HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

H.B. NO. 2729 H.D. 1

A BILL FOR AN ACT

RELATING TO CANNABIS FOR MEDICAL USE.

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

SECTION 1. The legislature finds that Act 241, Session Laws of Hawaii 2015, codified as chapter 329D, Hawaii Revised Statutes, established a license scheme for a statewide system of medical cannabis dispensaries to ensure access to medical cannabis for qualifying patients and was later amended by Act 230, Session Laws of Hawaii 2016, and Acts 41 and 170, Session Laws of Hawaii 2017.

The legislature further finds that additional amendments to the law are necessary for various reasons: to clarify legislative intent, to ensure smooth administration of the law, to allow for adequate patient access based on discussions of the working group established by Act 230, Session Laws of Hawaii 2016, identifying other states that have a reasonable medical cannabis program, and the need to resolve issues that have arisen under the current law.

The purpose of this Act is to:

(1) Amend the reciprocity program, whereby qualifying patients from other jurisdictions may purchase limited quantities of cannabis for medical use, subject to certain safeguards, reporting and transparency requirements, and payment of a visiting patient certifying fee;

(2) Extend the maximum period of validity of a qualifying patient's written certification of a debilitating medical condition;

(3) Allow the department of health to provide a dispensary the opportunity for retesting of a failed batch of medical cannabis;

(4) Allow a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth;

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

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

SECTION 2. Section 321-30.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The fund shall consist of all moneys derived from fees collected pursuant to subsection (c) [~~and~~], section 329D-4 [~~.~~], and section 329D-13(c). There is established within the medical cannabis registry and regulation special fund:

(1) A medical cannabis registry program sub-account, into which shall be deposited all fees collected pursuant to subsection (c); and

(2) A medical cannabis dispensary program sub-account, into which shall be deposited all fees collected pursuant to section 329D-4 [~~.~~] and 329D-13(c)."

SECTION 3. Section 329-121, Hawaii Revised Statutes, is amended by amending the definition of "written certification" to read as follows:

""Written certification" means the qualifying patient's medical records or a statement signed by a qualifying patient's physician or advanced practice registered nurse, stating that in the physician's or advanced practice registered nurse's professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use

of cannabis would likely outweigh the health risks for the qualifying patient. The department of health may require, through its rulemaking authority, that all written certifications comply with a designated form. "Written certifications" are valid for [~~only~~] one year from the time of signing[~~.~~]; provided that the department may allow any certification to be valid for up to three years when the qualifying patient's physician or advanced practice registered nurse states that the debilitating medical condition is chronic in nature."

SECTION 4. Section 329-126, Hawaii Revised Statutes, is amended to read as follows:

"**§329-126 Protections afforded to a treating physician or advanced practice registered nurse.** (a) No physician or advanced practice registered nurse shall be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for providing written certification for the medical use of cannabis for a qualifying patient; provided that:

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

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

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

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

(b) For purposes of this subsection, a bona fide physician-patient relationship or bona fide advanced practice registered nurse-patient relationship may be established via telehealth, as defined in section 453-1.3(j)."

SECTION 5. Section 329D-8, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

(5) Include permission for qualifying patients and primary caregivers to obtain testing services directly from certified laboratories on the island where the qualifying patient and primary caregiver reside.

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

(c) The department may provide a dispensary licensee the opportunity for retesting of a failed batch of medical cannabis or manufactured cannabis products by a certified laboratory; provided that:

(1) The costs of the retesting may be borne by the dispensary licensee; and

(2) Methodology and procedures for the retest may be more scientifically reliable than the methodology and procedures used for the original testing."

SECTION 6. 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~~]

(9) Devices that provide safe pulmonary administration; provided that the heating element of the device is made of inert materials such as glass, ceramic, or stainless steel, and not of plastic or rubber, and there is a temperature control on the device to ensure a sub-combustion temperature; and

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

SECTION 7. Section 329D-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any capsule, lozenge, or pill containing cannabis or its principal psychoactive constituent tetrahydrocannabinol shall be packaged so that one dose, serving, or single wrapped item contains no more than ten milligrams of tetrahydrocannabinol; provided that no manufactured cannabis product that is sold in a pack of multiple doses, servings, or

single wrapped items, nor any containers of oils, shall contain more than a total of one [~~hundred~~] thousand milligrams of tetrahydrocannabinol per pack or container."

SECTION 8. Section 329D-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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

(1) The patient may purchase no more than one ounce of cannabis for medical use within a period of fifteen consecutive days, or no more than two ounces of cannabis within a period of thirty consecutive days; and

(2) The patient presents and provides to a medical cannabis dispensary:

(A) A government issued photo identification;

(B) An active United States state or territory issued medical cannabis card from the patient's home

state, or the patient furnishes a written certification from the patient's primary care physician certifying that the patient has a debilitating medical condition; and

(C) Payment of a visiting patient certifying fee of $, which shall be valid for a period of no more than six months and may be renewed prior to expiration every six months for $.

A medical cannabis dispensary may make reasonable good faith efforts to verify that the patient's government issued photo identification is valid, the patient's medical cannabis card or written certification has not expired, and the certifying physician's license is in good standing with the applicable jurisdiction.

A medical cannabis dispensary may make copies of all documents presented and used in the verification of the patient's eligibility for reciprocity and log all eligible patients into the computer software tracking system established pursuant to section 329D-6(j) to ensure compliance with dispensing limits under this subsection.

A medical cannabis dispensary may opt to not serve any patients from other jurisdictions."

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 3000.

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Report Title:
Medical Cannabis; Telehealth; Reciprocity; Written Certification; Manufactured Cannabis Products

Description:
Amends the reciprocity program and adds a visiting patient certifying fee. Extends expiration of a written certification to 3 years for chronic conditions. Permits medical practitioners to establish a patient relationship through telehealth. Permits retesting of a failed batch of medical cannabis or products. Permits dispensary licensees to distribute devices that provide safe pulmonary administration. Increases the maximum allowable tetrahydro cannibinol limit for multi-pack cannabis products and single containers of oil. (HB2729 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.