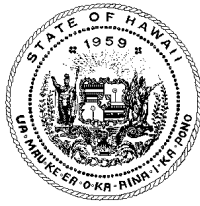


JOSH GREEN, M.D.
GOVERNOR



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF PUBLIC SAFETY
Ka 'Oihana Ho'opalekana Lehulehu
1177 Alakea Street
Honolulu, Hawaii 96813

TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Michael J. Hoffman
Acting Deputy Director
Corrections

William F. Oku
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 957
RELATING TO MEDICAL CANNABIS

By
Tommy Johnson, Director

House Committee on Health and Homelessness
Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair

Saturday, February 04, 2023; 9:30 a.m.
CR 329 and Via Videoconference

WRITTEN TESTIMONY ONLY

Chair Belatti, Vice Chair Takenouchi, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on House Bill (HB) 957, which seeks to allow health care facilities to permit terminally ill patients to use medical cannabis under certain conditions.

HB 957, page 5, lines 2-5, defines applicable and excluded health care facilities. PSD respectfully requests correctional facilities are included in the definition of an excluded health care facility. HB957, page 5, lines 3-5 currently reads: "Health care facility" does not include a chemical dependency recovery hospital or a State hospital." PSD requests the following change: "Health care facility" does not include a chemical dependency recovery hospital, a state hospital, or health care programs within jails and prisons operated by the Department of Public Safety or its successor.

Over 80% of Hawaii's incarcerated individuals experience some level of involvement with substance misuse. PSD promotes rehabilitation and avoids potential opportunities for medication diversion to individuals who use drugs while in our care through various measures for the prevention of the misuse or abuse of prescribed medication (e.g., see, for example, Tamburello et.al. (2022)). PSD respectfully requests

Testimony on HB 957
House Committee on Health and Homelessness
February 04, 2023
Page 2

the committee consider the issue of medication diversion as an everyday challenge for the individuals in our care and continue to support the organizational shift to a rehabilitation model.

Thank you for the opportunity to provide comments on HB 957.



**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. 957, 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 would amend chapter 329, Hawaii Revised Statutes (HRS), to require health care facilities in the State to allow terminally ill patients to use medical cannabis (page 1, lines 7-10). "Health care facility" is defined as having the same meaning as section 323D-2, HRS, but does not include chemical dependency recovery hospitals or a State hospital (page 5, lines 2-5). Section 323D-2, HRS, defines "health care facility" very broadly to include "any program, institution, place, building, or agency, or portion thereof, private or public, other than federal facilities or services, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons."

The bill would therefore require every facility that provides medical services to a terminally ill patient, except for chemical dependency recovery hospitals or a State hospital, to allow medical cannabis use.

This could be subject to challenge because cannabis use is still prohibited by federal law, which could potentially put a facility's federal funding in jeopardy or expose the facility to other legal risks .

We note that the bill includes a provision that requires a covered health care facility to suspend patient use of medical cannabis if a federal agency initiates an

enforcement action against the facility, or if a federal agency prohibits the use of medical cannabis on the facility premises (page 3, line 15, through page 5, line 13). However, there is no guarantee that any federal enforcement action would be abated once the facility suspends patient use of medical cannabis.

If the intent is to clarify that, under State law, a health care facility may allow the use of medical cannabis by terminally ill patients, the Department recommends changing the "shall" on page 1, line 9, to "may" and deleting section 329 - (g) on page 4, lines 14-19.

Thank you for the opportunity to provide comments.



February 4, 2023 at 9:30 am
Conference Room 329

House Committee on Health and Homelessness

To: Chair Della Au Belatti
Vice Chair Jenna Takenouchi

From: Paige Heckathorn Choy
Associate Vice President, Government Affairs
Healthcare Association of Hawaii

Re: Comments
HB 957, Relating to Medical Cannabis

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 30,000 people statewide.

Thank you for the opportunity to **oppose** this legislation. We appreciate the intent of this measure, which is to allow terminally ill patients who are registered medical marijuana users to access and use the drug while admitted into an inpatient setting. Only one state (California) has passed a law allowing this, and it has just recently gone into effect. We believe that the concerns raised by healthcare facilities in the state—namely, that allowing the use of medical marijuana in inpatient settings—could run afoul of federal law and regulations and could affect reimbursements from programs such as Medicare. Many contracts that facilities have with private insurers also contain requirements limiting controlled substance use in facilities.

This measure is problematic for hospital settings, where outside medications are generally not allowed to be brought in and used by patients. However, the bigger unresolved questions lie with how this policy will be implemented in nursing homes and hospices. It could be very difficult to manage this policy for congregate living settings such as nursing homes and, given the definition of terminally ill, may require a facility to manage up to a year of security and compliance issues. Further, while many hospices may allow the use of medical marijuana at home, inpatient hospices must meet different demands and requirements.

While there are some exceptions built into this measure, we would suggest that more time is needed to see how this policy is ultimately implemented and worked out in the state where it was passed, and would ask that this measure not move forward until we better understand the potential consequences of this policy.

Thank you for the opportunity to provide testimony on this measure.



February 3, 2023

Dear Honorable Chair, Vice Chair, and Distinguished Members of the Committee

My name is Heather Manus, RN and I represent nearly 5000 nurses who are members of the Cannabis Nurses Network, including nurses working and residing in Hawaii.

I am writing to express our strong support for HB957: Medical Cannabis; Compassionate Access; Health Care Facility; Terminally Ill Patient, otherwise known as Ryan's Law. This legislation will provide relief, compassion and dignity to Hawaiians during the most vulnerable time of their lives.

Despite the Hawaii's approval of medical cannabis use for adults and children, and the very real prospect of legalized recreational use for adults, Hawaii patients are currently unable to continue taking medical cannabis as part of their treatment plan while in the hospital – even if they possess a valid physicians' recommendation.

HB957 seeks to close that gap by allowing those who most need compassion at the end of life to have access to medical cannabis in an in-patient setting. The bill would authorize a healthcare facility to reasonably restrict the manner in which a patient stores and uses medical cannabis to ensure the safety of other patients, guests, and employees of the healthcare facility. It does not apply to patients receiving emergency care, and smoking and vaping cannabis is expressly prohibited.

For too long, Hawaiians receiving treatment in healthcare facilities have been denied access to medical cannabis-related treatment methods, despite research demonstrating it to have innumerable benefits. As a result, individuals have been subjugated to unnecessary trials of pain and suffering. HB957 is a simple yet critical step, which will have an abundance of benefits to ensure access to compassion and pain management for the most vulnerable Hawaiians.

For these reasons, Cannabis Nurses Network is proud to join you in support of HB957.

Sincerely,

Heather Manus, RN
Cannabis Nurses Network, President

Ken Sobel, Esq.
Vice President, Genesis International Cannabis Solutions, Inc.
Vice President Nature Nurse Collective, Inc.
Former President, Grossmont College Foundation
Licensed Attorney and Counsel in Arizona & California Since 1980
Practice Limited to Medical & Adult Use Commercial Cannabis Licensing & Operations
All Aspects of Cannabis and Hemp Law, Business, Policy & Patient Advocacy
2511 Via Viesta
La Jolla, CA 92037
email: kennysocal711@gmail.com
cell: 619-208-2439

To: The Honorable Chairperson and Members of the Committee on Health and Homelessness of the House of Representatives of the 32d Legislature of the Great State of Hawaii:

My name is Ken Sobel. I am an attorney licensed to practice in the States of California and Arizona, and General Counsel for the Cannabis Nurses Network (“CNN”) and the Arizona Cannabis Nurses Association (“AZCNA”). My testimony today is in support of HB 957 Relating to Medical Cannabis to Allow hospitals and healthcare facilities to **permit terminally ill patients to use medical cannabis while in-patients under certain conditions.**

I assisted in the drafting of California SB 311 for which HB 957 is patterned after. SB 311 was the third iteration of the bill originally filed in the California Senate in 2019. It passed the first time unanimously. Fundamentally, the bill supports a dying person’s right to choose a beneficial plant medicine for pain relief because he or she chooses to do so. Although the first iteration was vetoed by Governor Newsome, it was only done so based upon the mistaken belief that CMS could possibly deny Medicare reimbursement to the host facilities. Subsequently, CMS confirmed in writing that it had no rules that would allow for such action, and Ryan’s Law was again passed by every member of the California Legislature. [A copy of the CMS email is attached. Like California, Hawaii is also in CMS Region 9].

On September 28, 2021, Governor Gavin Newsom signed SB 311, also known as “Ryan’s Law”, requiring healthcare facilities to allow the use of medical cannabis on their premises for terminally ill patients with a valid Medical Marijuana Identification Card (MMIC) or/ recommendation from an attending physician. The law was passed by the legislature with support from a diverse group of organizations including the Cannabis Nurses Network, Americans for Safe Access (ASA), and many others. The law went into effect January 1, 2022, and applies to all CA health care facilities including acute care hospitals, special hospitals, skilled nursing facilities, congregate living health facilities, or hospice providers (excluding to the emergency department of a health care facility, chemical dependency recovery hospitals and state hospitals).

Ryan’s law was passed in honor of Ryan Bartell who was diagnosed with Stage 4 pancreatic cancer at the age of 41. As his condition progressed, he was admitted to the palliative wing of a hospital where he spent his first four and a half weeks on fentanyl to treat his pain. However, the side effect of the fentanyl was to leave Ryan in a near comatose state, unable to interact with his loved ones. In the interim, Ryan’s father and co-author of Ryan’s Law, Jim Bartell, reached out to Heather Manus, RN, President of CNN, and Nurse Heather arranged for Ryan to receive the appropriate cannabis extracts from a legal source to reduce the pain and allow him to be alert and communicative with family and friends during his final days. Unfortunately, the first hospital could not allow Ryan to use cannabis in their facility. He stayed on this medication until his family could locate and move Ryan to a hospital that would allow him to use cannabis. As a result of using medical cannabis in lieu of fentanyl, within 12 hours Ryan was able to converse and interact with his family normally and spent his last two and half

weeks lucid and pain-free with his family and friends. Following this experience, Ryan's father Jim Bartell made it his mission to ensure that no other family would have to navigate this choice for palliative care, losing precious time with their loved one.

Ryan's Law builds on the rights granted to patients through the California voter initiative Proposition 215 in 1996, also known as the Compassionate Use Act which is similar in substance to Hawaii's medical cannabis law. The law exempts patients and their designated caregivers from criminal penalties relating to the use, possession, and cultivation cannabis with an oral or written recommendation or approval from a physician. In 2003, the California legislature passed the Medical Marijuana Program Act expanding rights for patients and establishing a voluntary ID card program that exempts patients from arrests.

The US Supreme Court confirmed in 2004 that medical professionals have a legal right to recommend cannabis as a treatment in any state due to protections afforded by the First Amendment to the US Constitution. The court upheld an earlier ruling in *Conant v. Walters* in which the Ninth Circuit Court of Appeals ruled that the federal government could neither punish nor threaten a doctor merely for recommending the use of cannabis to a patient.

While cannabis remains a Schedule I drug, for the past 7 years Congress has added restrictions on federal enforcement though the funding bill for the Commerce-Justice-Science (CJS) prohibiting Justice Department funds from being used to prevent states from implementing medical cannabis laws. Known as the Rohrabacher-Farr or CJS amendment, it first signed into law on December 16, 2014. The courts have largely upheld the CJS Amendment, including Chief Justice Breyer's brother, a federal district judge for the northern district of California, in a case known as *US v. MAMM*.

Ryan's Law also prohibits the smoking of cannabis in healthcare facilities and outlines a series of responsibilities for the facilities. In conjunction with the Ryan's Law Implementation team, I drafted a Guide to help California health care facilities remain in compliance with this new law and offer tools for implementation. The Guide can be found on the Cannabis Nurses Network website, www.cannabisnursesnetwork.com

Nearly 10 years ago as general counsel for the AZCNA we proved to a reasonable degree of scientific certainty that cannabis was safe and effective in the treatment of Post Traumatic Stress Disorder based upon the testimony of physicians, nurses, scientists, and patients. This is because every human being has an endocannabinoid system sometimes referred to as the eCS or the 12th system of the human body. It is highly effective for pain relief yet much safer than opiates and does not produce the highly sedative effect of opiates. It allows many terminally ill patients the opportunity to live out their remaining time on earth in the company of their family and friends with a better quality of life.

Founded in 2014, CNN's mission is to ensure education and healthcare for legally qualified patients to use and benefit from safe and legal access to cannabis for therapeutic use, and to advocate on behalf of our nurses and their patients. CNN seeks to advocate for and implement the right of patients to choose cannabis as their medicine of choice, particularly those who are terminally ill. In conjunction with Mr. Bartell, our organization is committed to providing advocacy and support in all states through the passage of Ryan's Law.

Because no person should be deprived of their choice for a natural plant medicine that improves his quality of life before death whether they are at home or in a hospital or healthcare facility, and because no parent should have to watch his child pass without the chance to spend meaningful quality time with him before death...

We urge the Committee to vote in favor of HB 957.

Respectfully submitted,
Ken Sobel, Esq. for
Cannabis Nurses Network

Ken Sobel, Esq.
Cannabis Nurses Network

cc: [illegible]

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Hickey, Erin

From: CMS ROSFOORA <ROSFOORA@cms.hhs.gov>
Sent: Friday, March 19, 2021 10:49 AM
To: Hickey, Erin
Subject: RE: Legislative Meeting Request - California Senator Ben Hueso SB 311

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Good Morning,

I apologize for the delay in our response. CMS and States have received questions from Medicare-participating providers about the impact of marijuana use on their participation in Medicare and Medicaid reimbursement. The Medicare or Medicaid regulations do not address the use of medical marijuana or CBD oil. Surveyors do look at topics such as medication storage, appropriate self-administration of medications, and safe smoking policies, fire safety, etc. – but there is nothing explicitly in the Medicare/Medicaid survey and certification process related to the use of marijuana or CBD oil.

CMS regulations generally require compliance with federal, state, and local laws. CMS would not cite this unless that other body (the authority having jurisdiction-in this case the DOJ) has made an adverse finding.

We are not aware of a provider that has specifically lost funding or been penalized for permitting the use of marijuana or CBD oil; however, there have been citations cited when there has been non-compliance related to the other areas above (fire safety issues in smoking marijuana in a resident/patient room, safe storage, etc.).

Please let us know if you have any questions,

Thank you

From: Hickey, Erin <Erin.Hickey@sen.ca.gov>
Sent: Monday, March 15, 2021 1:55 PM
To: CMS SFCMSFOIA <SFCMSFOIA@cms.hhs.gov>
Subject: Legislative Meeting Request - California Senator Ben Hueso SB 311

Good afternoon,

I work for California State Senator Ben Hueso and am reaching out with a legislative meeting request.

The senator is carrying legislation this year that would require that hospitals and certain types of healthcare facilities in the State of California allow a terminally-ill patient to use medical cannabis for treatment and/or pain relief. The bill number is SB 311 (Hueso): Compassionate Access to Medical Cannabis Act or Ryan's Law: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB311

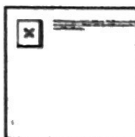
We recently met with the California Department of Public Health, which previously opposed this bill out of the concern that, as the enforcing agency for CMS, they would be required to cite hospitals that permitted this. The California Hospital Association also has an oppose-unless-amended stance due to a possible risk of losing Medicare/Medicaid reimbursement from CMS.

We were hoping to further discuss with your office to see exactly what the process is like when you receive reports from CDPH and what the enforcement action might be if the report is only detailing that the facility is allowing a terminally-ill patient to access cannabis in a state where it is legal and the patient has a valid prescription (also, the hospital does not have to administer or provide it – only not interfere with the patient's use). I'm hoping this doesn't result in a loss of funding but, again, we're just trying to better understand the actual risks involved here. This will greatly help as we decide if and how to amend the bill to ensure that hospitals do not lose funding in our attempt to provide compassionate access to those who most need it.

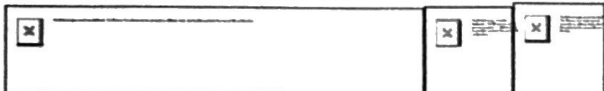
I've attached the fact sheet for your review. You'll notice we have included a safe harbor clause that allows facilities to suspend compliance based on actions from fed agencies including CMS. We would love to discuss that with you, as well, to see if there are ways to strengthen that.

Are there any days in the coming week(s) that might work for our teams to jump on a Zoom meeting?

Thanks so much!
Erin



Erin Hickey
Communications Director
Office of State Senator Ben Hueso, 40th District
Work: 619-409-7690



Click on the button to receive Senator Hueso's newsletter, and the Twitter and Instagram logos to follow Senator Hueso on social media.



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

Fr: Randy Gonce, Executive Director of the Hawaii Cannabis Industry Association

Re: **Testimony In Support of House Bill (HB) 957**
RELATING TO MEDICAL CANNABIS.
Allows health care facilities to permit terminally ill patients to use medical cannabis under certain conditions.

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

The Hawai'i Cannabis Industry Association is the trade association for the state's licensed medical cannabis dispensaries. HICIA **supports HB957** as it expands necessary access to the most vulnerable patients and their caregivers.

Terminally ill patients deserve parity and the access to medical cannabis as relief.
Please support this important measure

Thank you for the opportunity to testify.



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

Fr: Casey Rothstein, CEO, Green Aloha Ltd.

Re: **Testimony In Support of House Bill (HB) 957**

RELATING TO MEDICAL CANNABIS.

Allows health care facilities to permit terminally ill patients to use medical cannabis under certain conditions.

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

Green Aloha, the Kauai Medical Cannabis license, is in strong **support of HB957** as it expands necessary access to the most vulnerable patients and their caregivers.

Terminally ill patients deserve parity and the access to medical cannabis as relief.
Please support this important measure

Thank you for the opportunity to testify.



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

Fr: Bill Jarvis, Chief Executive Officer of Noa Botanicals

Re: **Testimony In Support of House Bill (HB) 957**
RELATING TO MEDICAL CANNABIS.
Allows health care facilities to permit terminally ill patients to use medical cannabis under certain conditions.

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

Noa Botanicals is one of the three licensed medical cannabis dispensaries on Oahu and we **support HB957** as it expands necessary access to the most vulnerable patients and their caregivers.

Terminally ill patients deserve parity and the access to medical cannabis as relief. Please support this important measure.

Thank you for the opportunity to testify.

Best,

Bill Jarvis
CEO
Noa Botanicals

HB-957

Submitted on: 2/1/2023 9:16:34 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	Written Testimony Only

Comments:

Aloha Green Apothecary supports the intent of this bill to provide cannabis rights to terminally ill patients.



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) 957**
RELATING TO MEDICAL CANNABIS.
Allows health care facilities to permit terminally ill patients to use medical cannabis under certain conditions.

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

Big Island Grown is one of eight medical cannabis dispensary licensees. We **support HB957** as it expands necessary access at a critical time to the most vulnerable of patients.

Please support this important measure.

Thank you for the opportunity to testify.

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

HB-957

Submitted on: 2/2/2023 1:11:00 AM

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

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB957.

HB-957

Submitted on: 2/3/2023 1:31:27 AM

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

Submitted By	Organization	Testifier Position	Testify
Emmy Nation	Individual	Support	Written Testimony Only

Comments:

Cannabis has been used as a pain-relieving medication for eons, thus the evolution of endocannabinoid receptors and systems in our bodies. I have a medical 329 card for a chronic pain caused by a lifelong genetically inherited neurological condition. Sometimes cannabis is the only drug that can fully relieve my pain. I am not alone. I have friends with the same condition who have the same experience and rely on cannabis for pain relief when all else fails.

The terminally ill should have access to medical cannabis to ease the pain at end of life. Cannabis can also improve mood, appetite, sleep, decrease systemic inflammation, bolster the immune system, and activate tumor supression.

The anti-cancer mechanisms of cannabinoids are well-documented and my previous comments are based upon peer-reviewed research. I didn't believe cannabis could cure or aid so powerfully in the treatment of cancer until I read the peer-reviewed studies myself. I scoffed at the first person who told me purified concentrated cannabinoids such as THC have the potential to cure certain kinds of cancers. I labeled my friend a pathological liar. Now it seems I owe him an apology.

The medical benefits of use far outweigh the risk, especially for those already nearing the end of their lives. Cannabis is generally safe and harmless, and it is impossible to die of an overdose. Its use does not contribute to digestive system complications or hastening death as opioid use does during palliative and hospice care.

HB-957

Submitted on: 2/2/2023 2:29:07 PM

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

Submitted By	Organization	Testifier Position	Testify
Anuheia St. Laurent	Individual	Support	Written Testimony Only

Comments:

Aloha, I strongly support this bill as those at the end of their life, especially if in pain, should be allowed to use what they choose to manage pain and ease their transitions into death. Natural alternatives, such as cannabis, should be an option, an alternative to harsh pharmaceutical medications.

HB-957

Submitted on: 2/3/2023 3:52:57 AM

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

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

TO: COMMITTEE ON HEALTH & HOMELESSNESS

FROM: Wendy Gibson-Viviani RN

RE: HB957 – In STRONG SUPPORT

HEARING: Saturday, February 4, 2023, at 9:30 AM in Conference Room 329

Dear Honorable Chair, Rep. Della Au Belatti, Vice Chair, Rep. Jenna Takenouchi and Members of the Committee,

My name is Wendy Gibson-Viviani and I have been a Medical Cannabis Nurse Educator in Hawaii for eight years. I am also a member of the Cannabis Nurses Network, a group who assisted with passing a bill that is similar to HB957, called “Ryan’s Law, in California in 2021.

Along with Ryan’s dad Jim Bartell, they passed a law that allows terminally ill patients to continue using their cannabis medicines, should they be admitted to a hospital or other healthcare facility.

I feel that NO terminally ill patient should be deprived of their pain and anti-anxiety medicines, especially when they need them the most -- and that is currently what healthcare facilities do.

I recently met Ryan’s father and he explained how horrifying it was to witness Ryan’s suffering –after the hospital refused to allow him use of his cannabis medicines. Jim had to locate a hospital who would allow it and have Ryan flown there -- to Washington state. Jim has become a patient advocate and I am standing with him and others who are trying to pass similar bills in other states.

Please consider passing HB957, to allow terminally ill patients access to their non-smokable medicines in certain healthcare facilities. And, thank you for the opportunity to provide testimony on this very important matter.

Please do contact me if you have any questions, concerns or would like further information.

More information can be found at the Cannabis Nurses Network website under the Ryan's Law Action Center <https://www.cannabisnursesnetwork.com/ryans-law-action-center/>

They also have a Healthcare facility guide to implementing the law

<https://us-ms.gr-cdn.com/getresponse-QzfLx/documents/83f72075-7ef6-4658-b9ef-69019ef81306.pdf>

Wendy Gibson-Viviani RN/BSN

Kailua. (808) 321-4503

Cannabisnursewendygv@gmail.com



Dedicated to safe, responsible, humane and effective drug policies since 1993

TESTIMONY IN SUPPORT OF HB 957

TO: Chair Belatti, Vice Chair Takenouchi & Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: February 4, 2023 (9:30 AM)

Drug Policy Forum of Hawai'i (DPFH) **strongly supports** HB 957, which would require that healthcare facilities providing hospice services in Hawaii allow terminally ill patients to consume cannabis in a manner that is safe and unintrusive to other patients, guests, and staff.

Medical cannabis is most commonly used for pain relief and is also used to improve appetite and reduce nausea. In certain cases, it can be used as an alternative to heavy pain relievers like fentanyl and morphine. Many terminally ill patients choose to use cannabis for treatment or pain relief and wish to continue that use while at the hospital. Allowing this ensures that patients have consistency in their treatment.

California's Compassionate Access to Medical Cannabis Act (also known as Ryan's Law) passed the legislature unanimously in 2021 and was signed into law by Governor Gavin Newsom. As a result, terminally ill Californians have had access to medical cannabis in healthcare facilities since January 1, 2022. (A second bill further easing access to cannabis in hospitals for terminally ill California patients was signed into law in 2022 and takes effect this year.)

While medical cannabis in Hawai'i is legal, it remains a Schedule I drug at the federal level. Healthcare facilities that are Medicare and/or Medicaid providers receive accreditation from the Centers for Medicare and Medicaid Services (CMS) and are generally required to comply with local, state, and federal laws in order to continue receiving reimbursements. Consequently, many healthcare facilities have adopted policies prohibiting cannabis on their grounds out of a perceived risk of losing federal funding if they were to allow it.

This fear is unfounded, as the Medicare and Medicaid regulations do not address the use of medical cannabis, and CMS states that it is not aware of a provider that has specifically lost funding or been penalized for permitting the use of medical cannabis. Furthermore, CMS states it would not cite healthcare facilities for allowing medical cannabis use unless the US Department of Justice (US DOJ), declares its intent or acts to interfere with state medical cannabis laws.

To address any lingering concerns about federal intervention, this bill provides a safe harbor clause. Healthcare facilities would be permitted to suspend compliance with this bill if a federal regulatory agency, the US DOJ, or CMS takes specified actions, including initiating an enforcement action against a healthcare facility for its compliance with a state regulated medical cannabis program, or otherwise issuing a rule or notice that expressly prohibits the use of medical cannabis in healthcare facilities.

Americans for Safe Access, a longstanding organization dedicated to ensuring safe and legal access to cannabis for therapeutic use and research, has an [online resource guide to assist healthcare facilities with the implementation](#) of Ryan’s Law in California that should also be of value to Hawai’i facilities.

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



February 4, 2023

Chair, Rep. Della Au Belatti
Vice Chair, Rep. Jenna Takenouchi
House Committee on Health & Homelessness

TESTIMONY IN SUPPORT OF HB 957 – RELATING TO MEDICAL CANNABIS

Dear Chair, Vice Chair, and Members of the Health and Homelessness Committee:

Aloha, my name is DeVaughn Ward and I am the senior legislative counsel at the Marijuana Policy Project - the largest marijuana policy reform organization in the United States. As you may know, MPP has been working to improve marijuana policy for more than 25 years.

I am here today to testify in support of **HB 957 – Relating to Medical Cannabis**

MPP appreciates the opportunity to comment on HB 957. Medical cannabis can benefit the terminally ill patient in several ways. One benefit of medical cannabis recognized by many healthcare providers is its ability to offer pain relief. In the case of terminally ill patients, morphine and fentanyl are frequently prescribed to help manage pain. However, a common side effect of these drugs is they typically cause patients to exist in a semi-comatose state. Medical cannabis can be used as an alternate or complementary treatment option to these medications, providing gentler side effects that allow terminally ill patients to stay awake and spend more of their remaining precious moments with family and friends.

Additional benefits of medical cannabis include its ability to increase appetite and reduce anxiety. Particularly for terminally ill patients, even a small meal or a bit of soup can help the patient be more comfortable. Anxiety experienced by terminally ill patients can be relieved at least for a short while by medical cannabis. Other important benefits of medical cannabis include its effectiveness in reducing nausea and vomiting.

We urge the committee to support this compassionate, common-sense measure to allow terminally ill patients to access cannabis in health care facilities for palliative and end of life care.

Mahalo to the Chairs and members of the committee for your time and attention. If you have any questions or need any additional information, I would be happy to help answer them and can be reached at the email address below.

Sincerely,
DeVaughn Ward, Esq.
Senior Legislative Counsel
Marijuana Policy Project
Honolulu, HI
dward@mpp.org

HB-957

Submitted on: 2/3/2023 8:49:52 PM

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

Submitted By	Organization	Testifier Position	Testify
celia tapp	Individual	Support	Written Testimony Only

Comments:

I support HB957

JOSH GREEN, MD
GOVERNOR



TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Michael Hoffman
Deputy Director
Corrections

William Oku, Jr.
Deputy Director
Law Enforcement

STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF PUBLIC SAFETY
KA 'OIHANA HO'OPALEKANA LEHULEHU
1177 Alakea Street
Honolulu, Hawaii 96813

No. _____

TESTIMONY ON HOUSE BILL 957
RELATING TO MEDICAL CANNABIS

By
Tommy Johnson, Director

House Committee on Health and Homelessness
Representative Della Au Belatti, Chair
Representative Jenna Takenouchi, Vice Chair

Saturday, February 4, 2023; 9:30 a.m.

Chair Belatti, Vice Chair Takenouchi, and Members of the Committee:

The Department of Public Safety (PSD) **offers comments** for House Bill (HB) 957, that proposes to allow health care facilities to permit terminally ill patients to use medical cannabis under certain conditions.

Section 2, Page 2 Lines 19-21 and Page 3 Lines 1-4 currently states:

(b) Notwithstanding any other law to the contrary and the classification of medicinal cannabis as a schedule I controlled substance, health care facilities permitting patient use of medicinal cannabis shall comply with drug and medication requirements applicable to Schedule II, III, and IV controlled substances and shall be subject to enforcement actions by the department of health.

PSD respectfully recommends that this part be removed from HB 957 because it is problematic. Cannabis is currently a schedule I controlled substance on the both the federal and state drug schedules. Imposing the requirements of other scheduled drugs on schedule I controlled substances is nearly impossible to do because schedule I drugs by legal and traditional definition have no accepted medical use. Therefore, the laws that traditionally

recognize “legal” drugs with traditionally accepted medical uses (i.e., drugs in schedules II, III, and IV) cannot readily apply to schedule I drugs. Moreover, in the scenario posed by this proposal, the medical cannabis used in a healthcare facility by a patient is considered “ultimate-user” medication. In other words, the drugs already belong to the user and have become removed from regulation within the highly regulated closed distribution system created by the Hawaii Uniform Controlled Substances Act (chapter 329, HRS)¹. “Ultimate-user” drugs are tantamount to drugs and medications purchased from a pharmacy and kept in the medicine cabinets of our homes. Consequently, it would be impossible to apply the, “...drug and medication requirements applicable to Schedule II, III, and IV controlled substances...” on medical cannabis used by a terminally ill patient because the system of laws that normally control drugs before they come into the possession of the ultimate user would no longer apply. In this scenario, the drugs are already in the ultimate-user’s possession.

Thank you for the opportunity to testify on this measure.

¹ It is important to note that while an ultimate user’s drugs are not regulated by the Controlled Substances Act once those drugs are dispensed to the ultimate user, other laws may apply. Generally, an ultimate user’s controlled substances may not be distributed, given, or conveyed to another person as this may invoke the criminal drug laws pertaining to illegal distribution of detrimental, harmful or dangerous drugs as listed in the Hawaii Penal Code.

HB-957

Submitted on: 2/3/2023 9:37:54 PM

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

Submitted By	Organization	Testifier Position	Testify
Justin Huggins, MD	Individual	Support	Written Testimony Only

Comments:

As a board-certified emergency physician who treats many patients with incurable and debilitating ailments which cause chronic pain, I strongly support the use of cannabis. It is safe, effective, and often a more palatable option for these patients (many of whom do not want to take alternatives like opioids). It is far past time for Hawaii to allow patients broader access to cannabis. Furthermore, 21 states have now legalized recreational cannabis, and it is time for Hawaii to join this coalition. Mahalo for your time.

Justin Huggins, MD, FACEP

HB-957

Submitted on: 2/4/2023 9:23:25 AM

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

Submitted By	Organization	Testifier Position	Testify
Jim Bartell	Individual	Support	In Person

Comments:

HB-957

Submitted on: 2/4/2023 11:26:36 AM

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

Submitted By	Organization	Testifier Position	Testify
Robert Bence	Individual	Comments	Written Testimony Only

Comments:

Aloha

I have a complex medical history that includes birth defects one which required brain surgery and the only effective medication is cannabis. Please expand the definition of this bill to include patients that could have life threatening conditions arise from the forced cessation of cannabis if they are currently severely disabled and using cannabis to treat a potentially deadly condition such as seizures or traumatic brain injury.