



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 1429, S.D. 1, RELATING TO MEDICAL CANNABIS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY

DATE: Friday, February 21, 2025

TIME: 10:20 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Andrew Goff,
Deputy Attorney General, at (808) 587-3050)

Chair Rhoads and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments on this bill.

The purposes of the bill are to: (1) retroactively repeal the sunset date of the authorization for primary caregivers to cultivate medical cannabis for their qualifying patients; (2) establish that each location used by primary caregivers to cultivate cannabis can be used to cultivate cannabis for not more than five qualifying patients; (3) increase the number of qualifying patients a primary caregiver is authorized to care for from one to five patients; (4) extend for two years interim rules adopted pursuant to section 329D-27, Hawaii Revised Statutes (HRS), and (5) extend the exemption from chapter 76, HRS, for two years.

Current law allows a primary caregiver to care for one medical cannabis patient, unless the patient is a minor. See section 329D-123(c), HRS. If the patient is a minor, up to two caregivers can be registered, provided they are the minor's parents or legal guardians. *Id.* Caregivers are authorized to grow cannabis for their patient, purchase cannabis from legal sources on behalf of their patient, and create cannabis products for their patient.

Allowing a primary caregiver to care for up to five patients would allow a caregiver to grow up to fifty cannabis plants, create unregulated, untested, and

untracked cannabis products (e.g., edibles and concentrates), and purchase up to twenty ounces of cannabis and cannabis products. Such a significant increase—enabling the procurement and distribution of over a pound of cannabis with minimal oversight—poses a risk of facilitating illegal commercial cannabis operations, thereby creating challenges for law enforcement. This unintended consequence undermines the intended regulatory framework.

For these reasons, we respectfully recommend deleting section 2, page 2, line 11, through page 3, line 6. Should the Legislature wish to expand the caregiver authorization to grow, process, and distribute cannabis, we recommend including provisions to grant the Department of Health sufficient oversight authority. This could be accomplished by amending chapter 329, HRS, by adding to part IX a new section to be appropriately designated and to read as follows:

"§329-A Violations; penalties. (a) In addition to any other penalties allowed by law, any person who violates this part or rules adopted thereunder shall be fined no more than \$10,000 for each separate violation. Each day on which a violation occurs or continues shall be counted as a separate violation.

(b) The department of health may impose by order an administrative penalty on a person pursuant to subsection (a) or pursuant to rules adopted pursuant to this part. The department of health shall serve the person with written notice of the administrative penalty and the basis for the administrative penalty. Any notice of an administrative penalty may be accompanied by a cease-and-desist order or a corrective action order, or both. The violation of the cease-and-desist order or the corrective action order shall constitute a further violation of this part.

(c) Any person aggrieved by the imposition of an administrative penalty, cease-and-desist order, or corrective action order may request a contested case hearing pursuant to chapter 91. To request a contested case hearing, the person shall submit a written request to the department of health within twenty calendar days of the date of the written notice.

Appeal to the circuit court under section 91-14 or any other applicable statute shall only be taken from the department of health's final order pursuant to a contested case.

(d) Any action taken to recover, collect, or enforce the penalty provided for in this section shall be considered a civil action. For any judicial proceeding to recover or collect an administrative penalty imposed pursuant to subsection (a) or to enforce a cease-and-desist order or a corrective action order issued pursuant to subsection (b), the department of health may petition any court of appropriate jurisdiction and need only show that:

- (1) Notice was served upon the person;
- (2) A hearing was held, or the time granted for requesting a hearing has expired without such a request;
- (3) The administrative penalty, cease-and-desist order, or corrective action order was imposed on the person; and
- (4) The penalty remains unpaid, or the order was not complied with."

We respectfully ask the Committee to pass the bill with the recommended amendments. Thank you for the opportunity to provide comments.



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DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of SB1429_SD1
RELATING TO MEDICAL CANNABIS**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date/Time: February 21, 2025, 10:20AM

Room Number: 016

1 **Fiscal Implications:** Significant. The amendments to Act 159, Session Laws of Hawaii 2018, to
2 extend current filled exempt positions would require continued appropriation of special funds.

3

4 **Department Testimony:** The Department strongly supports this measure with one change,
5 and sincerely appreciates the inclusion of our previously requested amendments in the Senate
6 Draft 1. The amendments are essential to ensuring continued patient access to medical
7 cannabis and continuity for Hawaii's medical cannabis program. Specifically, repealing the
8 sunset date for caregiver cultivation will allow patients who rely on home cultivation to
9 maintain access to their medical cannabis. Additionally, extending the sunset date for
10 dispensary employees and the interim rule-making authority is crucial for preventing job losses
11 and significant disruption to the medical cannabis program and for ensuring sufficient time to
12 implement the relevant rule changes.

13

14 **However, we respectfully request reconsideration of the amendment that was incorporated**
15 **in the Senate Draft 1 to increase the number of qualifying patients a primary caregiver may**
16 **serve from one to five.** This change risks commercializing the caregiver role, risking harm both
17 to the patient and to the integrity of the medical cannabis program. It would significantly

1 increase the number of plants a single caregiver may cultivate from 10 plants to 50 plants and
2 increase the amount of cannabis a caregiver can purchase and distribute to patients from 4
3 ounces to 20 ounces. We have concerns that this change will increase the risk of diversion. For
4 these reasons, we believe it is important to maintain the one-to-one patient-caregiver
5 relationship.

6

7 If the legislature intends to allow each caregiver to cultivate for up to five patients, we
8 respectfully request the addition of amendments that grant enforcement authority under
9 Chapter 329, part IX, HRS, to ensure proper oversight. The proposed amendments include the
10 authority for the department to issue notices of violations and corrective action orders, impose
11 administrative fines, and issue cease-and-desist orders.

12

13 We appreciate your consideration of this request and thank you for incorporating the critical
14 provisions outlined above.

15

16 Thank you for the opportunity to testify on this measure.

17

18 **Offered amendments should caregivers be allowed to cultivate for up to five patients:**

19

20 SECTION 4. Chapter 329, Hawaii Revised Statutes, is amended
21 by adding to part IX a new section to be appropriately
22 designated and read as follows:

23 "§329-A Violations; penalties. (a) In addition to any
24 other penalties allowed by law, any person who violates this
25 part or rules adopted thereunder shall be fined no more than
26 \$5,000 for each separate violation. Each day on which a

1 violation occurs or continues shall be counted as a separate
2 violation.

3 (b) The department of health may impose an administrative
4 penalty on a person pursuant to section (a), or rules adopted
5 pursuant to this part. The department of health shall serve the
6 person with written notice of the administrative penalty and the
7 basis for the administrative penalty. Any notice of an
8 administrative penalty may be accompanied by a cease-and-desist
9 order or a corrective action order. The violation of the cease-
10 and-desist order or the corrective action order shall constitute
11 a further violation of this part.

12 (c) Any person aggrieved by the imposition of an
13 administrative penalty, cease-and-desist order, or corrective action
14 order may request a contested case hearing pursuant to chapter
15 91. To request a contested case hearing, the person shall
16 submit a written request to the department of health within
17 twenty calendar days of the date of the written notice. Appeal
18 to the circuit court under section 91-14 or any other applicable
19 statute shall only be taken from the department of health's
20 final order pursuant to a contested case.

1 (d) Any action taken to recover, collect, or enforce the
2 penalty provided for in this section shall be considered a civil
3 action. For any judicial proceeding to recover or collect an
4 administrative penalty imposed pursuant to subsection (a) or to
5 enforce a cease-and-desist order or a corrective action order
6 issued pursuant to subsection (b), the department of health may
7 petition any court of appropriate jurisdiction and need only
8 show that:

9 (1) Notice was served upon the person;

10 (2) A hearing was held, or the time granted for requesting
11 a hearing has expired without such a request;

12 (3) The administrative penalty, cease-and-desist order, or
13 corrective action order was imposed on the person; and

14 (4) The penalty remains unpaid, or the order was not
15 complied with."

16



Akamai Cannabis Consulting

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TESTIMONY ON SENATE BILL 1429 SD1
RELATING TO MEDICAL CANNABIS
Clifton Otto, MD

SENATE COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Friday, February 21, 2025, at 10:20 AM
State Capitol, Room 016 & Videoconference
DECISION MAKING

This bill is critical for qualifying patients on islands with a dispensary who need assistance with cultivation. This bill is also critical for Hawaii's Medical Cannabis Program because it now contains amendments that provide for the continuation of vital dispensary regulatory staff.

Oversight of grow site compliance without violating patient rights remains a challenge, especially when no rules exist for conducting grow site inspections and there is no specific definition of a cannabis plant that applies to patients. The following simple amendment suggestions are an attempt to improve grow site compliance through formal rulemaking that will enable reasonable grow site inspections, and to make the counting of patient plants more practical and consistent. Thank you for considering.

§329-121 Definitions. As used in this part:

"Adequate supply" means an amount of medical cannabis jointly possessed between the qualifying patient and the primary caregiver 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 a qualifying patient's debilitating medical condition; provided that an "adequate supply" shall not exceed: ten cannabis plants, whether immature or mature, any number of cannabis seedlings or cuttings no more than six inches in exposed height, and four ounces of usable cannabis at any given time; and provided further that the department shall adopt rules pursuant to chapter 91 to enable grow site inspections by the department. The four ounces of usable cannabis shall include any combination of usable cannabis and manufactured cannabis products, as provided in chapter 329D, with the cannabis in the manufactured cannabis products being calculated using information provided pursuant to section 329D-9(c).

LATE

To: Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice-Chair
Members of the Senate Judiciary Committee

Fr: TY Cheng, on behalf of Aloha Green Holdings Inc.

Re: Testimony of **SUPPORT with comments** on **House Bill (SB) 1429 SD1**
RELATING TO MEDICAL CANNABIS.

Retroactively repeals the sunset date of the authorization for primary caregivers to cultivate medical cannabis for their qualifying patients. Clarifies that each location used to cultivate cannabis can be used to cultivate cannabis for no more than five qualifying patients. Effective 1/1/2025.

Dear Chair Rhoads, Vice-Chairs Gabbard, and Members of the Committee:

Aloha Green Apothecary (“Aloha”), a state-licensed medical cannabis dispensary operating on Oahu, respectfully submits this testimony in support of SB 1429 SD1, which revives the caregiver growing provisions for medical cannabis patients. We have suggestions on how to improve the bill so that previous non-enforcement does not ruin the program for law-abiding caregivers. We don’t want one rotten apple to ruin the bunch.

As a licensed dispensary, Aloha wishes to highlight that the caregiver sunset was a key part of the original Act 329 to allow patients access to caregiver-grown cannabis while the medical dispensaries were stood up. The caregiver relationship was a personal one-on-one relationship that allowed a patient to know exactly how their medicine was being grown by a trusted friend. Instead, the caregiver program was abused and caregivers amassed over 1000 patients to establish cultivation sites larger than any medical cannabis dispensary license.

In addition to the growth of a commercial cannabis caregiver model, the medical dispensaries were never given a chance to grow and reach market potential. The unnecessary and onerous application of regulations at the dispensary program’s onset stifled innovation and growth among the dispensaries and allowed the illicit market to thrive.

Regulators continue to provide non-enforcement of illicit hemp sales, caregivers selling cannabis products, and large-scale caregiver farms. The Department of Health and Attorney-General continue to deflect and point fingers to local police, and the Narcotics Enforcement Division to take care of these programs. This inefficiency and non-enforcement create confusion in the marketplace and lead to the proliferation of the sale of untested and untracked cannabis products for profit.

Prior to the caregiver sunset, there were large scale commercial caregivers acting as unlicensed dispensaries growing, manufacturing, and selling cannabis products to patients for one-time sham rent payments. These products were untested and not tracked.

This situation and the confusion among law enforcement between d8-THC hemp and d9-THC cannabis highlights the importance of regulating hemp and cannabis as “one plant”, with one regulator responsible for rules and enforcement with support from local police. Local and state law enforcement are too busy with other more harmful substances to deal with illicit hemp.

Aloha asks the committee to consider adding regulatory provisions giving the Department of Health authority to regulate hemp and cannabis as “one plant” in order to protect the public and community from the illicit sales of THC molecules. Without this change, SB 1429 SD1 creates the foundation for potential uncertainty and additional illegal sales proliferation endangering the patients, and the public.

Thank you for the opportunity to testify. I am available for any questions.

SB-1429-SD-1

Submitted on: 2/20/2025 1:04:37 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Support	Written Testimony Only

Comments:

I support SB1382. Any way that we are able to support caregivers in their task is worthy.

Thank you

Mrs Ruth Love

SB-1429-SD-1

Submitted on: 2/20/2025 9:09:53 AM

Testimony for JDC on 2/21/2025 10:20:00 AM

Submitted By	Organization	Testifier Position	Testify
Alex Wong	Individual	Support	Written Testimony Only

Comments:

Thank you for doing the right thing!