



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
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**Testimony COMMENTING on HB1218
RELATING TO MEDICAL CANNABIS**

REP. DELLA AU BELATTI, CHAIR
HOUSE COMMITTEE ON HEALTH & HOMELESSNESS

Hearing Date: 02-04-23

Room Number: 329

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health (DOH) recognizes the intent of this
3 measure to: (1) amend the dispensary licensing fee structure; (2) make amendments to various
4 aspects of the dispensary program requirements; (3) enhance annual reporting requirements; and
5 (4) make various housekeeping amendments. DOH provides the following COMMENTS
6 regarding each of these amendments.

7 DOH is amenable to the amendment proposed in Section 2, to add “pre-rolled cannabis flower
8 product” to the definition of manufactured cannabis product and the amendment in Section 6 to
9 add “pre-rolled cannabis flower product” to the list of types of medical cannabis products that
10 may be manufactured and distributed by dispensaries, provided that, as drafted, the department
11 maintain the authority to determine product specifications. This is to allow DOH to ensure that
12 these products are manufactured according to the safest processes available.

13 DOH supports the amendments in Section 4 to increase the number of signs that may be posted
14 at a retail dispensary and greatly appreciates removal of the requirement for rulemaking by
15 chapter 91 process for dispensary-to-dispensary sales. The additional sign will assist patients in
16 locating retail dispensaries and allowing DOH to maintain interim rulemaking authority protects
17 patient safety by supporting timely rule changes to address emergent public health concerns.

1 DOH does not support the amendments in Section 5 to revise the fee structure for license
2 renewals or the requirement that the fee structure be set by rules adopted pursuant to chapter 91.
3 The current fee structure was implemented by the 2022 Legislature to make the dispensary
4 licensing section self-sufficient. Revisions to Chapter 11-850, HAR, for this purpose were
5 completed only four months ago. DOH is concerned that the proposed fee structure will be
6 inadequate to maintain existing personnel and the operational cost of licensing, inspecting, and
7 regulating the dispensary industry. DOH objects to the rulemaking by chapter 91 process because
8 it is imperative to maintain interim rulemaking authority to support patient safety.

9 DOH opposes the amendments in Section 7 to remove the black lettering on a white background
10 with no pictures or images packaging (“plain packaging”) requirement. Merely specifying that
11 packaging does not include any cartoon character and is “not designed to appeal to minors” is
12 problematic. “Appealing to minors” is subject to interpretation and states which have
13 incorporated that language have struggled to limit what can be placed on packaging. DOH
14 reminds the committee that these products are medicinal and should not need to be colorful or
15 attractive. Hawaii’s simple, black on white plain packaging requirement is often held out as an
16 ideal in protecting public safety.

17 DOH is amenable to the amendments in Section 8 and Section 9 to allow certain construction
18 and maintenance personnel to enter licensed facilities and not be accompanied on a full-time
19 basis, but reasonably monitored while in areas that do not contain cannabis or cannabis products.
20 However, DOH is concerned with the proposed amendments to allow for escorted entry to repair
21 infrastructure in emergency situations, where the licensee is allowed to determine what
22 constitutes an emergency. DOH should be consulted to make that determination.

23 DOH supports the amendments to the annual dispensary licensing report in Section 10 with the
24 following comments. DOH requests to not publicly share the physical location of production
25 centers for reason of facility and personnel security and safety. DOH is not the appropriate
26 agency to report on taxes collected. Although DOH currently includes this figure in our annual

1 report, it is an estimate based on retail sales. DOH respectfully requests that this data come from
2 the Department of Taxation.

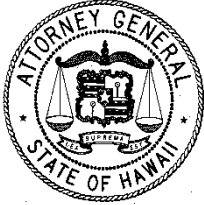
3 DOH supports the amendment in Section 11 to specify elements of the continuing education and
4 training program pursuant to section 329D-26, HRS, with the following comment. DOH posts a
5 listing of medical practitioners who certify patients on the DOH Patient Registry website that is
6 updated monthly. However, the list contains those practitioners who consent to being listed and
7 does not represent all physicians and other health care providers participating in the program.
8 Some practitioners are willing to certify their regular patients, but do not wish to certify those
9 individuals who are not their regular patients. DOH asks that we continue respect this practice.

10 DOH opposes the amendment in Section 12 to force the adoption of rulemaking pursuant to
11 chapter 91 “if there is a likelihood of severe economic impact to a stakeholder under this
12 chapter.” As stated above, DOH asks that interim rulemaking authority be maintained and points
13 out that the interim rulemaking process is timelier than the chapter 91 process. In addition, the
14 phrase “severe economic impact” is vague and subject to interpretation. Forced rulemaking in
15 this manner may protect one stakeholder to the detriment of others. Rulemaking should be a
16 carefully thought-out process that considers the interests and needs of both the state and the
17 licensed industry.

18 Finally, DOH supports the amendments in Section 13 to add an annual registry section reporting
19 requirement.

20 Thank you for the opportunity to testify.

21 **Offered Amendments:** N/A.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 1218, RELATING TO MEDICAL CANNABIS.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH AND HOMELESSNESS

DATE: Saturday, February 4, 2023 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Andrew Goff, Deputy Attorney General

Chair Belatti and Members of the Committee:

The Department of the Attorney General (Department) offers the following comments.

This bill makes amendments to various provisions of the Medical Cannabis Dispensary System outlined in chapter 329D, Hawaii Revised Statutes (HRS), including amendments to the restrictions on cannabis and manufactured cannabis products packaging (page 16, line 17, through page 18, line 9), and the administrative rules authority for the Department of Health (page 27, lines 1-20).

Regarding packaging, the current law requires cannabis and manufactured cannabis products to be sold only in packaging that uses a white background with black lettering and prohibits the use of pictures or graphics on packaging. See section 329D-11(a)(2), HRS. The bill removes that restriction, and instead requires packaging that "[d]oes not include the image of any cartoon character and is not designed to appeal to minors." (Page 17, lines 5-8). The Department is concerned that the wording "not designed to appeal to minors" is vague and would make enforcement of the new law difficult. We recommend substituting the phrase "not designed to appeal to minors" with the objective characteristics of packaging that the Legislature seeks to prohibit.

Regarding rulemaking authority, the current law allows the Department of Health to adopt and amend interim rules that are exempt from the rulemaking process required by chapter 91, HRS, until either: (1) July 1, 2025, or (2) the rules are adopted pursuant

to chapter 91, HRS. See section 329D-27, HRS. This bill amends section 329D-27, HRS, to require a rule to be adopted pursuant to chapter 91, HRS, if "there is a likelihood of severe economic impact to a stakeholder under this chapter." (Page 27, lines 17-20). The Department is concerned that what constitutes a "severe economic impact to a stakeholder" is open to interpretation and would make any interim rule subject to challenge. The Department recommends deleting the proposed section 329D-27(d) on page 27, lines 17-20, or defining the terms "severe economic impact" and "stakeholder."

Thank you for the opportunity to provide comments.

HB-1218

Submitted on: 2/1/2023 9:24:07 PM

Testimony for HLT on 2/4/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Tai Cheng	Aloha Green Holdings Inc.	Support	Remotely Via Zoom

Comments:

To: Representative Della Au Belatti, Chair

Representative Jenna Takenouchi, Vice-Chair

Members of the Health & Homelessness Committee

Fr: Tai Cheng, President of Aloha Green Holdings Inc.

Re: Testimony In Support of House Bill (HB) 1218

RELATING TO MEDICAL CANNABIS.

Amends the dispensary program licensing fee structure. Adds or clarifies signage, manufactured cannabis product, packaging, escort, and background check requirements for the medical cannabis dispensary program. Establishes annual reporting requirements to increase public transparency regarding the medical cannabis registry program. Makes various housekeeping amendments.

Dear Chair, Vice-Chair and Members of the Committee:

Aloha Green Apothecary is a state licensed medical cannabis dispensary licensee operating on Oahu. Aloha Green Supports with COMMENTS this bill which will affect how medical cannabis dispensaries operate.

Aloha Green's comments are both related to chapter 91 rule making powers.

Aloha Green supports the removal of the requirement for chapter 91 rule making in connection with allowing cannabis wholesale among medical cannabis dispensaries which was passed into law last year. The Department of Health has interim rule making powers in order to amend operating rules to maximize the program's safety and success.

But Aloha Green supports the addition of the requirement for chapter 91 rulemaking in connection with the Department of Health's power to unilaterally change annual cannabis dispensary licensee renewal fees. In 2022, the Department of Health unilaterally increased the annual renewal fee for Aloha Green from \$50,000 to \$310,000 with less than 6 months' notice and no consultation with licensees, patients, or the public.

The difference between the two above scenarios is that cannabis wholesale was debated and passed into law through the legislative process; but the change to renewal fees was done unilaterally by a department without any consultation or justification for their own benefit.

Thank you for the opportunity to testify with comments. I am available via Zoom to answer any questions.



February 2, 2023

To: Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair
Members of the House Committee on Health & Homelessness

From: David C. Cole, General Manager

Re: TESTIMONY in Support House of Bill 1218 & Proposed Amendments

Maui Grown Therapies (MGT) is licensed by the Department of Health pursuant to HRS 329D to cultivate, manufacture and dispense medical cannabis products to registered patients. In 2022, MGT served 5,364 unique patients on Maui.

HB 1218 proposes to amend various administrative provisions pertaining to the operation of dispensaries; improve transparency of the department's conduct; and make various housekeeping amendments. MGT supports these amendments because they will help the medical cannabis dispensary and patient registry programs continue to evolve, based on experience to date, to fulfill the purposes for which they were created.

Reflecting on over five plus years of experience serving the medical cannabis community, MGT believes that additional measures are needed to address unmet patient needs by lowering administrative barriers that patients have experienced since the program's inception. Specifically, we propose amendments to the bill, **set forth in the attachment**, to enhance services to patients & reduce costs.

1. **Improved patient access to authorized providers.** Currently, patients may obtain written authorization for medical cannabis use only from a physician or advanced practice registered nurse (APRN) with whom they enjoy a "bona fide" relationship. Although that term is not defined by statute, many patients, especially kupuna, have long-standing relationships with health care providers that have not registered as 329 certifiers. Moreover, when a health care provider discontinues issuing certifications due to retirement, relocation, or change in practice, patients may be without ready access to an authorized provider.

In addition, while the statute authorizes three-year certifications for chronic debilitating conditions, the department has restricted chronic certifications to two years. As a result, patients with chronic conditions, particularly kupuna, find themselves having to renew their certifications sooner than the statute otherwise requires and to incur considerable expense.

Hawai'i's health care providers are subject to stringent regulatory requirements that ensure their medical judgments are made within the scope of practice. Requiring an already overburdened department to further determine that a "bona fide" relationship exists between patient and provider, or requiring the department, rather than the provider, to determine whether a chronic condition merits a two or three year certification, only erects further barriers to patient treatment that the medical cannabis program was intended to overcome.

Maui Grown Therapies
44 Pa'a St., Kahului, HI 96732
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Our proposed amendments would permit qualifying patients to obtain written certifications from any physician or APRN who determines that the patient suffers from a debilitating medical condition, and establish that written certifications for chronic conditions shall be valid for three years.

2. **Patient Education.** Currently, HRS 329D-26 requires the department to conduct a continuing education program targeting, among others, physicians, APRNs, patients, and caregivers. In reality, the department possesses neither the expertise nor the resources needed for this purpose. Moreover, while HRS 329D-11 authorizes the department to allow dispensaries to provide, disseminate, and publish educational and scientific materials relating to medical cannabis, the department has not done so.

Our proposed amendments relieve the department of the burden of supervising the provision of educational services, by directly authorizing dispensaries, in conjunction with DOH authorized physicians and APRNs, to provide educational services regarding the medical cannabis program, including guiding patients through the registration and renewal process. MGT has found that our kupuna patients frequently request assistance with the patient registration & renewal process.

3. **Proxy Cultivation of Cannabis.** The Legislature has determined that with the advent of a dispensary system, cannabis shall be obtained only by cultivation by a qualifying patient or from a licensed dispensary. Effective December 31, 2024, no primary caregiver shall be authorized to cultivate cannabis for a qualifying patient. However, over the past several years, qualifying patients numbering in the thousands have effectively delegated their “grow rights” to third parties who cultivate cannabis in unlicensed off-site grow operations, generating cannabis and cannabis products both for the qualifying patient and others that exceed product and potency limitations that govern dispensary operations. Moreover, none of the products generated and sold by these “de facto” dispensaries are tested, labeled, or tracked in accordance with statutes and rules designed to protect and promote patient health, wellbeing, and safety. In effect, the patient registry program is cannibalizing the dispensary program while providing none of its patient-centered guardrails.

Our amendments would, once the authorization for primary caregiver cultivation sunsets on December 31, 2024, permit cultivation at a single site for no more than five qualifying patients, and would prohibit cultivation by third party proxies, whether by lease, assignment, or otherwise. In this way, the balance between qualifying patients’ “rights to grow” and safe cultivation and production by licensed dispensaries can be re-established and maintained.

Mahalo for your consideration.

Maui Grown Therapies
44 Pa’a St., Kahului, HI 96732
(808) 866 7576



PROPOSED AMENDMENTS TO HB 1218

1. Amend SECTION 1 by adding two new paragraphs to reflect amendments made to the bill, as follows, and renumber existing paragraph (4) as paragraph (6):

- (4) Promote public health and positive outcomes by expanding patient access to medical cannabis, educational products, and services;
- (5) Improve operation of the medical cannabis program by reducing administrative burdens on the department of health; and

2. Insert the following language as a new SECTION 2:

SECTION 2. 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~~[-]~~ chosen by the qualifying patient 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]~~ A written certification shall be 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~~[-]~~, the written certification shall be valid for three years."

3. Insert the following language as a new SECTION 3:

SECTION 3. Section 329-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(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 and tax map key number of the location where the cannabis ~~[is]~~ will be grown [and], which shall appear on the registry card issued by the department of health. The ~~[certifying]~~ qualifying patient may choose the 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.] who issues the written certification."

4. Insert the following language as a new SECTION 4:

SECTION 4. Section 329-130, Hawaii revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) After December 31, 2024, 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~~
 - (A) Each location used to cultivate cannabis shall be used by no more than five qualifying patients[-]; and
 - (B) No person other than the qualifying patient or the qualifying patient's caregiver shall cultivate cannabis for or on behalf of the qualifying patient, whether by lease, assignment, or otherwise.

After December 31, 2024, no primary caregiver shall be authorized to cultivate cannabis for any qualifying patient."

5. Renumber remaining original SECTION 4 through 17 as SECTION 5 through 20;

6. Insert in the newly designated SECTION 10 (formerly SECTION 7) new prefatory language and an amendment to Section 329D-11(d), HRS, as follows:

SECTION 10. Section 329D-11, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read: * * *
2. By amending subsection (d) to read:

"(d) [The department shall be authorized to allow dispensaries to] In collaboration with physicians and advanced practice registered nurses, as defined in section 329-121, dispensaries may provide, disseminate, and publish educational and scientific materials relating to medical cannabis and its approved products, and may also sponsor events about medical cannabis[-], including the certification process under part IX, chapter 329."

7. Insert in the newly designated SECTION 14 (formerly SECTION 11) new prefatory language and a new subsection 329D-26(d), as follows:

SECTION 14. Section 329D-26, Hawaii Revised Statutes, is amended to read as follows:

(c) Physicians and advanced practice registered nurses, as defined in section 329-121, in collaboration with the department and dispensaries licensed under this part, may provide educational services and programs regarding the medical use of cannabis, including therapeutic options for qualifying patients."



DATE: February 3, 2023

TO: Representative Della Au Belatti
Chair, House Committee on Health & Homelessness

FROM: Mihoko Ito

RE: **H.B. 1218 – Relating to Medical Cannabis**
Hearing Date: Saturday, February 4, 2023 at 10:00 a.m.
Conference Room: 329

Chair Belatti, Vice Chair Takenouchi, and members of the Committee on Health & Homelessness:

We submit this testimony on behalf of Cure Oahu in **support** of H.B. 1218. Cure Oahu is a vertically integrated licensed dispensary that has been operating in the State of Hawaii since 2018, with two retail locations in the Kapahulu and Kapolei areas.

H.B. 1218 Relating to Medical Cannabis updates the medical cannabis dispensary program by: 1) amending the licensing fee structure, 2) clarifying signage requirements, 3) addressing manufactured cannabis product packaging, 4) clarifying escort and background check requirements 5) establishing annual reporting requirements to increase public transparency regarding the medical cannabis registry program, and 6) making other housekeeping amendments.

We believe that this bill will assist the medical cannabis dispensaries overall with streamlining operations and resources and simply remaining operational. In addition to structural issues already impacting the cannabis industry nationwide, the medical cannabis market has, like many other industries, been subject to the recent impacts of inflation and labor shortage issues, both within business operations and with its vendors. We support the entirety of the updates in this bill, and would like to highlight for the Committee the benefits of a few of the proposed changes below.

Dispensary fee structure: Among other things, this measure makes important changes to the dispensary fee structure, which dispensaries must pay to operate in the state. In November 2022, the medical cannabis dispensary program issued interim rules that dramatically changed the fee structure without opportunity for stakeholders to anticipate or provide input on potential impacts. This change in turn significantly impacted the budgeting process of the dispensaries due to sudden overall fee increases ranging from 200-400%. While we understand the need for increasing regulatory resources and support a way to achieve, fees need to be predictable and budgeted for. More importantly, we believe it is important for stakeholder to have a voice when there are dramatic financial impacts to our

operations. This measure codifies reasonable fees that are higher than the dispensary fees set in the original 2015 law, and also allows for reasonable increases which will provide stability in the market.

Pre-rolled cannabis product: We also support the allowance for the sale of pre-rolled cannabis flower products. The majority of dispensaries sales today are the flower form of the product, which is typically smoked in some form. Pre-rolls eliminate the need for patients to purchase and invest in cannabis accessories such as rolling paper, grinders, bowls, pipes and other paraphernalia. It also helps new patients who purchase and use flower but are unfamiliar with how to roll the product avoid wasting medicine if they were to learn to roll themselves. Pre-rolls are sold in many other states across the country, and we believe there is merit to adding them as allowable product for patients.

Agency Reporting: We support the provisions in this measure that add reporting requirements for the medical cannabis dispensary program under Chapter 329D and the individual medical use of medical cannabis under HRS Chapter 329. This will help the Legislature and other stakeholders understand the overall focus of the regulatory agencies in their oversight of the medical cannabis program. For dispensaries, understanding the priorities of the regulatory agencies involved will help them align expectations and allocate their resources accordingly.

We respectfully request that the Committee move this measure to allow for discussions to continue on these issues. Thank you for the opportunity to submit testimony in support of this measure.



To: Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair
Members of the House Committee on Health and Homelessness

Fr: Jaclyn L. Moore, Pharm.D., CEO Big Island Grown Dispensaries

Re: Testimony **In Support of House Bill (HB) 1218**

RELATING TO MEDICAL CANNABIS.

Amends the dispensary program licensing fee structure. Adds or clarifies signage, manufactured cannabis product, packaging, escort, and background check requirements for the medical cannabis dispensary program. Establishes annual reporting requirements to increase public transparency regarding the medical cannabis registry program. Makes various housekeeping amendments.

Dear Chair, Vice-Chair and Members of the Committee:

Big Island Grown Dispensaries is one of eight medical cannabis dispensary licensees in the State. We submit testimony today in **support of HB1218**.

Thank you for the opportunity to testify.

Jaclyn L. Moore, Pharm.D., CEO Big Island Grown Dispensaries

HB-1218

Submitted on: 2/2/2023 10:22:16 AM

Testimony for HLT on 2/4/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Victor K. Ramos	Individual	Support	Written Testimony Only

Comments:

SUPPORT