



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 5, 2018

**GOV. MSG. NO. 1217**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 5, 2018, the following bill was signed into law:

HB2729 HD2 SD2 CD1

RELATING TO CANNABIS FOR MEDICAL USE  
**ACT 116 (18)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

# A BILL FOR AN ACT

RELATING TO CANNABIS FOR MEDICAL USE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature also finds that certain amendments to the State's existing laws on cannabis for medical use and medical cannabis dispensaries are necessary to ensure the fair administration of the State's interjurisdictional reciprocity program, maintain appropriate safeguards and protections for qualifying patients and primary caregivers, ease unnecessary administrative burdens on qualifying patients with chronic conditions, and provide medical cannabis dispensaries with a mechanism to retest batches of cannabis or manufactured cannabis products when appropriate.

The legislature finds that any reciprocity process for out-of-state medical cannabis patients must meet specific criteria that uphold the integrity and rigor of the State's medical cannabis program. A reciprocity program in Hawaii must not significantly diminish the safety and security aspects of Hawaii's approach to medical cannabis; must be implemented in a way that is fair and equitable to Hawaii medical cannabis



1 patients and does not confer greater access to out-of-state  
2 medical cannabis patients than to Hawaii patients; must provide  
3 a timely process for qualifying out-of-state patients who visit  
4 Hawaii to legally obtain medical cannabis from Hawaii-licensed  
5 medical cannabis dispensaries; and must provide protection from  
6 state law enforcement for registered qualifying out-of-state  
7 patients who possess medical cannabis in Hawaii.

8 The legislature further finds that under existing law, a  
9 qualifying patient's written certification for the medical use  
10 of cannabis is valid for only one year from the time of signing.  
11 However, many of the debilitating medical conditions that  
12 qualify a patient for a written certification are chronic in  
13 nature, and there is some concern that annual renewal  
14 requirements may result in a lapse in treatment for some  
15 qualifying patients.

16 Accordingly, the purpose of this part is to:

- 17 (1) Establish a criteria and requirements for a  
18 reciprocity process for medical cannabis patients,  
19 which requires the department of health to register  
20 qualifying out-of-state patients and caregivers of  
21 qualifying out-of-state patients;



(2) Clarify law enforcement safeguards for qualifying out-of-state patients and caregivers of qualifying out-of-state patients who possess medical cannabis within the State;

(3) Authorize the department of health to extend the maximum period of validity of a written certification to three years for qualifying patients with debilitating medical conditions that are chronic; and

(4) Clarify a dispensary licensee's ability to retest, at its own expense, a batch of cannabis or manufactured cannabis products that do not meet the department of health's standards for patient safety according to initial test results.

SECTION 2. Chapter 329, Hawaii Revised Statutes, is amended by adding a new section to part IX to be appropriately designated and to read as follows:

**"§329-      Registration requirements; qualifying out-of-state patient; caregiver of a qualifying out-of-state patient.**

**(a) Notwithstanding section 329-123, a qualifying out-of-state patient and a caregiver of a qualifying out-of-state patient shall register with the department of health as established by**



1 rule. The registration shall be effective for no more than  
2 sixty days and may be renewed for no more than one additional  
3 sixty-day period that begins no later than twelve months after  
4 the preceding registration date; provided that the department  
5 shall not register any qualifying out-of-state patient for a  
6 period that exceeds the term of validity of the qualifying out-  
7 of-state patient's authority to use medical cannabis in the  
8 qualifying out-of-state patient's home jurisdiction.

9 (b) A qualifying out-of-state patient aged eighteen or  
10 older, at a minimum, shall meet the following criteria for  
11 registration:

12 (1) Provide a valid government-issued medical cannabis  
13 card issued to the qualifying out-of-state patient by  
14 another state, United States territory, or the  
15 District of Columbia; provided that the medical  
16 cannabis card has an expiration date and has not  
17 expired;

18 (2) Provide a valid photographic identification card or  
19 driver's license issued by the same jurisdiction that  
20 issued the medical cannabis card; and



1       (3) Have a debilitating medical condition, as defined in  
2           section 329-121.

3       (c) A qualifying out-of-state patient under eighteen years  
4 of age may be registered pursuant to this section only if the  
5 qualifying patient has a debilitating medical condition as  
6 defined in section 329-121 and the caregiver of the qualifying  
7 out-of-state patient, at a minimum, meets the requirements of  
8 paragraphs (1) and (2) of subsection (b) and consents in writing  
9 to:

10       (1) Allow the qualifying out-of-state patient's medical  
11           use of cannabis;

12       (2) Undertake the responsibility for managing the well-  
13           being of the qualifying out-of-state patient who is  
14           under eighteen years of age, with respect to the  
15           medical use of cannabis; and

16       (3) Control the acquisition of the cannabis, the dosage,  
17           and the frequency of the medical use of cannabis by  
18           the qualifying out-of-state patient who is under  
19           eighteen years of age.

20       (d) In the case of any qualifying out-of-state patient who  
21 is under eighteen years of age, the department of health shall



1 register the qualifying out-of-state patient and the caregiver  
2 of the qualifying out-of-state patient; provided that the  
3 department may register two caregivers for a qualifying out-of-  
4 state patient if each caregiver is the parent, guardian, or  
5 person having legal custody of the qualifying out-of-state  
6 patient who is under eighteen years of age.

7 (e) Each qualifying out-of-state patient shall pay a fee  
8 of \$45 for each registration and renewal.

9 (f) Upon inquiry by a law enforcement agency, the  
10 department of health shall immediately verify whether the  
11 subject of the inquiry has registered with the department of  
12 health and may provide reasonable access to the registry  
13 information for official law enforcement purposes. An inquiry  
14 and verification under this subsection may be made twenty-four  
15 hours a day, seven days a week.

16 (g) The department of health may temporarily suspend the  
17 registration of a qualifying out-of-state patient or a  
18 registered caregiver of a qualifying out-of-state patient for a  
19 period of up to thirty days if the department of health  
20 determines that the registration process for qualifying patients  
21 or primary caregivers is being adversely affected or the supply



1 of cannabis for medical use available in licensed dispensaries  
2 is insufficient to serve qualifying patients and qualifying out-  
3 of-state patients. A temporary suspension may be extended by  
4 thirty-day periods until the department of health determines  
5 that:

6 (1) Adequate capacity exists to register qualifying out-  
7 of-state patients and caregivers of qualifying out-of-  
8 state patients in addition to qualifying patients and  
9 primary caregivers; and

10 (2) The licensed dispensaries are able to meet the demands  
11 of qualifying patients."

12 SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is  
13 amended by amending subsection (c) to read as follows:

14 "(c) The department, upon completion of the transfer of  
15 the medical use of cannabis program, shall charge a medical  
16 cannabis registration fee to each qualifying ~~[patients]~~ patient,  
17 other than a qualifying out-of-state patient, of no more than  
18 \$35[-] per year."

19 SECTION 4. Section 329-121, Hawaii Revised Statutes, is  
20 amended as follows:





1 1. By adding three new definitions to be appropriately  
2 inserted and to read:

3 "Adequate supply for a qualifying out-of-state patient"  
4 means an amount of cannabis individually possessed by a  
5 qualifying out-of-state patient or jointly possessed by a  
6 qualifying out-of-state patient who is under eighteen years old  
7 and the caregiver of the qualifying out-of-state patient that is  
8 not more than is reasonably necessary to ensure the  
9 uninterrupted availability of cannabis for the purpose of  
10 alleviating the symptoms or effects of the qualifying out-of-  
11 state patient's debilitating medical condition; provided that an  
12 "adequate supply for a qualifying out-of-state patient" shall  
13 not exceed four ounces of usable cannabis at any given time and  
14 shall not include live plants. The four ounces of usable  
15 cannabis shall include any combination of usable cannabis and  
16 manufactured cannabis products, as provided in chapter 329D;  
17 provided that the usable cannabis in the manufactured products  
18 shall be calculated using information provided pursuant to  
19 section 329D-9(c).



1       "Caregiver of a qualifying out-of-state patient" means a  
2       parent, guardian, or person having legal custody of a qualifying  
3       out-of-state patient who is under the age of eighteen years.

4       "Qualifying out-of-state patient" or "registered qualifying  
5       out-of-state patient" means a person who is registered for the  
6       medical use of cannabis in another state, a United States  
7       territory, or the District of Columbia."

8           2. By amending the definition of "medical use" to read:

9           "Medical use" means the acquisition, possession,  
10       cultivation, use, distribution, or transportation of cannabis or  
11       paraphernalia relating to the administration of cannabis to  
12       alleviate the symptoms or effects of a qualifying patient's  
13       debilitating medical condition[-]; provided that "medical use"  
14       does not include the cultivation or distribution of cannabis or  
15       paraphernalia by a qualifying out-of-state patient or the  
16       caregiver of a qualifying out-of-state patient. For the  
17       purposes of "medical use", the term [~~distribution~~]  
18       "distribution" is limited to the transfer of cannabis and  
19       paraphernalia."

20           3. By amending the definition of "written certification"  
21       to read:



1        "Written certification" means the qualifying patient's  
2        medical records or a statement signed by a qualifying patient's  
3        physician or advanced practice registered nurse, stating that in  
4        the physician's or advanced practice registered nurse's  
5        professional opinion, the qualifying patient has a debilitating  
6        medical condition and the potential benefits of the medical use  
7        of cannabis would likely outweigh the health risks for the  
8        qualifying patient. The department of health may require,  
9        through its rulemaking authority, that all written  
10       certifications comply with a designated form. "Written  
11       certifications" are valid for [~~only~~] one year from the time of  
12       signing[-]; provided that the department of health may allow for  
13       the validity of any written certification for up to three years  
14       if the qualifying patient's physician or advanced practice  
15       registered nurse states that the patient's debilitating medical  
16       condition is chronic in nature."

17       SECTION 5. Section 329-122, Hawaii Revised Statutes, is  
18       amended to read as follows:

19       **"§329-122 Medical use of cannabis; conditions of use. (a)**  
20       Notwithstanding any law to the contrary, the medical use of  
21       cannabis by a qualifying patient shall be permitted only if:



1 (1) The qualifying patient has been diagnosed by a  
2 physician or advanced practice registered nurse as  
3 having a debilitating medical condition;

4 (2) The qualifying patient's physician or advanced  
5 practice registered nurse has certified in writing  
6 that, in the physician's or advanced practice  
7 registered nurse's professional opinion, the potential  
8 benefits of the medical use of cannabis would likely  
9 outweigh the health risks for the particular  
10 qualifying patient; and

11 (3) The amount of cannabis possessed by the qualifying  
12 patient does not exceed an adequate supply.

13 (b) Subsection (a) shall not apply to a qualifying patient  
14 under the age of eighteen years, unless:

15 (1) The qualifying patient's physician or advanced  
16 practice registered nurse has explained the potential  
17 risks and benefits of the medical use of cannabis to  
18 the qualifying patient and to a parent, guardian, or  
19 person having legal custody of the qualifying patient;  
20 and



(2) A parent, guardian, or person having legal custody consents in writing to:

(A) Allow the qualifying patient's medical use of cannabis;

(B) Serve as the qualifying patient's primary caregiver; and

(C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

(c) Notwithstanding any law to the contrary, the medical use of cannabis within the State by a qualifying out-of-state patient aged eighteen years or older legally authorized to use cannabis for medical purposes in another state, a United States territory, or the District of Columbia shall be permitted only if the qualifying out-of-state patient:

(1) Provides to the department of health a valid medical use of cannabis card with an explicit expiration date that has not yet passed from the issuing jurisdiction and a valid photographic identification card or driver's license issued by the same jurisdiction;



- 1        (2) Attests under penalty of law pursuant to section  
2        710-1063 that the condition for which the qualifying  
3        out-of-state patient is legally authorized to use  
4        cannabis for medical purposes is a debilitating  
5        medical condition as defined in section 329-121;  
6        (3) Provides consent for the department of health to  
7        obtain information from the qualifying out-of-state  
8        patient's certifying medical provider and from the  
9        entity that issued the medical cannabis card for the  
10       purpose of allowing the department of health to verify  
11       the information provided in the registration process;  
12       (4) Pays the required fee for out-of-state registration to  
13       use cannabis for medical purposes;  
14       (5) Registers with the department of health pursuant to  
15       section 329- to use cannabis for medical purposes;  
16       (6) Receives a medical cannabis registry card from the  
17       department of health; and  
18       (7) Abides by all laws relating to the medical use of  
19       cannabis, including not possessing an amount of  
20       cannabis that exceeds an adequate supply.



1        (d) Notwithstanding any law to the contrary, the medical  
2 use of cannabis by a qualifying out-of-state patient under  
3 eighteen years of age shall only be permitted if:

4        (1) The caregiver of the qualifying out-of-state patient  
5 provides the information required pursuant to  
6 subsection (c); and

7        (2) The caregiver of the qualifying out-of-state patient  
8 consents in writing to:

9        (A) Allow the qualifying out-of-state patient's  
10 medical use of cannabis;

11        (B) Undertake the responsibility for managing the  
12 well-being of the qualifying out-of-state patient  
13 who is under eighteen years of age with respect  
14 to the medical use of cannabis; and

15        (C) Control the acquisition of the cannabis, the  
16 dosage, and the frequency of the medical use of  
17 cannabis by the qualifying out-of-state patient  
18 who is under eighteen years of age.

19        ~~[(e)]~~ (e) The authorization for the medical use of  
20 cannabis in this section shall not apply to:



- 1 (1) The medical use of cannabis that endangers the health  
2 or well-being of another person;
- 3 (2) The medical use of cannabis:
- 4 (A) In a school bus, public bus, or any moving  
5 vehicle;
- 6 (B) In the workplace of one's employment;
- 7 (C) On any school grounds;
- 8 (D) At any public park, public beach, public  
9 recreation center, recreation or youth center; or
- 10 (E) At any other place open to the public; provided  
11 that a qualifying patient, primary caregiver,  
12 qualifying out-of-state patient, caregiver of a  
13 qualifying out-of-state patient, or an owner or  
14 employee of a medical cannabis dispensary  
15 licensed under chapter 329D shall not be  
16 prohibited from transporting cannabis or any  
17 manufactured cannabis product, as that term is  
18 defined in section 329D-1, in any public place;  
19 provided further that the cannabis or  
20 manufactured cannabis product shall be  
21 transported in a sealed container, not be visible





- 1 to the public, and shall not be removed from its  
2 sealed container or consumed or used in any way  
3 while it is in the public place; and
- 4 (3) The use of cannabis by a qualifying patient, parent,  
5 [~~or~~], primary caregiver, qualifying out-of-state  
6 patient, or caregiver of a qualifying out-of-state  
7 patient, for purposes other than medical use permitted  
8 by this part.
- 9 [~~+~~](f) For the purposes of this section, "transport"  
10 means the transportation of cannabis, usable cannabis, or any  
11 manufactured cannabis product between:
- 12 (1) A qualifying patient and the qualifying patient's  
13 primary caregiver;
- 14 (2) A qualifying out-of-state patient under eighteen years  
15 of age and the caregiver of a qualifying out-of-state  
16 patient;
- 17 [~~+~~](3) The production centers and the retail dispensing  
18 locations under a dispensary licensee's license; or
- 19 [~~+~~](4) A production center, retail dispensing location,  
20 qualifying patient, [~~or~~] primary caregiver, qualifying  
21 out-of-state patient, or caregiver of a qualifying



1        out-of-state patient and a certified laboratory for  
2        the purpose of laboratory testing; provided that a  
3        qualifying patient [~~or~~], primary caregiver, qualifying  
4        out-of-state patient, or caregiver of a qualifying  
5        out-of-state patient may only transport up to one gram  
6        of cannabis per test to a certified laboratory for  
7        laboratory testing and may only transport the product  
8        if the qualifying patient [~~or~~], primary caregiver[+],  
9        qualifying out-of-state patient, or caregiver of a  
10       qualifying out-of-state patient:

11       (A)    Secures an appointment for testing at a certified  
12              laboratory;

13       (B)    Obtains confirmation, which may be electronic,  
14              that includes the specific time and date of the  
15              appointment and a detailed description of the  
16              product and amount to be transported to the  
17              certified laboratory for the appointment; and

18       (C)    Has the confirmation, which may be electronic,  
19              available during transport.

20       For purposes of interisland transportation, "transport" of  
21       cannabis, usable cannabis, or any manufactured cannabis product,



1 by any means is allowable only between a production center or  
2 retail dispensing location and a certified laboratory for the  
3 sole purpose of laboratory testing pursuant to section 329D-8,  
4 as permitted under section 329D-6(m) and subject to section  
5 329D-6(j), and with the understanding that state law and its  
6 protections do not apply outside of the jurisdictional limits of  
7 the State. Allowable transport pursuant to this section does  
8 not include interisland transportation by any means or for any  
9 purpose between a qualified patient [e], primary caregiver,  
10 qualifying out-of-state patient, or caregiver of a qualifying  
11 out-of-state patient and any other entity or individual,  
12 including an individual who is a qualified patient [e], primary  
13 caregiver[-], qualifying out-of-state patient, or caregiver of a  
14 qualifying out-of-state patient."

15 SECTION 6. Section 329-123, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§329-123 Registration requirements[-]; qualifying**  
18 **patients; primary caregivers.** (a) Physicians or advanced  
19 practice registered nurses who issue written certifications  
20 shall provide, in each written certification, the name, address,  
21 patient identification number, and other identifying information



1 of the qualifying patient. The department of health shall  
2 require, in rules adopted pursuant to chapter 91, that all  
3 written certifications comply with a designated form completed  
4 by or on behalf of a qualifying patient. The form shall require  
5 information from the applicant, primary caregiver, and physician  
6 or advanced practice registered nurse as specifically required  
7 or permitted by this chapter. The form shall require the  
8 address of the location where the cannabis is grown and shall  
9 appear on the registry card issued by the department of health.  
10 The certifying physician or advanced practice registered nurse  
11 shall be required to have a bona fide physician-patient  
12 relationship or bona fide advanced practice registered nurse-  
13 patient relationship, as applicable, with the qualifying  
14 patient. All current active medical cannabis permits shall be  
15 honored through their expiration date.

16 (b) Qualifying patients shall register with the department  
17 of health. The registration shall be effective until the  
18 expiration of the certificate issued by the department of health  
19 and signed by the physician or advanced practice registered  
20 nurse. Every qualifying patient shall provide sufficient  
21 identifying information to establish the personal identities of



1 the qualifying patient and the primary caregiver. Qualifying  
2 patients shall report changes in information within ten working  
3 days. Every qualifying patient shall have only one primary  
4 caregiver at any given time. The department of health shall  
5 issue to the qualifying patient a registration certificate, and  
6 shall charge \$35 per year.

7 (c) Primary caregivers shall register with the department  
8 of health. Every primary caregiver shall be responsible for the  
9 care of only one qualifying patient at any given time[-], unless  
10 the primary caregiver is the parent, guardian, or person having  
11 legal custody of more than one minor qualifying patient, in  
12 which case the primary caregiver may be responsible for the care  
13 of more than one minor qualifying patient at any given time;  
14 provided that the primary caregiver is the parent, guardian, or  
15 person having legal custody of all of the primary caregiver's  
16 qualifying patients. The department of health may permit  
17 registration of up two primary caregivers for a minor qualifying  
18 patient; provided that both primary caregivers are the parent,  
19 guardian, or person having legal custody of the minor qualifying  
20 patient.



(d) Upon inquiry by a law enforcement agency, which inquiry may be made twenty-four hours a day, seven days a week, the department of health shall immediately verify whether the subject of the inquiry has registered with the department of health and may provide reasonable access to the registry information for official law enforcement purposes.

(e) This section shall not apply to registration of a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient."

SECTION 7. Section 329-125, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

**"§329-125 Protections afforded to a qualifying patient**  
**[~~or~~], primary caregiver[~~-~~], qualifying out-of-state patient, or**  
**caregiver of a qualifying out-of-state patient.** (a) A  
qualifying patient [~~or the~~], primary caregiver, qualifying out-  
of-state patient, or caregiver of a qualifying out-of-state  
patient may assert the medical use of cannabis authorized under  
this part as an affirmative defense to any prosecution involving  
[+]cannabis or marijuana[+] under this part or part IV; or part  
IV of chapter 712; provided that the qualifying patient [~~or~~



1 ~~the~~, primary caregiver, qualifying out-of-state patient, or  
2 caregiver of a qualifying out-of-state patient strictly complied  
3 with the requirements of this part.

4 (b) Any qualifying patient ~~[or]~~, primary caregiver,  
5 qualifying out-of-state patient, or caregiver of a qualifying  
6 out-of-state patient not complying with the permitted scope of  
7 the medical use of cannabis shall not be afforded the  
8 protections against searches and seizures pertaining to the  
9 misapplication of the medical use of cannabis."

10 SECTION 8. Section 329-125.5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "[~~§~~§329-125.5[~~§~~] **Medical cannabis patient and caregiver**  
13 **protections.** (a) No school shall refuse to enroll or otherwise  
14 penalize, and no landlord shall refuse to lease property to or  
15 otherwise penalize, a person solely for the person's status as a  
16 qualifying patient or primary caregiver in the medical cannabis  
17 program under this part, unless failing to do so would cause the  
18 school or landlord to lose a monetary or licensing-related  
19 benefit under federal law or regulation; provided that the  
20 qualifying patient or primary caregiver strictly complied with  
21 the requirements of this part; provided further that the



1 qualifying patient or primary caregiver shall present a medical  
2 cannabis registry card or certificate and photo identification,  
3 to ensure that the qualifying patient or primary caregiver is  
4 validly registered with the department of health pursuant to  
5 section 329-123.

6 (b) For the purposes of medical care, including organ  
7 transplants, a registered qualifying patient's use of cannabis  
8 in compliance with this part shall be considered the equivalent  
9 of the use of any other medication under the direction of a  
10 physician and shall not constitute the use of an illicit  
11 substance or otherwise disqualify a registered qualifying  
12 patient from medical care.

13 (c) No qualifying patient or primary caregiver under this  
14 part shall be denied custody of, visitation with, or parenting  
15 time with a minor, and there shall be no presumption of neglect  
16 or child endangerment, for conduct allowed under this part;  
17 provided that this subsection shall not apply if the qualifying  
18 patient's or primary caregiver's conduct created a danger to the  
19 safety of the minor, as established by a preponderance of the  
20 evidence.





1        (d) This section shall apply to qualifying patients,  
2        primary caregivers, qualifying out-of-state patients, and  
3        caregivers of qualifying out-of-state patients who are validly  
4        registered with the department of health pursuant to this part  
5        and the administrative rules of the department of health."

6        SECTION 9. Section 329-127, Hawaii Revised Statutes, is  
7        amended to read as follows:

8        "[+]§329-127[+] **Protection of cannabis and other seized**  
9        **property.** (a) Cannabis, paraphernalia, or other property  
10       seized from a qualifying patient or primary caregiver in  
11       connection with a claimed medical use of cannabis under this  
12       part shall be returned immediately upon the determination by a  
13       court that the qualifying patient or primary caregiver is  
14       entitled to the protections of this part, as evidenced by a  
15       decision not to prosecute, dismissal of charges, or an  
16       acquittal; provided that law enforcement agencies seizing live  
17       plants as evidence shall not be responsible for the care and  
18       maintenance of such plants.

19       (b) This section shall also apply to qualifying out-of-  
20       state patients and caregivers of qualifying out-of-state  
21       patients who are validly registered with the department of



1 health pursuant to this part and the administrative rules of the  
2 department of health; provided that notwithstanding subsection  
3 (a) to the contrary, under no circumstances shall cannabis,  
4 paraphernalia, or other property be returned to any location  
5 outside of the island from which it was seized."

6 SECTION 10. Section 329-128, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§329-128 Fraudulent misrepresentation; penalty.** (a)  
9 Notwithstanding any law to the contrary, fraudulent  
10 misrepresentation to a law enforcement official of any fact or  
11 circumstance relating to the medical use of cannabis to avoid  
12 arrest or prosecution under this part or chapter 712 shall be a  
13 petty misdemeanor and subject to a fine of \$500.

14 (b) Notwithstanding any law to the contrary, fraudulent  
15 misrepresentation to a law enforcement official of any fact or  
16 circumstance relating to the issuance of a written certificate  
17 by a physician or advanced practice registered nurse not covered  
18 under section 329-126 for the medical use of cannabis shall be a  
19 misdemeanor. This penalty shall be in addition to any other  
20 penalties that may apply for the non-medical use of cannabis.

21 ~~[Nothing in this section is intended to preclude the conviction~~



1 ~~of any person under section 710-1060 or for any other offense~~  
2 ~~under part V of chapter 710-]~~

3 (c) Notwithstanding any law to the contrary, fraudulent  
4 misrepresentation to the department of an entitlement to use  
5 cannabis for medical purposes in another state, a United States  
6 territory, or the District of Columbia for the purpose of  
7 registering as a qualifying out-of-state patient or caregiver of  
8 a qualifying out-of-state patient shall be a misdemeanor. This  
9 penalty shall be in addition to any other penalties that may  
10 apply for the non-medical use of cannabis.

11 (d) Nothing in this section is intended to preclude the  
12 conviction of any person under section 710-1060 or for any other  
13 offense under part V of chapter 710 or any other offense."

14 SECTION 11. Section 329-129, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) No qualifying patient [æ], primary caregiver,  
17 qualifying out-of-state patient, or caregiver of a qualifying  
18 out-of-state patient shall use butane to extract  
19 tetrahydrocannabinol from cannabis plants."

20 SECTION 12. Section 329-130, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "§329-130   Authorized sources of medical cannabis.   (a)

2   After December 31, 2023, a qualifying patient shall obtain  
3   medical cannabis or manufactured cannabis products only:

4       (1)   From a dispensary licensed pursuant to chapter 329D;  
5             provided that the cannabis shall be purchased and paid  
6             for at the time of purchase; or

7       (2)   By cultivating cannabis in an amount that does not  
8             exceed an adequate supply for the qualifying patient,  
9             pursuant to section 329-122; provided that each  
10            location used to cultivate cannabis shall be used by  
11            no more than five qualifying patients.

12   After December 31, 2023, no primary caregiver shall be  
13   authorized to cultivate cannabis for any qualifying patient.

14       (b)   This section shall not apply to:

15       (1)   A qualifying patient who is a minor or an adult  
16             lacking legal capacity and the primary caregiver is  
17             the parent, guardian, or person having legal custody  
18             of a qualifying patient described in this paragraph;  
19             or



(2) A qualifying patient on any island on which there is no medical cannabis dispensary licensed pursuant to chapter 329D.

(c) A qualifying out-of-state patient and a caregiver of a qualifying out-of-state patient shall be authorized to obtain cannabis for medical use only from retail dispensing locations of dispensaries licensed pursuant to chapter 329D."

SECTION 13. Section 329D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

"Caregiver of a qualifying out-of-state patient" shall have the same meaning as in section 329-121.

"Qualifying out-of-state patient" and "registered qualifying out-of-state patient" shall have the same meaning as in section 329-121."

2. By amending the definition of "dispense" or "dispensing" to read:

"Dispense" or "dispensing" means the act of a licensed dispensary providing cannabis or manufactured cannabis products to a qualifying patient [~~or a~~], primary caregiver, qualifying



1 out-of-state patient, or caregiver of a qualifying out-of-state  
2 patient for a fee."

3 3. By amending the definition of "manufacture" to read:

4 "Manufacture" means the preparation, propagation,  
5 compounding, conversion, or processing of a substance containing  
6 cannabis or its principal psychoactive constituent  
7 tetrahydrocannabinol, either directly or indirectly, by a person  
8 other than a qualifying patient ~~[or]~~, primary caregiver,  
9 qualifying out-of-state patient, or caregiver of a qualifying  
10 out-of-state patient for the qualifying patient's or qualifying  
11 out of state patient's use, by extraction from substances of  
12 natural origin, or independently by means of chemical synthesis,  
13 or by a combination of extraction and chemical synthesis, and  
14 includes any packaging or repackaging of the substance or  
15 labeling or relabeling of its container."

16 4. By amending the definition of "retail dispensing  
17 location" to read:

18 "Retail dispensing location" means an establishment owned,  
19 operated, or subcontracted by a medical cannabis dispensary  
20 where cannabis and manufactured cannabis are made available for  
21 retail sale to a qualifying ~~[patients or]~~ patient, primary



1 ~~[caregivers.]~~ caregiver, qualifying out-of-state patient, or  
2 caregiver of a qualifying out-of-state patient."

3 SECTION 14. Section 329D-6, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By amending subsection (g) to read:

6 "(g) In all dispensary facilities, only the licensee, if  
7 an individual, registered employees of the dispensary licensee,  
8 registered employees of a subcontracted production center or  
9 retail dispensing location, employees of a certified laboratory  
10 for testing purposes, state employees authorized by the director  
11 of health, and law enforcement and other government officials  
12 acting in their official capacity shall be permitted to touch or  
13 handle any cannabis or manufactured cannabis products, except  
14 that a qualifying patient ~~[or the]~~, primary caregiver ~~[of a~~  
15 ~~qualifying patient]~~, qualifying out-of-state patient, or  
16 caregiver of a qualifying out-of-state patient may receive  
17 manufactured cannabis products at a retail dispensing location  
18 following completion of a sale."

19 2. By amending subsections (j) and (k) to read:



1       "(j) The department shall establish, maintain, and control  
2 a computer software tracking system that shall have real time,  
3 twenty-four-hour access to the data of all dispensaries.

4       (1) The computer software tracking system shall collect  
5 data relating to:

6       (A) The total amount of cannabis in possession of all  
7 dispensaries from either seed or immature plant  
8 state, including all plants that are derived from  
9 cuttings or cloning, until the cannabis, cannabis  
10 plants, or manufactured cannabis product is sold  
11 or destroyed pursuant to section 329D-7;

12       (B) The total amount of manufactured cannabis product  
13 inventory, including the equivalent physical  
14 weight of cannabis that is used to manufacture  
15 manufactured cannabis products, purchased by a  
16 qualifying patient ~~[and]~~, primary caregiver,  
17 qualifying out-of-state patient, and caregiver of  
18 a qualifying out-of-state patient from all retail  
19 dispensing locations in the State in any fifteen-  
20 day period;





1 (C) The amount of waste produced by each plant at  
2 harvest; and

3 (D) The transport of cannabis and manufactured  
4 cannabis products between production centers and  
5 retail dispensing locations, including tracking  
6 identification issued by the tracking system, the  
7 identity of the person transporting the cannabis  
8 or manufactured cannabis products, and the make,  
9 model, and license number of the vehicle being  
10 used for the transport;

11 (2) The procurement of the computer software tracking  
12 system established pursuant to this subsection shall  
13 be exempt from chapter 103D; provided that:

14 (A) The department shall publicly solicit at least  
15 three proposals for the computer software  
16 tracking system; and

17 (B) The selection of the computer software tracking  
18 system shall be approved by the director of the  
19 department and the chief information officer; and

20 (3) Notwithstanding any other provision of this subsection  
21 to the contrary, once the department has authorized a



1 licensed dispensary to commence sales of cannabis or  
2 manufactured cannabis products, if the department's  
3 computer software tracking system is inoperable or is  
4 not functioning properly, as an alternative to  
5 requiring dispensaries to temporarily cease  
6 operations, the department may implement an alternate  
7 tracking system that will enable a qualifying  
8 ~~[patients]~~ patient, primary caregiver, qualifying out-  
9 of-state patient, and caregiver of a qualifying out-  
10 of-state patient to purchase cannabis or manufactured  
11 cannabis products from a licensed dispensary on a  
12 temporary basis. The department shall seek input  
13 regarding the alternate tracking system from medical  
14 cannabis licensees. The alternate tracking system may  
15 operate as follows:

- 16 (A) The department may immediately notify all  
17 licensed dispensaries that the computer software  
18 tracking system is inoperable; and  
19 (B) Once the computer software tracking system is  
20 operational and functioning to meet the  
21 requirements of this subsection, the department



1           may notify all licensed dispensaries, and the  
2           alternate tracking system in this subsection  
3           shall be discontinued.

4           (k) A dispensary licensed pursuant to this chapter shall  
5 purchase, operate, and maintain a computer software tracking  
6 system that shall:

7           (1) Interface with the department's computer software  
8 tracking system established pursuant to subsection  
9           (j);

10          (2) Allow each licensed dispensary's production center to  
11 submit to the department in real time, by automatic  
12 identification and data capture, all cannabis,  
13 cannabis plants, and manufactured cannabis product  
14 inventory in possession of that dispensary from either  
15 seed or immature plant state, including all plants  
16 that are derived from cuttings or cloning, until the  
17 cannabis or manufactured cannabis product is sold or  
18 destroyed pursuant to section 329D-7;

19          (3) Allow the licensed dispensary's retail dispensing  
20 location to submit to the department in real time for  
21 the total amount of cannabis and manufactured cannabis



1 product purchased by a qualifying patient [~~and~~],  
2 primary caregiver, qualifying out-of-state patient,  
3 and caregiver of a qualifying out-of-state patient  
4 from the dispensary's retail dispensing locations in  
5 the State in any fifteen day period; provided that the  
6 software tracking system shall impose an automatic  
7 stopper in real time, which cannot be overridden, on  
8 any further purchases of cannabis or manufactured  
9 cannabis products, if the maximum allowable amount of  
10 cannabis has already been purchased for the applicable  
11 fifteen day period; provided further that additional  
12 purchases shall not be permitted until the next  
13 applicable period; and

14 (4) Allow the licensed dispensary to submit all data  
15 required by this subsection to the department and  
16 permit the department to access the data if the  
17 department's computer software tracking system is not  
18 functioning properly and sales are made pursuant to  
19 the alternate tracking system under subsection (j)."

20 3. By amending subsection (n) to read:



1       "(n) A dispensary shall be prohibited from off-premises  
2 delivery of cannabis or manufactured cannabis products to a  
3 qualifying ~~[patients or to]~~ patient, primary ~~[caregivers of~~  
4 ~~qualifying patients.]~~ caregiver, qualifying out-of-state  
5 patient, or caregiver of a qualifying out-of-state patient."

6       SECTION 15. Section 329D-7, Hawaii Revised Statutes, is  
7 amended to read as follows:

8       "**§329D-7 Medical cannabis dispensary rules.** The  
9 department shall establish standards with respect to:

10       (1) The number of medical cannabis dispensaries that shall  
11 be permitted to operate in the State;

12       (2) A fee structure for the submission of applications and  
13 renewals of licenses to dispensaries; provided that  
14 the department shall consider the market conditions in  
15 each county in determining the license renewal fee  
16 amounts;

17       (3) Criteria and procedures for the consideration and  
18 selection, based on merit, of applications for  
19 licensure of dispensaries; provided that the criteria  
20 shall include but not be limited to an applicant's:

21       (A) Ability to operate a business;



- 1 (B) Financial stability and access to financial  
2 resources; provided that applicants for medical  
3 cannabis dispensary licenses shall provide  
4 documentation that demonstrates control of not  
5 less than \$1,000,000 in the form of escrow  
6 accounts, letters of credit, surety bonds, bank  
7 statements, lines of credit or the equivalent to  
8 begin operating the dispensary;
- 9 (C) Ability to comply with the security requirements  
10 developed pursuant to paragraph (6);
- 11 (D) Capacity to meet the needs of qualifying  
12 patients[+] and qualifying out-of-state patients;
- 13 (E) Ability to comply with criminal background check  
14 requirements developed pursuant to paragraph (8);  
15 and
- 16 (F) Ability to comply with inventory controls  
17 developed pursuant to paragraph (13);
- 18 (4) Specific requirements regarding annual audits and  
19 reports required from each production center and  
20 dispensary licensed pursuant to this chapter;



1 (5) Procedures for announced and unannounced inspections  
2 by the department or its agents of production centers  
3 and dispensaries licensed pursuant to this chapter;  
4 provided that inspections for license renewals shall  
5 be unannounced;

6 (6) Security requirements for the operation of production  
7 centers and retail dispensing locations; provided  
8 that, at a minimum, the following shall be required:

9 (A) For production centers:

10 (i) Video monitoring and recording of the  
11 premises; provided that recordings shall be  
12 retained for fifty days;

13 (ii) Fencing that surrounds the premises and that  
14 is sufficient to reasonably deter intruders  
15 and prevent anyone outside the premises from  
16 viewing any cannabis in any form;

17 (iii) An alarm system; and

18 (iv) Other reasonable security measures to deter  
19 or prevent intruders, as deemed necessary by  
20 the department;

21 (B) For retail dispensing locations:



- 1 (i) Presentation of a valid government-issued  
2 photo identification and a valid  
3 identification as issued by the department  
4 pursuant to section 329-123[7] by a  
5 qualifying patient or caregiver, or section  
6 329- by a qualifying out-of-state patient  
7 or caregiver of a qualifying out-of-state  
8 patient, upon entering the premises;
- 9 (ii) Video monitoring and recording of the  
10 premises; provided that recordings shall be  
11 retained for fifty days;
- 12 (iii) An alarm system;
- 13 (iv) Exterior lighting; and
- 14 (v) Other reasonable security measures as deemed  
15 necessary by the department;
- 16 (7) Security requirements for the transportation of  
17 cannabis and manufactured cannabis products between  
18 production centers and retail dispensing locations and  
19 between a production center, retail dispensing  
20 location, qualifying patient, [~~or~~] primary caregiver,  
21 qualifying out-of-state patient, or caregiver of a





1        qualifying out-of-state patient and a certified  
2        laboratory, pursuant to section [~~329-122(d)~~]  
3        329-122(f);

4        (8) Standards and criminal background checks to ensure the  
5        reputable and responsible character and fitness of all  
6        license applicants, licensees, employees,  
7        subcontractors and their employees, and prospective  
8        employees of medical cannabis dispensaries to operate  
9        a dispensary; provided that the standards, at a  
10       minimum, shall exclude from licensure or employment  
11       any person convicted of any felony;

12       (9) The training and certification of operators and  
13       employees of production centers and dispensaries;

14       (10) The types of manufactured cannabis products that  
15       dispensaries shall be authorized to manufacture and  
16       sell pursuant to sections 329D-9 and 329D-10;

17       (11) Laboratory standards related to testing cannabis and  
18       manufactured cannabis products for content,  
19       contamination, and consistency;

20       (12) The quantities of cannabis and manufactured cannabis  
21       products that a dispensary may sell or provide to a



1           qualifying patient ~~[or]~~, primary caregiver~~[+]~~,  
2           qualifying out-of-state patient, or caregiver of a  
3           qualifying out-of-state patient; provided that no  
4           dispensary shall sell or provide to a qualifying  
5           patient ~~[or]~~, primary caregiver, qualifying out-of-  
6           state patient, or caregiver of a qualifying out-of-  
7           state patient any combination of cannabis and  
8           manufactured products that:

9           (A) During a period of fifteen consecutive days,  
10           exceeds the equivalent of four ounces of  
11           cannabis; or

12           (B) During a period of thirty consecutive days,  
13           exceeds the equivalent of eight ounces of  
14           cannabis;

15       (13) Dispensary and production center inventory controls to  
16       prevent the unauthorized diversion of cannabis or  
17       manufactured cannabis products or the distribution of  
18       cannabis or manufactured cannabis products to a  
19       qualifying ~~[patients or]~~ patient, primary ~~[caregivers]~~  
20       caregiver, qualifying out-of-state patient, or  
21       caregiver of a qualifying out-of-state patient in



1 quantities that exceed limits established by this  
2 chapter; provided that the controls, at a minimum,  
3 shall include:

4 (A) A computer software tracking system as specified  
5 in section 329D-6(j) and (k); and

6 (B) Product packaging standards sufficient to allow  
7 law enforcement personnel to reasonably determine  
8 the contents of an unopened package;

9 (14) Limitation to the size or format of signs placed  
10 outside a retail dispensing location or production  
11 center; provided that the signage limitations, at a  
12 minimum, shall comply with section 329D-6(o)(2) and  
13 shall not include the image of a cartoon character or  
14 other design intended to appeal to children;

15 (15) The disposal or destruction of unwanted or unused  
16 cannabis and manufactured cannabis products;

17 (16) The enforcement of the following prohibitions against:

18 (A) The sale or provision of cannabis or manufactured  
19 cannabis products to unauthorized persons;

20 (B) The sale or provision of cannabis or manufactured  
21 cannabis products to a qualifying [~~patients or~~]



1            patient, primary [caregivers] caregiver,  
2            qualifying out-of-state patient, or caregiver of  
3            a qualifying out-of-state patient in quantities  
4            that exceed limits established by this chapter;

5            (C) Any use or consumption of cannabis or  
6            manufactured cannabis products on the premises of  
7            a retail dispensing location or production  
8            center; and

9            (D) The distribution of cannabis or manufactured  
10           cannabis products, for free, on the premises of a  
11           retail dispensing location or production center;

12           (17) The establishment of a range of penalties for  
13           violations of this chapter or rule adopted thereto;  
14           and

15           (18) A process to recognize and register patients who are  
16           authorized to purchase, possess, and use medical  
17           cannabis in another state, a United States territory,  
18           or the District of Columbia as qualifying out-of-state  
19           patients [~~in this State~~]; provided that this  
20           registration process may commence no sooner than  
21           January 1, 2018."



1 SECTION 16. Section 329D-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§329D-8 Laboratory standards and testing; laboratory**  
4 **certification.** (a) The department shall establish and enforce  
5 standards for laboratory-based testing of cannabis and  
6 manufactured cannabis products for content, contamination, and  
7 consistency; provided that in establishing these standards, the  
8 department shall:

9 (1) Review and take guidance from the testing programs and  
10 standards utilized in other jurisdictions;

11 (2) Consider the impact of the standards on the retail  
12 cost of the product to the qualifying patient;

13 (3) Review and take guidance from the testing programs and  
14 standards for pesticides under the regulations of the  
15 United States Environmental Protection Agency;

16 (4) For the testing for microbiological impurities,  
17 consider the benefits of organically grown cannabis  
18 that features the use of bacteria in lieu of  
19 pesticides; and

20 (5) Include permission for qualifying patients and primary  
21 caregivers to obtain testing services directly from



1 certified laboratories on the island where the  
2 qualifying patient and primary caregiver reside.

3 (b) The department may certify laboratories that can test  
4 cannabis and manufactured cannabis products prior to the sale of  
5 cannabis and manufactured cannabis products.

6 (c) If a dispensary licensee obtains a laboratory result  
7 indicating that a sample of a batch of its cannabis or  
8 manufactured cannabis products does not meet the department's  
9 standards for patient safety, the dispensary licensee, at its  
10 own expense, may have the same sample or a different sample from  
11 the same batch retested by the same laboratory or a different  
12 laboratory. If a retest at a different laboratory yields a  
13 different result, the department shall determine which result  
14 controls whether the batch may be approved for sale or whether  
15 further testing shall be required."

16 SECTION 17. Section 329D-12, Hawaii Revised Statutes, is  
17 amended by amending subsection (b) to read as follows:

18 "(b) This section shall not apply to:

19 (1) ~~[Qualifying patients and their]~~ A qualifying patient,  
20 primary [caregivers] caregiver, qualifying out-of-  
21 state patient, or caregiver of a qualifying out-of-



1           state patient who [~~enter~~] enters or [~~remain~~] remains  
2           on the premises of a retail dispensing location for  
3           the purpose of a transaction conducted pursuant to  
4           sections 329D-6 and 329D-13; or

5           (2) Government officials and employees acting in an  
6           official capacity and employees of a certified  
7           laboratory who enter or remain on the premises of a  
8           retail dispensing location or production center for  
9           any purpose authorized by this chapter."

10          SECTION 18. Section 329D-13, Hawaii Revised Statutes, is  
11          amended to read as follows:

12          "~~[+]§329D-13[+] Qualifying patients and primary caregivers,~~  
13          ~~dispensing] Dispensing limits[, other states].~~ (a) A  
14          qualifying patient [~~or a~~], primary caregiver [~~on behalf of a~~  
15          ~~qualifying patient~~], qualifying out-of-state patient, or  
16          caregiver of a qualifying out-of-state patient shall be allowed  
17          to purchase no more than four ounces of cannabis within a  
18          consecutive period of fifteen days, or no more than eight ounces  
19          of cannabis within a consecutive period of thirty days.

20          (b) A qualifying patient [~~or a~~], primary caregiver [~~on~~  
21          ~~behalf of a qualifying patient~~], qualifying out-of-state



1 patient, or caregiver of a qualifying out-of-state patient may  
2 purchase cannabis from any dispensary location in the State,  
3 subject to the limits set forth in subsection (a).

4 (c) Beginning on January 1, 2018, this section may apply  
5 to qualifying out-of-state patients from other states,  
6 territories of the United States, or the District of Columbia;  
7 provided that the patient [~~is verified as a patient in their~~  
8 ~~home state and registers with the department through a~~  
9 ~~registration process established by the department.~~] meets the  
10 registration requirements of section 329- ."

11 SECTION 19. Section 329D-15, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13 "(a) No person shall intentionally or knowingly enter or  
14 remain upon the premises of a medical cannabis retail dispensing  
15 location unless the individual is:

16 (1) An individual licensee or registered employee of the  
17 dispensary;

18 (2) A qualifying patient [~~or~~], primary caregiver [~~of a~~  
19 ~~qualifying patient,~~] qualifying out-of-state patient,  
20 or caregiver of a qualifying out-of-state patient;





- 1 (3) A government employee or official acting in the  
2 person's official capacity; or
- 3 (4) Previously included on a current department-approved  
4 list provided to the department by the licensee of  
5 those persons who are allowed into that dispensary's  
6 facilities for a specific purpose for that dispensary,  
7 including but not limited to construction,  
8 maintenance, repairs, legal counsel, providers of  
9 paratransit or other assistive services required by a  
10 qualifying patient to access a retail dispensary  
11 location, or investors; provided that:
- 12 (A) The person has been individually approved by the  
13 department to be included on the list;
- 14 (B) The person is at least twenty-one years of age,  
15 as verified by a valid government issued  
16 identification card;
- 17 (C) The department has confirmed that the person has  
18 no felony convictions;
- 19 (D) The person is escorted by an individual licensee  
20 or registered employee of the dispensary at all  
21 times while in the dispensary facility;



1 (E) The person is only permitted within those  
2 portions of the dispensary facility as necessary  
3 to fulfill the person's purpose for entering;

4 (F) The person is only permitted within the  
5 dispensary facility during the times and for the  
6 duration necessary to fulfill the person's  
7 purpose for entering;

8 (G) The dispensary shall keep an accurate record of  
9 each person's first and last name, date and times  
10 upon entering and exiting the dispensary  
11 facility, purpose for entering, and the identity  
12 of the escort; and

13 (H) The approved list shall be effective for one year  
14 from the date of the department approval."

15 SECTION 20. Section 329D-17, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) A person commits the offense of promoting medical  
18 cannabis or medical cannabis products to a minor if the person  
19 intentionally or knowingly distributes any amount of cannabis or  
20 manufactured cannabis products that came from a dispensary or  
21 production center to a minor who is not a registered qualifying



1 patient[-] or a registered qualifying out-of-state patient under  
2 eighteen years of age."

3 SECTION 21. Section 329D-24, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~+~~\$329D-24~~+~~ **Cultivation of medical cannabis by**  
6 **qualifying patients and primary caregivers.** Nothing in this  
7 chapter shall be construed as prohibiting a qualifying patient  
8 or primary caregiver from cultivating or possessing an adequate  
9 supply of medical cannabis pursuant to part IX of chapter 329.

10 A qualifying out-of-state patient or a caregiver of a  
11 qualifying out-of-state patient shall not be authorized to  
12 cultivate cannabis."

13 SECTION 22. Section 329D-25, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "~~+~~\$329D-25~~+~~ **Coordination among state and federal**  
16 **agencies.** The department shall initiate ongoing dialogue among  
17 relevant state and federal agencies to identify processes and  
18 policies that ensure the privacy of qualifying patients and  
19 qualifying out-of-state patients and the compliance of  
20 qualifying patients, primary caregivers, qualifying out-of-state  
21 patients, and caregivers of qualifying out-of-state patients and



1 medical cannabis dispensaries with state laws and regulations  
2 related to medical cannabis."

3 PART II

4 SECTION 23. The legislature finds that Act 241, Session  
5 Laws of Hawaii 2015, codified as chapter 329D, Hawaii Revised  
6 Statutes, established a license scheme for a statewide system of  
7 medical cannabis dispensaries to ensure access to medical  
8 cannabis for qualifying patients and was later amended by  
9 Act 230, Session Laws of Hawaii 2016, and Acts 41 and 170,  
10 Session Laws of Hawaii 2017.

11 The legislature further finds that additional amendments to  
12 the law are necessary to allow for adequate patient access based  
13 on discussions of the working group established by Act 230,  
14 Session Laws of Hawaii 2016.

15 The purpose of this part is to allow a bona fide physician-  
16 patient or advanced practice registered nurse-patient  
17 relationship to be established via telehealth.

18 SECTION 24. Section 329-126, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 **"§329-126 Protections afforded to a treating physician or**  
21 **advanced practice registered nurse. (a) No physician or**



1 advanced practice registered nurse shall be subject to arrest or  
2 prosecution, penalized in any manner, or denied any right or  
3 privilege for providing written certification for the medical  
4 use of cannabis for a qualifying patient; provided that:

5 (1) The physician or advanced practice registered nurse  
6 has diagnosed the patient as having a debilitating  
7 medical condition, as defined in section 329-121;

8 (2) The physician or advanced practice registered nurse  
9 has explained the potential risks and benefits of the  
10 medical use of cannabis, as required under section  
11 329-122;

12 (3) The written certification is based upon the  
13 physician's or advanced practice registered nurse's  
14 professional opinion after having completed a full  
15 assessment of the patient's medical history and  
16 current medical condition made in the course of a bona  
17 fide physician-patient relationship or bona fide  
18 advanced practice registered nurse-patient  
19 relationship, as applicable; and



1 (4) The physician or advanced practice registered nurse  
2 has complied with the registration requirements of  
3 section 329-123.

4 (b) For purposes of this section, a bona fide physician-  
5 patient relationship may be established via telehealth, as  
6 defined in section 453-1.3(j), and a bona fide advanced practice  
7 registered nurse-patient relationship may be established via  
8 telehealth, as defined in section 457-2; provided that treatment  
9 recommendations that include certifying a patient for the  
10 medical use of cannabis via telehealth shall be allowed only  
11 after an initial in-person consultation between the certifying  
12 physician or advanced practice registered nurse and the  
13 patient."

14 SECTION 25. Section 453-1.3, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16 "(c) Treatment recommendations made via telehealth,  
17 including issuing a prescription via electronic means, shall be  
18 held to the same standards of appropriate practice as those in  
19 traditional physician-patient settings that do not include a  
20 face-to-face visit but in which prescribing is appropriate,  
21 including on-call telephone encounters and encounters for which



1 a follow-up visit is arranged. Issuing a prescription based  
2 solely on an online questionnaire is not treatment for the  
3 purposes of this section and does not constitute an acceptable  
4 standard of care. For the purposes of prescribing opiates or  
5 certifying a patient for the medical use of cannabis, a  
6 physician-patient relationship shall only be established after  
7 an in-person consultation between the prescribing physician and  
8 the patient."

9 PART III

10 SECTION 26. The legislature finds that medical cannabis  
11 products that provide safe pulmonary administration can allow  
12 for more precise dosage administration and can be more effective  
13 for certain patients. The legislature also finds that, as with  
14 all packaged products, smaller sizes are always more expensive  
15 for consumers than larger products. Under existing law, the  
16 tetrahydrocannabinol limit per pack or container of certain  
17 manufactured cannabis products may impact certain patients, many  
18 of whom may have conditions and symptoms that require larger  
19 doses of tetrahydrocannabinol for relief.

20 Accordingly, the purpose of this part is to:



(1) Add certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed; and

(2) Increase the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products.

SECTION 27. Section 329D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The types of medical cannabis products that may be manufactured and distributed pursuant to this chapter shall be limited to:

- (1) Capsules;
- (2) Lozenges;
- (3) Pills;
- (4) Oils and oil extracts;
- (5) Tinctures;
- (6) Ointments and skin lotions;
- (7) Transdermal patches;
- (8) Pre-filled and sealed containers used to aerosolize and deliver cannabis orally, such as with an inhaler or nebulizer; [and] provided that containers need not be manufactured by the licensed dispensary but shall





1 be filled with cannabis, cannabis oils, or cannabis  
2 extracts manufactured by the licensed dispensary;  
3 shall not contain nicotine, tobacco-related products,  
4 or any other non-cannabis derived products; and shall  
5 be designed to be used with devices used to provide  
6 safe pulmonary administration of manufactured cannabis  
7 products;

8 (9) Devices that provide safe pulmonary administration;  
9 provided that:

10 (A) The heating element of the device, if any, is  
11 made of inert materials such as glass, ceramic,  
12 or stainless steel, and not of plastic or rubber;

13 (B) The device is distributed solely for use with  
14 single-use, pre-filled, tamper-resistant, sealed  
15 containers that do not contain nicotine or other  
16 tobacco products;

17 (C) The device is used to aerosolize and deliver  
18 cannabis by inhalation, such as an inhaler,  
19 medical-grade nebulizer, or other similar medical  
20 grade volitization device;



1           (D) There is a temperature control on the device that  
2           is regulated to prevent the combustion of  
3           cannabis oil; and

4           (E) The device need not be manufactured by the  
5           licensed dispensary; and

6       ~~[(9)]~~ (10) Other products as specified by the department."

7       SECTION 28. Section 329D-11, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "~~[(1)]~~**\$329D-11**~~[(1)]~~ **Advertising and packaging.** (a) The  
10 department shall establish standards regarding the advertising  
11 and packaging of cannabis and manufactured cannabis products;  
12 provided that the standards, at a minimum, shall require the use  
13 of packaging that:

- 14       (1) Is child-resistant and opaque so that the product  
15       cannot be seen from outside the packaging;  
16       (2) Uses only black lettering on a white background with  
17       no pictures or graphics;  
18       (3) Is clearly labeled with the phrase "For medical use  
19       only";  
20       (4) Is clearly labeled with the phrase "Not for resale or  
21       transfer to another person";



- 1 (5) Includes instructions for use and "use by date";
- 2 (6) Contains information about the contents and potency of
- 3 the product;
- 4 (7) Includes the name of the production center where
- 5 cannabis in the product was produced, including the
- 6 batch number and date of packaging;
- 7 (8) Includes a barcode generated by tracking software; and
- 8 (9) In the case of a manufactured cannabis product, [a
- 9 ~~listing~~] includes a:

10 (A) Listing of the equivalent physical weight of the

11 cannabis used to manufacture the amount of the

12 product that is within the packaging, pursuant to

13 section 329D-9(c) [-];

14 (B) Clearly labeled warning stating that the product:

15 (i) Is a medication that contains cannabis, and

16 is not a food; and

17 (ii) Should be kept away from children; and

18 (C) Date of manufacture.

19 (b) Any capsule, lozenge, or pill containing cannabis or

20 its principal psychoactive constituent tetrahydrocannabinol

21 shall be packaged so that one dose, serving, or single wrapped



1 item contains no more than ten milligrams of  
2 tetrahydrocannabinol; provided that no manufactured cannabis  
3 product that is sold in a pack of multiple doses, servings, or  
4 single wrapped items, nor any containers of oils, shall contain  
5 more than a total of one [~~hundred~~] thousand milligrams of  
6 tetrahydrocannabinol per pack or container[-]; provided further  
7 that no dispensary shall exceed the dispensing limits imposed by  
8 section 329D-7.

9 (c) All manufactured cannabis products shall be  
10 individually wrapped at the original point of manufacture."

11 PART IV

12 SECTION 29. The legislature finds that section 329D-6(d),  
13 Hawaii Revised Statutes, restricts Hawaii medical cannabis  
14 dispensaries from employing an individual if the person was  
15 convicted of a felony. This appears unduly restrictive, as  
16 other states that have legalized medical cannabis dispensaries  
17 allow the employment of felons unless convicted for a limited  
18 set of offenses. Section 329D-6(d), Hawaii Revised Statutes,  
19 does not provide the opportunity for any exceptions based on the  
20 nature of the individual's felony record.



1       The purpose of this part is to specify certain felonies and  
2 conditions that will preclude employment, and other felonies  
3 that may preclude employment, at medical cannabis dispensaries,  
4 rather than make ineligible for employment all individuals who  
5 have been convicted of any felony at any time.

6       SECTION 30. Section 329D-6, Hawaii Revised Statutes, is  
7 amended by amending subsection (d) to read as follows:

8       "(d) Notwithstanding any other law to the contrary,  
9 including but not limited to sections 378-2 and 378-2.5, [~~no~~  
10 ~~dispensary shall employ a person convicted of a felony.]~~

11 dispensaries:

12       (1) Shall deny employment to any individual who has been:

13           (A) Convicted of murder in any degree;

14           (B) Convicted of a class A or class B felony; or

15           (C) Convicted of a class C felony involving

16           trafficking, distributing, or promoting a

17           schedule I or II controlled substance other than

18           cannabis within the last ten years; and

19       (2) May deny employment to any individual who has been

20       convicted of a class C felony involving:



(A) Fraud, deceit, misrepresentation, embezzlement,  
or theft; or

(B) Endangering the welfare of a minor.

Employment under this chapter shall be exempt from section 378-2(a)(1), as it relates to arrest and court record discrimination, and section 378-2.5."

## PART V

SECTION 31. (a) The office of medical cannabis control and regulation, established pursuant to H.B. 2742, HD1, SD1, CD1, and enacted as Act \_\_\_\_\_, Session Laws of Hawaii 2018, shall establish a medical use of cannabis outstanding issues working group to consider and make recommendations regarding:

(1) Employment issues involving an employee who is a registered qualifying patient for whom the medical use of cannabis is permitted pursuant to sections 329-122 and 329-123, Hawaii Revised Statutes; and

(2) Authorization and regulation of the manufacture and dispensing of edible cannabis products by a licensed medical cannabis dispensary.



1 (b) The working group shall consider the following issues  
2 related to the employment of a qualifying patient registered  
3 according to section 329-123, Hawaii Revised Statutes:

4 (1) Actions taken in other states regarding employment of  
5 qualifying medical cannabis patients, particularly in  
6 regard to substance abuse on-site screening tests  
7 administered by an employer;

8 (2) Protections available in other states against  
9 employment discrimination and suspension or discharge  
10 from employment based on an individual's status as a  
11 qualifying medical cannabis patient;

12 (3) Allowable substance abuse screening tests for  
13 employees whose job requires the employee to not be  
14 under the influence of substances, such as employees  
15 in positions that require operation of a vehicle or  
16 heavy machinery, employees in inherently dangerous  
17 positions such as construction workers, or other  
18 employees subject to generally-applicable safety  
19 requirements;

20 (4) The requirements applicable to both employees and  
21 employers contained in controlling federal law that



1 requires employees to submit to substance abuse  
2 screening tests, including regulations of the Federal  
3 Aviation Administration, United States Department of  
4 Transportation, United States Department of Defense,  
5 United States Coast Guard, Department of Labor, and  
6 any other federal agency;

7 (5) Applicable requirements for privacy of medical  
8 information and prohibitions on discrimination based  
9 on health or disability status contained in state and  
10 federal law; and

11 (6) Any other issues related to employment of registered  
12 qualifying patients for whom the medical use of  
13 cannabis is permitted, at the discretion of the  
14 working group.

15 (c) The working group shall consider the following issues  
16 related to the manufacture and dispensing of edible cannabis  
17 products by licensed medical cannabis dispensaries:

18 (1) Actions taken and regulatory systems established by  
19 other states;

20 (2) Standards for testing and labeling of edible cannabis  
21 products for product content, potency, and dosage;





- 1 (3) Requirements and limitations for the types of  
2 allowable edible cannabis products, including  
3 restrictions on products such as gummies, brightly  
4 colored candies, or other products with a design  
5 likely to appeal to children or designed to resemble  
6 commercially available products marketed to children  
7 or adolescents;
- 8 (4) Requirements and limitations applicable to liquid  
9 products;
- 10 (5) Health and safety standards applicable to the  
11 manufacture of edible cannabis products, including  
12 standards for the protection of both consumers of the  
13 products and employees who manufacture the products;  
14 and
- 15 (6) Any other issues related to the manufacture and  
16 dispensing of edible cannabis products, at the  
17 discretion of the working group.
- 18 (d) The working group shall consist of the following:
- 19 (1) The program manager of the office of medical cannabis  
20 control, who shall serve as the chair of the working  
21 group;



- 1           (2) The chairs of the senate committee on commerce,  
2           consumer protection, and health and house committee on  
3           consumer protection and commerce, or their designees;  
4           (3) The chair of the house committee on health and human  
5           services, or the chair's designee;  
6           (4) A member of the senate who is selected by the  
7           president of the senate to serve on the working group;  
8           (5) A representative of the department of health's food  
9           safety consultative and education program, to be  
10          selected by the director of health;  
11          (6) A representative of the department of health's  
12          sanitation branch, to be selected by the director of  
13          health;  
14          (7) Two participants in Hawaii's medical cannabis program,  
15          one of whom is a qualifying patient eighteen years of  
16          age or older, and one of whom is a parent or legal  
17          guardian of a qualifying patient who is under the age  
18          of ten;  
19          (8) A medical cannabis dispensary licensee, to be selected  
20          by the program manager of the office of medical  
21          cannabis control and regulation; and



1 (9) Any other member selected by the members of the  
2 working group, subject to approval by the chair.

3 (e) The working group shall be officially convened at the  
4 pleasure of the chair of the working group, but no later than  
5 August 1, 2018.

6 (f) The working group may request assistance and feedback  
7 from subject matter experts and other stakeholders, as needed,  
8 to enable the working group to carry out its work.

9 (g) The working group shall provide periodic updates to  
10 the legislature and shall make recommendations for any  
11 legislative or administrative action the working group deems  
12 appropriate to address issues surrounding the employment of  
13 qualifying patients and the manufacture and dispensing of edible  
14 cannabis products. The working group shall submit a final  
15 report, including recommendations for further action, to the  
16 legislature no later than twenty days before the convening of  
17 the regular session of 2019.

18 (h) The working group shall be dissolved on June 30, 2019.



PART VI

SECTION 32. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 33. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 34. This Act shall take effect on July 1, 2018.

APPROVED this 05 day of JUL, 2018



GOVERNOR OF THE STATE OF HAWAII



THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki  
Speaker  
House of Representatives





Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: May 1, 2018  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.

  
President of the Senate

  
Clerk of the Senate