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GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 1194
A BILL FOR AN ACT RELATING TO
MEDICAL MARIJUANA
Clayton A. Frank, Director
Department of Public Safety

Committee on Health
Representative Ryan I. Yamane, Chair
Representative Scott Y. Nishimoto, Vice Chair

Committee on Public Safety
Representative Faye P. Hanohano, Chair
Representative Henry J.C. Aquino, Vice Chair

Thursday, February 5, 2009, 5:00 PM
State Capitol, Room 309

Representatives Yamane, Hanohano and Members of the Committees:

The Department of Public Safety does not support House Bill 1194 that proposes to transfer the medical use of marijuana program from the Department of Public Safety to the Department of Health, amend sections of Chapter 329 part IX Hawaii Revised Statutes and mandate that the State departments of Health and Public Safety take on the responsibility of growing and dispensing all of the marijuana utilized by Hawaii's Medical Use of Marijuana program.

The language being proposed in House Bill 1194 is a novel idea and would immediately eliminate the problem of individuals illegally growing and selling marijuana to qualified medical use of marijuana patients. House Bill 1194 would mandate that the Departments of Health and Public Safety grow, transport,

secure and distribute all of the marijuana utilized by patients participating in Hawaii's Medical Use of Marijuana Program and because House Bill 1194 does not appropriate additional positions or funds, these new responsibilities would have to be absorbed by both departments.

House Bill 1194 would require that the Department of Health designate every patient participating in Hawaii's Medical Use of Marijuana program to be classified as a controlled substance test subject and the Department would have to write a protocol for the use and security of the marijuana. This is due to the fact that marijuana is still classified under both Federal and State law as a schedule I controlled substance (dangerous drug / no accepted medical values of treatment). Schedule I controlled substances can only be authorized for research purposes with the approval of the Federal Drug Enforcement Administration and the State's Narcotics Enforcement Division and require very extensive and expensive security requirements to comply with Federal and State controlled substance laws.

Because of the Schedule I classification of marijuana it can not be legally sold to patients, so the State would incur all of the cost for the cultivation, security, transportation, distribution and testing of the marijuana for patients participating in Hawaii's Medical Use of Marijuana program on all islands.

The Department therefore feels that amendments being recommended by House Bill 1194 are premature at this time and that Federal law would have to be amended before the provisions proposed in House Bill 1194 could ever be implemented in a cost effective manner.

House Bill 1194
February 5, 2009
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For these reasons, the department cannot support House Bill 1194 and asks that it be held.

Thank you for the opportunity to testify on this matter.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File: DOH/ADAD

House Committees on Public Safety and Health

H.B. 1194, MEDICAL MARIJUANA

**Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health**

February 5, 2009, 5:00 p.m.

1 **Department's Position:** The Department of Health strongly opposes transferring the Medical Use
2 of Marijuana program from the Department of Public Safety (PSD) to the Department of Health
3 (DOH) as provisions in this measure are well beyond the Department's public health functions and
4 responsibilities. We defer to the Departments of the Attorney General and Public Safety on
5 amendments within their purview.

6 **Fiscal Implications:** The measure increases the registration certificate fee from \$25 to \$50,
7 however, no funds are appropriated for staffing and operating costs. Transferring the Medical Use of
8 Marijuana program from PSD to DOH, including the overall medical and operational oversight of
9 growing and distribution of marijuana would have substantial cost implications, including but not
10 limited to, added personnel and operating costs.

11 **Purpose and Justification:** The purpose of this measure is to transfer the Medical Use of Marijuana
12 program from PSD to DOH, including the regulation of the application process for patient
13 certification and registration, recordkeeping, liaison with law enforcement to ensure the authenticity
14 of patient certifications, and overall medical and operational oversight of growing and distributing
15 marijuana.

16 Despite perceptions, the transfer of the Medical Use of Marijuana program to the DOH
17 would not reduce the level of oversight. It is unclear who will be responsible for verifying

1 physicians' licensure, a function that requires expertise that currently resides within PSD. In
2 addition, a system within DOH that operates "24/7" would need to be established to ensure that law
3 enforcement officers can verify a patient's valid use of marijuana for medical purposes.

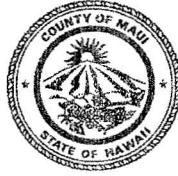
4 As part of our public health mission, DOH dispenses medications in State-operated facilities
5 and clinics. These medications are approved by the federal Food and Drug Administration. This
6 proposal would add to the Department's responsibilities: hiring of personnel to manage and operate
7 marijuana growing facilities; cultivation of marijuana in all relevant aspects; identifying and
8 acquiring all agriculturally zoned land in the State suitable for growing marijuana; developing a
9 system to grow and distribute marijuana in collectives with participation from qualifying patients,
10 caregivers, growers; authenticating and guaranteeing the quality and quantity of marijuana through
11 oversight of packaging of individual doses of marijuana at growing sites; and hiring all necessary
12 personnel and operating special dispensaries statewide that distribute only marijuana to qualifying
13 patients and caregivers.

14 This proposal extends well beyond the public health function of assuring the availability and
15 accessibility of services as the Department would also be charged with the operation of a secure
16 facility to cultivate and distribute marijuana, which is a Schedule I substance under the federal
17 Controlled Substances Act. (Schedule I drugs are classified as having a high potential for abuse, no
18 currently accepted medical use in treatment in the United States, and a lack of accepted safety for use
19 of the drug or other substance under medical supervision.) Thus, the proposed assignment conflicts
20 with federal laws prohibiting the cultivation, transportation and distribution of marijuana.

21 We respectfully recommend that this measure be held.

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

CHARMAINE TAVARES
Mayor



BENJAMIN M. ACOB
Prosecuting Attorney

PETER A. HANANO
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

February 4, 2009

HONORABLE FAYE P. HANOHANO, CHAIR
HONORABLE HENRY J.C. AQUINO, VICE CHAIR
COMMITTEE ON PUBLIC SAFETY

HONORABLE JOHN M. MIZUNO, CHAIR
HONORABLE TOM BROWER, VICE CHAIR
COMMITTEE ON HUMAN SERVICES

HONORABLE RYAN I. YAMANE, CHAIR
HONORABLE SCOTT Y. NISHIMOTO, VICE CHAIR
COMMITTEE ON HEALTH

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,
PROSECUTING ATTORNEY FOR THE COUNTY OF MAUI,
IN OPPOSITION OF H.B. NO. 1194
RELATING TO MEDICAL MARIJUANA

The Honorable Chairpersons and Committee Members:

The Department of the Prosecuting Attorney for the County of Maui strongly opposes H.B. 1194 Relating to Medical Marijuana for the following reasons.

First, our Department recommends that the Department of Public Safety (DPS) continue to regulate the use of medical marijuana within the State of Hawaii. The primary reason for this is because the possession of marijuana continues to be both a State and federal crime. Thus, a State agency such as the DPS, whose is primarily responsible for the public's safety, should administer the medical marijuana program.

Second, we have serious concerns about having a State agency being responsible for the operational oversight of the growing, distributing, and transportation of medical marijuana, as well as providing security for the entire operation. Indeed, requiring the State to take such an active role in the process would likely subject the State to federal prosecution. See Gonzales v. Raich, 545 U.S. 1, (2005) (Congress' Commerce Clause authority includes the power to prohibit the local cultivation and use of marijuana in compliance with California law).

In addition, any State resources (equipment, real property, etc.) used in conjunction with the marijuana growing and distributing operation may possibly be seized and forfeited by the federal government.

Finally, we also do not support the proposal to expand the definition of an "adequate supply" to four ounces of usable marijuana every thirty calendar days. In our view, based upon discussions with the Department of Public Safety, the current definition of an adequate supply sufficiently allows a medical marijuana patient to utilize the drug in a meaningful and therapeutic manner.

Accordingly, for the reasons discussed above, our Department strongly opposes H.B. 1194. Thank you for the opportunity to testify.

(H.B. 1194, Relating to Medical Marijuana)



CHARMAINE TAVARES
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
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THOMAS M. PHILLIPS
CHIEF OF POLICE

GARY A. YABUTA
DEPUTY CHIEF OF POLICE

February 3, 2009

The Honorable Faye P. Hanohano, Chair
and Members of the Committee on Public Safety
House of Representatives
State Capitol
Honolulu, HI 96813

The Honorable John M. Mizuno, Chair
and Members of the Committee on Human Services
House of Representatives
State Capitol
Honolulu, HI 96813

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Health
House of Representatives
State Capitol
Honolulu, HI 96813

Dear Chairs Hanohano, Mizuno, Yamane and Members of the Committees:

SUBJECT: House Bill No. 1194, Relating to Medical Marijuana

This bill requires the Department of Health to grow, manage, operate, and dispense medical marijuana collectives to qualifying patients; requires the Department of Public Safety to provide security for marijuana growing facilities and for transportation of marijuana; limits each qualifying patient to one caregiver and allows no more than 4 ounces of marijuana to each patient for every calendar month.

This bill disregards existing State and Federal Laws regarding the cultivation and distribution of marijuana and places the Department of Health and Department of Public Safety at risk of Federal Criminal Prosecution and Asset Forfeiture. This is an attempt to remove the regulatory responsibility of medical marijuana from the Department of Public Safety to the Department of Health which does not have enforcement capabilities.

The Honorable Faye P. Hanohano, Chair
The Honorable John M. Mizuno, Chair
The Honorable Ryan I. Yamane, Chair
February 3, 2009
Page 2

This bill is a direct "slap in the face" to all Law Enforcement Agencies in the State of Hawaii. By requiring the Department of Public Safety to provide security for all marijuana growing facilities, oversee the physical transportation of marijuana and to distribute marijuana to patients. This bill requires the very people who are sworn to enforce the laws of the State of Hawaii and the United States of America to subject themselves, their departments, and the State to current State and Federal prosecution.

The passage of this bill will not only jeopardize Federal Grant funding for Law Enforcement Agencies, but to the Department of Health and the State itself.

The Maui County Police Department humbly asks for you support in opposing House Bill No. 1194.

Thank you for the opportunity to testify.

Sincerely,


THOMAS M. PHILLIPS
Chief of Police



CHARMAINE TAVARES
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT

COUNTY OF MAUI

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THOMAS M. PHILLIPS
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February 3, 2009

The Honorable Faye P. Hanohano, Chair
and Members of the Committee on Public Safety
House of Representatives
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The Honorable John M. Mizuno, Chair
and Members of the Committee on Human Services
House of Representatives
State Capitol
Honolulu, HI 96813

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Health
House of Representatives
State Capitol
Honolulu, HI 96813

Dear Chairs Hanohano, Mizuno, Yamane and Members of the Committees:

SUBJECT: House Bill No. 1194, Relating to Medical Marijuana

My name is Gerald Matsunaga, Captain of the Narcotics Division of the Maui Police Department, speaking on behalf of Chief Thomas M. Phillips. I have been the Commander of the Narcotics Division for over ten years. Due to my vast experience and knowledge in this area, I would like to take this opportunity to submit written testimony expressing my profound opposition to the passage of this bill. I believe that other law enforcement entities throughout the State of Hawaii will also oppose this bill along with the Law Enforcement Coalition (LEC), as well as other similar bills being presented during this Legislative Session.

The Honorable Faye P. Hanohano, Chair
The Honorable John M. Mizuno, Chair
The Honorable Ryan I. Yamane, Chair
February 3, 2009
Page 2

The value of medicinal marijuana is suspect at best. The Food and Drug Administration (FDA) and the United States Supreme Court do not recognize medical marijuana. Marijuana is still considered a controlled substance under federal and Hawaii State law. Thus, it is still a federal crime to possess and distribute marijuana, whether it is for medicinal, profit, or recreational purposes. If such a bill is passed, the State of Hawaii would be legally and civilly liable for breaking federal law.

In other words, the Department of Health and Department of Public Safety personnel operating and securing the proposed grow/distribution facility would be subject to arrest under federal law, and the facility and property it occupies would be subject to forfeiture proceedings.

The grow facility administrator would also need to obtain a federal permit to possess controlled substances from the Drug Enforcement Administration (DEA), and a state permit from the State Narcotics Enforcement Division (NED). It is highly probable that the DEA and NED would not approve such a permit, due to the fact that the federal government does not recognize medicinal marijuana, and both the DEA and NED do not issue permits to dispense or distribute medical marijuana.

According to the bill, the State Department of Health would be charged with establishing procedures and developing rules to allow qualified patients or their primary care givers to access the supply of medical marijuana that is being grown. There are no sanctions for breaking the procedures and rules, thus creating the catastrophic potential for abuse and trafficking the marijuana for profit. The State Department of Health also does not have any criminal arrest and enforcement powers to deal with this issue.

The bill also states that the Department of Health would be "Identifying and acquiring all agriculturally zoned land in the State suitable for growing marijuana." Marijuana can be grown on almost all elevations, as we have eradicated marijuana patches from sea level up until over the half way point on the slopes of Haleakala. If some of these lands were acquired in accordance with this bill, the lands would be subject to forfeiture, as it is still illegal to grow marijuana and distribute it under federal law. I don't believe that this would be conducive to the farmers who own the land and any other government or private entity that have legal ownership of the lands.

There is also the potential for more violence and property thefts that has recently occurred on the Island of Maui involving the growing and distribution of marijuana. If this bill is passed, there is an immense potential for abuse of the illicit marijuana by people trying to legalize it and those trying to make a profit by selling and distributing it, which has already occurred on this island.

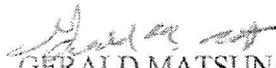
The Honorable Faye P. Hanohano, Chair
The Honorable John M. Mizuno, Chair
The Honorable Ryan I. Yamane, Chair
February 3, 2009
Page 3

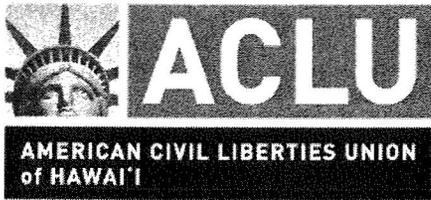
To increase the adequate supply of medical marijuana to four ounces in a thirty-day period is ludicrous. This equates to having a patient smoke an ounce every week. This just contributes to unequivocal drug abuse. Although we do not support medical marijuana in any way, the current legal amount that the patients can possess seems to be adequate, as we have already had cases of abuse where permit holders possessed over their legal limits and were selling the marijuana for profit.

Marijuana has been determined to be the gateway drug. It is no wonder that we consistently rank in the top seven states in the nation in regards to marijuana plants eradicated, and consequently have one of the worst crystal methamphetamine problems in the nation. Maui County and the State of Hawaii do not need more marijuana related crimes and more people addicted to marijuana.

I humbly ask for your favorable support in opposing House Bill No. 1194. Passage of this bill will considerably enhance the potential for marijuana abuse, thefts, and violence relating to marijuana. Hawaii does not need the negativity that is associated with a safe haven for medical marijuana users. Open marijuana use has always been a concern of our tourists and residents alike, and we need not project a drug haven atmosphere that could have a negative impact on tourism. We need to protect our communities from these detrimental entities and build a prosperous and safe community for our future generations.

Sincerely,


GERALD MATSUNAGA
Captain, Narcotics Division



Via E-mail: PBSTestimony@Capitol.hawaii.gov
Committee: Committees on Public Safety and Health
Hearing Date/Time: Thursday, February 5, 2009, 5:00 p.m.
Place: Room 309
Re: Testimony of the ACLU of Hawaii Supporting the Intent of HB 1194,
Relating to Marijuana

Dear Chair Hanohano, Chair Yamane, and Members of the Committees on Public Safety and Health:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") supports the intent of HB 1194, which transfers oversight of the medical marijuana program to the Department of Health.

We support the transfer of oversight from the Department of Public Safety to the Department of Health, given that (a) many patients are intimidated by the prospect of having their names on a Department of Public Safety database, and (b) the Department of Public Safety has already released confidential patient data. We oppose the increase in licensing fees, however, given their disproportionately adverse impact on low-income medical marijuana patients. Furthermore, we suggest that the Legislature look to other states' laws on distribution for guidance before proceeding with the language in HB 1194.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Daniel M. Gluck
Senior Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
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the
**Drug Policy
Forum**

February 5, 2009

To: Committee on Public Safety
Committee on Human Services
Committee on Health

From: Jeanne Ohta, Executive Director

RE: HB 1194 Relating to Medical Marijuana
Hearing: February 5, 2009, 5:00 p.m., Room 309

Position: Support with Amendments

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i. Thank you for this opportunity to testify on HB 1194 which moves the medical marijuana program to the department of health and establishes a system to grow, and dispense medical marijuana.

DPFH supports the establishment of a distribution system. Many patients are unable to grow their own supply due to living in a condominium with no yard, lack of privacy from neighbors, or they are too sick. It is one of the most asked questions, "I have my card, now how do I get marijuana?" Patients who register with the program are law abiding citizens who want to remain so; they are reluctant to go to the illegal market to obtain their medicine.

However, this distribution system should not be the only source of legal medical marijuana. Patients or their registered caregiver should still be able to grow their own plants should they choose to do so.

DPFH also supports moving the program from the Department of Public Safety to the Department of Health. The DOH is better equipped to deal with health issues and should be the agency to administer the program. Patients are still concerned with maintaining the confidentiality of information after the mistaken release of 4,200 patients' names and other private information by the Narcotics Enforcement Division.

DPFH opposes increasing the fee from \$25 to \$50; many patients are on disability; or have other medical bills and the increase would pose a hardship.

INFORMATION ON MEDICAL MARIJUANA

Federal Laws do not Preempt State Medical Marijuana Laws

In December 2008, the U.S. Supreme Court refused to review a landmark decision in which California state courts found that its medical marijuana law was not

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preempted by federal law. The state appellate court decision from November 28, 2007, ruled that "it is not the job of the local police to enforce the federal drug laws."

Many Organizations Support Access to Therapeutic Cannabis

American Academy of Family Physicians, American Medical Association's Council on Scientific Affairs, American Nurses Association, American Public Health Association, and many others.

"ACP urges an evidence-based review of marijuana's status as a Schedule I controlled substance to determine whether it should be reclassified to a different schedule. ... ACP strongly supports exemption from federal criminal prosecution; civil liability; or professional sanctioning, such as loss of licensure or credentialing, for physicians who prescribe or dispense medical marijuana in accordance with state law. Similarly, ACP strongly urges protection from criminal or civil penalties for patients who use medical marijuana as permitted under state laws. ... Evidence not only supports the use of medical marijuana in certain conditions but also suggests numerous indications for cannabinoids."

— American College of Physicians, *Supporting Research into the Therapeutic Role of Marijuana*, 2008

Marinol is not the same as Marijuana

Marinol, available as a prescription pill, is THC, the active ingredient of marijuana. Many patients cannot tolerate marinol and have better results by using the whole plant. Scientists believe that the whole plant contains other ingredients that work with THC and thus is better tolerated and more effective for some patients.

Prescription Drugs

Available prescription drugs often come with far more serious side effects than marijuana, and many patients who find relief from marijuana simply do not respond to prescription medications. Smoking or vaporizing marijuana are much more effective delivery methods than pills for many patients: The drug works instantly, the dosage may be controlled by the patient, and there is no problem "keeping it down" since it cannot be vomited back up.

Cocaine, morphine, and methamphetamine may all be legally administered to patients — so why not marijuana, which has a far lower rate of dependency and on which no one has ever overdosed?

Please pass HB 1194 with the suggested amendments. Thank you for this opportunity to testify.

COMMITTEE ON PUBLIC SAFETY

Representative Faye P. Hanohano, Chair

Representative Henry J.C. Aquino, Vice Chair

COMMITTEE ON HEALTH

Representative Ryan I. Yamane, Chair

Representative Scott Y. Nishimoto, Vice Chair

HEARING DATE: February 5, 2009

TIME: 5:00 PM

PLACE: Conference Room 309

BILL NUMBER: HB 1194

IN STRONG SUPPORT WHEN AMENDED AND MERGED WITH HB 967

Aloha,

Public Safety Chair Hanohano, Vice Chair Henry J.C. Aquino, Vice Chair

Health Chair Ryan I. Yamane, Vice Chair Scott Y. Nishimoto and respected Committee Members:

Two new proposals, making amendments to the present Medical (Marijuana) Cannabis Law were welcomed by all of you as by accepting the recommendations absolutely needed that should be taken and the many new positions and stands we **must** take to **stimulate revenue**, while **reducing drug crime** on all Islands.

I will begin slowly, to explain the amenities to the Bill by increasing the annual fee from \$25.00 to \$50.00, which at almost 4,600 patients and their caregivers (about of which 4,000 are actual Patients), increases revenue annually by \$250,000.00. *Patients will not complain, when they see how much it costs for a 30 day supply of Medication.*

Of most importance, regardless of the negative and whining testimonies from each department is:

Moving the Administration, Record Keeping, Licensing Producers/Cultivators (not applicable in HB 1194), Secure Growing Facilities (**State** applicable, in HB 1194, due to State's Full Control) and the Protection of Confidential information of the present Program, because of the **Department of Health following HIPPA Guidelines**.

This is primarily due, to the actual **medicinal relationship** between **cannabis** (*presently called marijuana, also to be amended*) and the treatment of most chronic illnesses and debilitating conditions, decided **only** by your Physician and as set forth through the guidelines of the Department of Health and the **new and permanent, Hawai`i State Medical Distribution Program Advisory Board**. The 11 member Board are not compensated in any way. This is including but certainly not limited to the use of HIPAA rules, instead of Law Enforcement rules for the protection of personal and confidential information.

The text and proposals in HB 1194, also relating to a new & viable, Hawai`i State Medical Cannabis Distribution Program, is my ORIGINAL text, which puts the State in FULL control, leaving no room for any third party corruptions, moves the Administration of the Program from the Department of Public Safety to the Department of Health. All three proposals are quite supported but will need some swift JOINT decisions while making honest, realistic and compassionate judgments, that finally cares FIRST, about the Qualified Patients, their Caregiver, their Physician, resulting in the General Public's Safety, reducing drug use in our Youth and Schools and less crime and incarcerations, due to less addicts becoming a part of the program.

I will probably like to combine HB 967 and HB 1194 (letting SB 418 remain HB 967 companion) because one of them is missing the NEW & PERMANENT ADVISORY BOARD and a 24/7 Hotline link for Law Enforcement to use for Verification and these Bills, especially HB 1194, takes the middle men out of the process, NO corruption and patients will no longer HAVE to grow their own medicine, which they should never have been asked to do in the first place. Patients and Caregivers will be dispensed no more than 4 ounces TOTAL per 30 days.

At \$1.00 a gram in **Processing and Dispensing Fees** the Patient pays **only \$84.00 a month**.

The State Revenues over \$5,000,000.00. NO CANNABIS IS BEING SOLD SO NO FEDERAL LAW WILL WE BE BREAKING! I called NORML in D. C. and LEAP, Law Enforcement Against Prohibition to clarify that and they gave us the green (no pun intended) light to move forward. They also said that with the economy, which these Bills will take in Millions and Millions more each year too.

Okay, one funny but enlightening notion. Do any of you think that is we added Reciprocity in to the Bill like last year, our Tourism would increase? Many EXPERTS analyzing this situation do.

I am now a chronically ill patient with HIV for 18 years, and I want to make clear all the amendments and additions needing to be made and graciously ask that you all collaborate and pass this Bill out to Judiciary with amendments merging HB 1194 in to HB 967.

I **cannot** go another year trying to grow cannabis or my health will definitively decline.

Please Note that I am the Founder and President of West O`ahu Hope For A Cure Foundation, who cares for and prevents people at risk for HIV/AIDS, Hepatitis A, B & C, and Alcoholism/Drug Abuse.

I have also been a Certified Substance Abuse Counselor for 15 years so I feel more than confident that Cannabis is NOT a gateway drug and they are really no side effects or additive qualities that would keep a Doctor from prescribing it in Hawai`i, because of how they have been treated.

Mahalo so Much for this Opportunity to Testify and Share my Views.

Joseph B. Rattner, O.D., C.S.A.C.

808-685-6702

Joseph B. Rattner, O. D., CSAC

Founder and Executive Director *WOHFAC*

Certified HIV and Hepatitis Educator, Tester & Referral Specialist

Certified Substance Abuse Counselor

West O`ahu Hope For A Cure Foundation

"Hope For A Better Tomorrow"

**HIV/AIDS ~ Hepatitis A, B, C ~ Substance Abuse/Alcoholism ~ STD's
Testing, Counseling & Referral Specialists**

91-211 Maka`ina Place

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Foundation Email: info@WestOahuHopeForACure.org

Foundation Web Site: www.WestOahuHopeForACure.org

Director's Email: jbr@WestOahuHopeForACure.org

COMMITTEE ON PUBLIC SAFETY

Representative Faye P. Hanohano, Chair

Representative Henry J.C. Aquino, Vice Chair

COMMITTEE ON HEALTH

Representative Ryan I. Yamane, Chair

Representative Scott Y. Nishimoto, Vice Chair

HEARING DATE: February 5, 2009

TIME: 5:00 PM

PLACE: Conference Room 309

BILL NUMBER: HB ~~967~~ 1194

IN STRONG SUPPORT WHEN AMENDED AND MERGED WITH HB 1194

I am writing in support of HB 1194. I believe that this bill will protect qualifying patients and their caregivers from the current requirement of growing their own medication. I believe that all medications and qualification of any prescribed physicians diagnosis should allow the public to access without requiring them to make or grow their own relief from their debilitating illness. The only way this medication could reach the patients and caregivers it was designed for is for strict control by The Department of Health in both licensing and qualifying the patients and their caregivers.

The Department of Public Safety should be responsible for the growing facilities and dispensing of no more than 4 ounces of usable Cannabis every 30 days. By allowing the state to become responsible for the security it keeps the general public safe and saves the lives of the patients. It also allows the State of Hawai'i to rid itself of illegal drug pushers who sell to anyone for profit. The only charge the patients would pay is for licenses, processing, and dispensing fees. I do not believe that any single individual should profit from the pain of others, therefore I also believe in HB 967 which also tightens the law with a

medical advisory board and a hot mail link to protect everyone. I believe both of these bills should be merged together. Along with the companion Bill SB418 the Medical cannabis bill can finally go forth to save lives.

Thank you for giving me the Opportunity to Testify.

Lila Rattner

Director-Advisory Board of West O`ahu Hope For A Cure Foundation

91-211 Maka`ina Place

PO Box 2487

Ewa Beach, Hawai`i 96706

808-685-6677

Lilasol47@aol.com

From: Bill Best [bestb002@hawaii.rr.com]
Sent: Wednesday, February 04, 2009 3:03 PM
To: PBStestimony
Subject: supporting bills HB1192, 1194, 967, 1191, 1635, 1149

Categories: Green Category

As a sufferer of chronic pain for whom no prescription or over-the-counter drugs work, I so appreciated when my doctor suggested that I get a registered with a patient ID certificate. I always felt grateful to live in this humane state of Hawaii. Anything I can do to help in keeping patients' right to use this benign drug, I'd be happy to. Science is on our side, and I am glad to see politicians representing the citizens on this rather than drug or alcohol lobbyists who want to demonize marijuana.

Mahalo for allowing me input.

Barbara Best
280 Hauoli Street
Wailuku, HI 96793

From: Danielle Bass on behalf of Rep. Ryan Yamane
Sent: Wednesday, February 04, 2009 2:59 PM
To: HLTtestimony; PBStestimony
Subject: FW: Testimony for hearing on several bills this Thursday, 02-05-09 at 5:00 PM

Categories: Green Category

-----Original Message-----

From: Bill [mailto:divrb@netzero.net]
Sent: Wednesday, February 04, 2009 2:40 PM
To: Rep. Ryan Yamane
Cc: Rep. Scott Nishimoto
Subject: Fw: Testimony for hearing on several bills this Thursday, 02-05-09 at 5:00 PM

----- Forwarded Message -----

Aloha,

I am in support of the following House Bills and urge you to support them also. These are HB 1191, HB 226, HB 967, **HB 1194** and HB 1192.

As a medical marijuana patient I have known only too well the difficulties encountered with growing and/or acquiring my medicine. The state of Hawaii supports and allows for persons with a medical marijuana recommendation from a physician to utilize cannabis in their treatment, but provides no means for them to obtain their medicine in a safe and legal manor. This not only forces people to seek out sources on the black market (thus encouraging this illegal market) but also forces patients unable to acquire or grow their medicine to take other prescribed medications proven to more harmful to the health than cannabis.

The state of Hawaii has shown that they believe in and support medical marijuana and it is about time that they do something to help the patients further. I have seen and know of many people that have turned their lives around by treating their medical ailments with cannabis instead of prescription drugs or narcotics. People unable to function due to the effects of narcotics finally functioning because they were able to eliminate them. An elderly gentleman that was hardly able to walk due to diabetic neuropathy finally walking without issues due to cannabis. No other medications helped him. Cancer patients eating instead of wasting away, people that have eliminated the need to take multiple medications (which has been proven to increase the likelihood of side effects) by switching to cannabis, and I could go on and on. Cannabis has been proven to be beneficial for a multitude of medical ailments and any bills regarding the support of medical marijuana in this state, especially those that provide an easier means for patients to acquire or grow their medicine, should definitely be encouraged to become law.

At this time I am also asking and encouraging you to oppose HB 1635.

Mahalo and Aloha,
Bill Cox

From: Matt Rifkin [mattrifkin28@gmail.com]
Sent: Tuesday, February 03, 2009 6:08 PM
To: PBStestimony
Subject: Committee hearing on February 5th regarding medical marijuana legislation

Follow Up Flag: Follow up
Flag Status: Flagged

Aloha to the Public Safety Committee members....

I am a medical marijuana patient on the Big Island, and I would like to add my comments to the record for a variety of bills that have been proposed....

HB 1192 - Civil penalties for possession of marijuana - SUPPORT

The voters of the county of Hawaii passed a "Lowest Law Enforcement Priority" bill in November 2008, and I feel that this should be extended state wide. I do not feel that possession of small amounts of marijuana merits jail time.

HB 1191 - Medical Marijuana Distribution System - SUPPORT

Growing medical marijuana is not easy, and many patients are unable to do. Having a secure location where plants can be safely grown is a far better alternative than being forced to purchase medicine from the illegal black market. Increasing the number of plants and quantity of dried, usable medicine is also a good idea, as each patient has their own unique needs.

HB 226 - Medical Marijuana - SUPPORT

Removing the "location of marijuana" from the ID card is a good idea. Protecting sensitive information, such as a patient's qualifying condition, is also important. Law enforcement does not need to know the specific illness of a patient, only that the patient is legally allowed to possess and grow medical marijuana.

HB 1194 - Medical Marijuana - OPPOSE UNLESS AMENDED

I support moving the medical marijuana program from the Narcotics Enforcement Division to the Department of Health. It makes sense for the Health Department to administer this program. I think a state wide distribution system is an excellent idea, but it should not be the only option for a patient. The patient (or caregiver) should be allowed to grow medical marijuana too. Many patients are on a fixed income, and raising the application fee from \$25 to \$50 could be a hardship for such people.

HB 967 - Medical Marijuana - OPPOSE UNLESS AMENDED

Law enforcement has no need of being given information about caregivers on a weekly basis. If illegal activities take place, there are penalties already in place. Raising the application fee during these difficult times from \$25 to \$50 could be a hardship for many patients.

HB 1635 Controlled Substances, Medical Marijuana - STRONGLY OPPOSE

Qualifying Conditions should NOT be reduced or limited, they should be expanded. There are already criminal penalties for violating Hawaii's medical marijuana, we don't need more. Educating the police force on what the law is and having them stop arresting patients is more important.

Respectfully submitted,
Matthew Rifkin
HC 1, Box 4078
Keeau, HI 96749

I, Matthew Simmons UH Social Work Student Support HB 1194.

Committee on Public Safety

Thursday February 5, 2009 @ 5:00 pm

With hundreds of studies to site pros and cons of medicinal marijuana, I believe that it is extremely valuable to note that the 1999 Institute of Medicine report had found that there was overwhelming evidence to support the use of medicinal marijuana including but not limited to the types of illnesses that it helps with: AIDS (HIV) & AIDS Wasting, Alzheimer's Disease, Appetite / Nausea, Arthritis, Asthma / Breathing Disorders, Chemotherapy, Crohn's / Gastrointestinal Disorders, Epilepsy / Seizures, Glaucoma, Hepatitis C, Migraines, Multiple Sclerosis / Muscle Spasms, Pain / Analgesia Psychological Conditions, Tourette's Syndrome, & Terminally Ill.

Although the report did discuss in detail some of the cons of marijuana the report concluded that it was not outside the realm of potential risk factors that current prescription medicines fall in.

It is my hope that with the signing of this bill we can eliminate big business in medicine by offering a natural alternative, which in most instances will be cheaper, less toxic, and as accessible as other prescription medicines.

Testimony of Michael Foley
University of Hawaii at Manoa
tel: 808-281-7043 e-mail: mfoley@hawaii.edu

In support of HB 1192, HB's 1191 and 226,

Opposed to HB's 1194 and 967 unless amended,

And strongly opposed to HB 1635.

Public Safety Committee, Human Services Committee, Health Committee

February 5, 2009 at 5:00 p.m.

Aloha members of the Committee:

My name is Michael Foley. I am from Maui and currently a full-time graduate student at the University of Hawaii at Manoa where I study biomass renewable energy. Last year, while conducting research on how to sustainably produce energy from agriculture in Hawaii, I began looking into the marijuana issue.

Having read the findings of numerous studies published in respectable science, engineering and medical journals, I am taken by the miraculous nature of the cannabis plant. Not only can this fast growing hardy plant be used to create a host of sustainable non-toxic products from fuel to plastics to lumber, but its flowers have also been proven to provide numerous medical benefits to human beings.

In this time of global change, it is important to reform public policies to allow our society to evolve. Recent polls by news media organizations have shown that an overwhelmingly majority of the Americans support the decriminalization of cannabis. With a well-informed logic, and the deepest respect and Aloha for the people and lands of Hawaii, I support any change to public policy that will bring our society closer to harnessing the full potential of the cannabis plant. It is with this perspective, that I:

- Support HB 1192, which would make possession of less than an ounce of marijuana a citable offense punishable by a \$100 fine;
- Support HB's 1191 and 226, which would improve Hawaii's medical marijuana program;
- Oppose HB's 1194 and 967 unless amended so that patients or a caregiver can grow medical marijuana in addition to having the option of obtaining it from state-registered organizations. The law should allow patients to obtain their medications in the most economical and convenient way possible.
- Strongly oppose HB 1635, which would place unnecessary restrictions on medical cannabis program participants and limit qualifying conditions to cancer,

glaucoma, and HIV/AIDS. Medical doctors are the experts on the benefits of cannabis treatment and they should not be limited from prescribing it for a condition that it will treat.

Please take the time to question your previous assumptions about marijuana and be open to learning new information. It is time for us to accept and harness all the benefits that the cannabis plant has to offer. Mahalo for your consideration.

With Aloha,

Michael Foley
Research Assistant
University of Hawaii at Manoa
4477 Kahala Ave.
Honolulu, HI 96816
808-281-7043

From: lionel [lionel@cruzio.com]
Sent: Thursday, February 05, 2009 11:13 AM
To: PBStestimony
Subject: HB 1191, 1192, 226, 1194, 1635 and 967

Aloha,

Please support HB 1192, which would make possession of less than an ounce of marijuana a citable offense punishable by a \$100 (one hundred dollar) fine.

I also support HB 1191 and 226, which would improve Hawaii's medical marijuana program. HB's 1194 and 967 need to be amended so that they improve the state's medical marijuana program, and I strongly oppose HB 1635, which would place unnecessary and arbitrary restrictions on program participants and limit qualifying conditions to cancer, glaucoma and HIV/AIDS.

HB 1192

SUPPORT

Possessing small amounts of cannabis should not in and of itself, something that warrants jail time.

Arresting people for possession of cannabis saddles them with a damaging criminal record that can make it impossible for otherwise law abiding citizens to obtain a job, housing or student loans.

Laws and policies should never cause more harm than that which they seek to regulate and control.

Massachusetts, along with eleven other states, has already passed laws that make the possession of small amounts of cannabis a citable offense. State legislatures in Connecticut, Texas, Vermont and Washington are currently considering bills that would do the same.

HB 1191

SUPPORT

Patients who cannot grow for themselves need help producing enough medicine to keep them adequately supplied. Allowing state-registered growers to serve several patients at once is smart because it creates an alternate source of medicine that patients can rely on when they need to.

Patients shouldn't have to resort to the unreliable and often dangerous criminal market to get their medicine - they should be able to get it from an organization like those HB 1191 establishes.

HB 226

SUPPORT

Doing away with the mature/immature distinction will make it much easier for patients and police to determine who is within the bounds of the law and who is not.

Allowing state registered caregivers to grow for up to five patients is a good idea because it allows for growers to serve the needs of several patients at once, and in one place. Also, growing several marijuana plants is often easier than growing only a couple; plus, it enables caregivers to better account for unseen problems, such as plant disease, insects, or a power outage that can wipe out an entire yield of medicine.

Protecting sensitive information like a patients qualifying condition is the right thing to do. Law enforcement officers do not need to know anything about a medical marijuana patient other than whether or not they are legal.

HB 1194

OPPOSE UNLESS AMENDED

Transferring the medical marijuana program from the department of public safety to the department of public health makes sense because the department of health is better equipped to deal with health issues and should be the agency responsible for handling confidential patient information.

Just this past June, the public safety department's Narcotic Enforcement Division (NED) mistakenly released the names and personal information of 4,200 patients to the Hawaii Tribune-Herald. This was a huge breach of confidentiality that resulted in an official apology from NED to patients, along with instructions for patients to take necessary precautions to protect any information NED may have released.

Although establishing a state distribution system is a good way to improve patient access to medicine, it should not be the only source of medicine. Patients or a caregiver should be allowed to grow medical marijuana in addition to state-registered organizations.

Many patients are on fixed income, and increasing the application fee from \$25 to \$50 will be a financial hardship for many.

HB 967

OPPOSE UNLESS AMENDED

Transferring the medical marijuana program from the department of public safety to the department of public health makes sense because the department of health is better equipped to deal with health issues and should be the agency responsible for handling confidential patient information.

Although creating an advisory board to review and approve additional qualifying conditions and develop a distribution system to provide medical marijuana to patients is a good idea, law enforcement should have no interest in receiving information about caregivers on a weekly basis unless a caregiver is engaging in illegal activity, for which there are already penalties established.

Many patients are on fixed income, and increasing the application fee from \$25 to \$50 will be a financial hardship for many.

HB1635

OPPOSE

There are already criminal penalties for violating Hawaii's marijuana laws - we do not need more.

Requiring a physician to physically examine a terminally ill cancer patient just so that patient can continue to use medical marijuana does not make sense and is unnecessary.

We should be looking to expand conditions that qualify patients for Hawaii's medical marijuana program, not limiting them

The government of Israel and numerous independent studies have established that marijuana consumption prevents conditions and offers protection from including but not limited to, dementia, stoke, brain damage from trauma or stroke, degenerative nervous disorders, cancers and also extends life.

The Canadian Broadcast Corporation recently aired a two hour special entitled, "Run From The Cure, the Rick Simpson Story". CBC documents that Mr. Simpson has cured, with doctor supervision, dozens of people in his community of melanoma's and other cancers, as well as diabetes using a potent marijuana oil.

According to the CBC, manufacture of Mr. Simpson's oil requires one pound of cannabis flowers per one ounce of oil. Patients require one ounce of oil per month.

These realities should play a role in the crafting and implementation of intelligent and humane medical marijuana policy.

Aloha,
Lee Eisenstein
Hawaii

From: Pam Lichy [pamelalichy@gmail.com]
Sent: Wednesday, February 04, 2009 10:33 AM
To: PBStestimony
Subject: testimony for 2/5, 5p.m. hearing re HB 1194

TO: HOUSE COMMITTEES ON PUBLIC SAFETY & HEALTH
FROM: PAMELA LICHTY, MPH, PRESIDENT, DRUG POLICY ACTION GROUP
RE: HB1194 RELATING TO MEDICAL MARIJUANA
DATE: FEBRUARY 5, 2009

Aloha, Chairs Hanohano and Yamane and members of the Committee on Public Safety and the Committee on Health. First of all thank you very much for scheduling this hearing today; I'm sorry I could not be there in person since I'm currently on the mainland. My apologies also for the appearance of this testimony.

We are in general support of this measure although we have reservations about certain provisions. As you are aware, our state's medical marijuana law, the first in the nation to be enacted via legislative action, has been in place since 2000. After eight years and with some 4,000 patients registered, it is timely to re-examine the program and look at what is working and what is not. We can also now look to 12 other states with medical marijuana programs and take note of some advances since ours was put in place.

In virtually all of the other states with a registration system, patients are registered with the Department of Health. Since we strongly believe that this program was intended by this body to be a compassionate public health program, we endorse its move to the Department of Health. The inadvertent release of patient names, addresses and other confidential data by the Narcotics Enforcement Division this past June offers just one reason for this change. Both potential patients and physicians are intimidated by its current housing in Public Safety and that incident did nothing to allay their concerns. If this move remains under consideration, we would be pleased to provide additional input into the details.

Similarly a state-authorized system for distribution makes a great deal of sense since our current law's silence on the issue of how to abstain medicine is distinctly unhelpful. Again this is a highly complex issue, but New Mexico has just finalized rules for such a system and I strongly urge the Committees to examine their model.

We do oppose the raising of the program's yearly fee from \$25 to \$50, especially at this time, since many patients are on fixed income and are experiencing financial strains already.

Again thank you for hearing this measure and we urge you to pass out an amended version to the next committee. Mahalo for the opportunity to testify.

Pamela G. Lichy, MPH
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