary license is issued;
- 16 (11) Revocation, suspension, or other disciplinary action
- 17 by another state or federal agency of a license,
- 18 certificate, or medical privilege, except when the
- 19 revocation, suspension, or other disciplinary action
- 20 was based on the provision or assistance in receipt or
- 21 provision of medical, surgical, pharmaceutical,



1 counseling, or referral services relating to the human
2 reproductive system, including but not limited to
3 services relating to pregnancy, contraception, or the
4 termination of a pregnancy, so long as the provision
5 or assistance in receipt or provision of the services
6 was in accordance with the laws of this State or would
7 have been in accordance with the laws of this State if
8 it occurred within this State;

9 (12) Conviction, whether by nolo contendere or otherwise,
10 of a penal offense substantially related to the
11 qualifications, functions, or duties of a physician or
12 osteopathic physician, notwithstanding any statutory
13 provision to the contrary, except when the conviction
14 was based on the provision or assistance in receipt or
15 provision of medical, surgical, pharmaceutical,
16 counseling, or referral services relating to the human
17 reproductive system, including but not limited to
18 services relating to pregnancy, contraception, or the
19 termination of a pregnancy, so long as the provision
20 or assistance in receipt or provision of the services
21 was in accordance with the laws of this State or would



1 have been in accordance with the laws of this State if
2 it occurred within this State;

3 (13) Violation of chapter 329, the uniform controlled
4 substances act, or any rule adopted thereunder except
5 as provided in [~~section~~] sections 329-122[+] and
6 329-B;

7 (14) Failure to report to the board, in writing, any
8 disciplinary decision issued against the licensee or
9 the applicant in another jurisdiction within thirty
10 days after the disciplinary decision is issued; or

11 (15) Submitting to or filing with the board any notice,
12 statement, or other document required under this
13 chapter, [~~which~~] that is false or untrue or contains
14 any material misstatement or omission of fact."

15 SECTION 4. Section 712-1240.1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§712-1240.1 Defense to promoting.** (1) It [~~is~~] shall be
18 a defense to prosecution for any offense defined in this part
19 that the person who possessed or distributed the dangerous[+] drug,
20 harmful[+] drug, or detrimental drug did so under
21 authority of law as a practitioner, as an ultimate user of the



1 drug pursuant to a lawful prescription, or as a person otherwise
2 authorized by law.

3 (2) It ~~is~~ shall be an affirmative defense to prosecution
4 for any marijuana-related offense defined in this part that the
5 person who possessed or distributed the marijuana was authorized
6 to possess or distribute the marijuana for medical purposes
7 pursuant to part IX of chapter 329.

8 (3) It shall be an affirmative defense to prosecution for
9 any offense in this part that the person who possessed or
10 distributed the psilocybin was authorized to possess or
11 distribute the psilocybin for therapeutic use pursuant to
12 part _____ of chapter 329."

13 SECTION 5. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 6. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



1 SECTION 7. In codifying the new sections added by
2 section 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 8. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 9. This Act shall take effect on July 1, 3000.



Report Title:

Psilocybin; Therapeutic Uses; Authorization

Description:

Authorizes, and establishes a regulatory framework for, the administration of psilocybin for therapeutic use. Effective 7/1/3000. (HD1)

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