

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
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**Testimony COMMENTING on SB962  
RELATING TO MEDICAL CANNABIS.**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR  
SENATOR JARRETT KEOHOKALOOLE, CHAIR  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES  
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
Hearing Date: Wed., Feb. 15, 2023      Room Number: 229

1    **Fiscal Implications:** N/A.

2    **Department Testimony:** The Department of Health (DOH) The Department of Health (DOH)  
3    recognizes the intent of this measure to: (1) amend the dispensary program licensing fee  
4    structure; (2) Add or clarify signage, manufactured cannabis product, packaging, escort, and  
5    background check requirements for the medical cannabis dispensary program; (3) Establish  
6    annual reporting requirements to increase public transparency regarding the medical cannabis  
7    registry program; and (4) Make various housekeeping amendments.

8    DOH provides the following COMMENTS:

9    While DOH maintains its strong stance against smoking tobacco and other plant materials, a goal  
10    of the medical cannabis dispensary system is to ensure patient access to regulated tested  
11    products. Should the legislature decide to move forward with this provision, the department asks  
12    that the language authorizing DOH to determine specifications for all products, including pre-  
13    rolls, be maintained to allow DOH to ensure that these products are manufactured according to  
14    the safest processes available.

15    DOH supports the amendments in Section 4 to increase the number of signs that may be posted  
16    at a retail dispensary and greatly appreciates removal of the requirement for rulemaking by  
17    chapter 91 process for dispensary-to-dispensary sales. The additional sign will assist patients in

1 locating retail dispensaries and allowing DOH to maintain interim rulemaking authority protects  
2 patient safety by supporting timely rule changes to address emergent public health concerns.

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

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

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

25 DOH supports the amendments to the annual dispensary licensing report in Section 10 with the  
26 following comments. DOH requests to not publicly share the physical location of production  
27 centers for reason of facility and personnel security and safety. DOH is not the appropriate

1 agency to report on taxes collected. Although DOH currently includes this figure in our annual  
2 report, it is an estimate based on retail sales. DOH respectfully requests that this data come from  
3 the Department of Taxation.

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

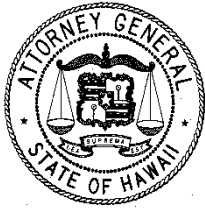
12 DOH opposes the amendment in Section 12 to force the adoption of rulemaking pursuant to  
13 chapter 91 “if there is a likelihood of severe economic impact to a stakeholder under this  
14 chapter.” As stated above, DOH asks that interim rulemaking authority be maintained and points  
15 out that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

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

22 Thank you for the opportunity to testify.

23 **Offered Amendments:** N/A

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

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 962, RELATING TO MEDICAL CANNABIS.

**BEFORE THE:**

SENATE COMMITTEES ON HEALTH AND HUMAN SERVICES AND ON  
COMMERCE AND CONSUMER PROTECTION

**DATE:** Wednesday, February 15, 2023      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 229

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

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Chairs San Buenaventura and Keohokalole and Members of the Committees:

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.

**SB-962**

Submitted on: 2/13/2023 7:39:48 AM

Testimony for HHS on 2/15/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
TY Cheng	Testifying for Aloha Green Holdings Inc.	Support	Remotely Via Zoom

Comments:

To: Senator Joy A. Buenaventura, Chair HHS

Senator Jarrett Keohokalole, Chair CPN

Senator Henry J.C. Aquino, Vice-Chair, HHS

Senator Carol Fukunaga, Vice-Chair CPN

Members of the Joint Committee on Health and Human Services, and Commerce and Consumer Protection

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

RE: Testimony in SUPPORT of Senate Bill (SB) 962

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 Chairs, Vice-Chairs and Members of the Joint Committee:

Aloha Green Apothecary is a state licensed medical cannabis dispensary licensee operating since 2016 on Oahu.

Aloha Green Apothecary SUPPORTS the intent of this bill.

Thank you for the opportunity to testify.



**SanHi**

GOVERNMENT STRATEGIES

A LIMITED LIABILITY LAW PARTNERSHIP

DATE: February 14, 2023

TO: Senator Joy San Buenaventura  
Chair, Senate Committee on Health & Human Services

Senator Jarrett Keohokalole  
Chair, Senate Committee on Commerce & Consumer Protection

FROM: Mihoko Ito

RE: **S.B. 962 – Relating to Medical Cannabis**  
**Hearing Date: Wednesday, February 15, 2023 at 9:30 a.m.**  
**Conference Room: 229 & Videoconference**

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Chair San Buenaventura, Chair Keohokalole, and members of the joint Committees:

We submit this testimony on behalf of Cure Oahu in **support** of S.B. 962. 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.

S.B. 962 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 that, fees need to be predictable and budgeted for. More importantly, we believe it is important for



stakeholders to have a voice when there are dramatic financial impacts to 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 in 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.



**Akamai Cannabis Consulting**

3615 Harding Ave, Suite 304  
Honolulu, HI 96816

TESTIMONY ON SENATE BILL 962  
RELATING TO MEDICAL CANNABIS

By  
Clifton Otto, MD

Senate Committee on Health and Human Services  
Senator Joy A. San Buenaventura, Chair  
Senator Henry J.C. Aquino, Vice Chair

Senate Committee on Commerce and Consumer Protection  
Senator Jarrett Keohokalole, Chair  
Senator Carol Fukunaga, Vice Chair

Wednesday, February 15, 2023; 9:30 AM  
State Capitol, Room 229 & Videoconference

**INHALATION METHODS**



VAPORIZING FLOWER



VAPORIZING OIL



SMOKING

**PROVIDE EDUCATION ON BEST INHALATION PRACTICES**

**§321-30.1 Medical cannabis registry and regulation special fund; established.**

(a) There is established within the state treasury the medical cannabis registry and regulation special fund. The fund shall be expended at the discretion of the director of health:

- (5) To fund public education as required by section [329D-26](#);
- (6) To fund substance abuse prevention and education programs;

**ALLOW DISPENSARIES TO SELL HERBAL VAPORIZERS**

**§329D-10 Types of manufactured cannabis products.**

(e) Dispensaries shall be allowed to sell third-party commercially available herbal vaporizers that allow for the use of ground cannabis flower; provided that such devices have a means of controlling temperature to prevent combustion.

**SB-962**

Submitted on: 2/13/2023 11:47:19 PM

Testimony for HHS on 2/15/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ann Chung	Individual	Support	Written Testimony Only

Comments:

Chair San Buenaventura, Chair Keohokalole, and members of the joint Committees:

In SUPPORT of SB962.

This bill will assist medical cannabis dispensaries streamline operations and resources and remain operational. Strengthening the medical cannabis law is safe and adds value. Discarding the integrity of the medical cannabis law adds more risk, and cost, and destructs economic and social benefits. Despite more medical cannabis dispensaries, and expanded product selection including edibles, registered patients are declining; less than half of registered patients utilize a dispensary each month.

I support all of the updates in this bill, particularly the changes to the dispensary fee structure, allowing the sale of pre-rolled cannabis product, and adding agency reporting requirements.

Mahalo!