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# A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1       SECTION 1. The legislature finds that Act 241, Session  
2       Laws of Hawaii (SLH) 2015, established a licensing scheme for a  
3       statewide system of medical marijuana dispensaries to ensure  
4       access to medical marijuana for qualifying patients, and was  
5       further amended by Act 230, SLH 2016 and Act 41, SLH 2017.

6       The legislature further finds that additional amendments to  
7       law are warranted to clarify legislative intent; ensure smooth  
8       administration of the law; allow for adequate patient access  
9       based on the discussions of the medical cannabis legislative  
10      oversight working group in Act 230; and resolve issues that have  
11      arisen under the current law.

12      The purpose of this Act is to:

- 13      (1) Expand the uses of the medical cannabis registry and  
14          regulation special fund and the collection of fees  
15          into the special fund;
- 16      (2) Extend the period of time that a qualifying patient's  
17          written certification is valid;



- (3) Allow for a bona-fide patient relationship to be established via telemedicine;
- (4) Allow for safe inhalation of cannabis products in prescribed devices;
- (5) Increase the tetrahydrocannabinol limit per package;
- (6) Limit background checks to employees with direct access and contact to cannabis products;
- (7) Establish a reciprocity program with safeguards, reporting, and transparency; and
- (8) Require law enforcement access to information via a lawful subpoena to the department of health.

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

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

- (1) To establish and regulate a system of medical cannabis dispensaries in the State;
- (2) To offset the cost of the processing and issuance of patient registry identification certificates and primary caregiver registration certificates;



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(3) To fund positions and operating costs authorized by the legislature;

(4) To establish and manage a secure and confidential database;

(5) To fund public education as required by section 329D-26;

(6) To fund substance abuse prevention and education programs; ~~and~~

(7) For any other expenditure necessary, consistent with this chapter and chapter 329D, to implement medical cannabis registry and regulation programs~~[-]~~; and

(8) For public health and health purposes as specified in chapter 329D.

(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



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

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

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



1 nurse states that the debilitating medical condition is chronic  
2 in nature."

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

5 "§329-126 Protections afforded to a treating physician or  
6 advanced practice registered nurse. (a) No physician or  
7 advanced practice registered nurse shall be subject to arrest or  
8 prosecution, penalized in any manner, or denied any right or  
9 privilege for providing written certification for the medical  
10 use of cannabis for a qualifying patient; provided that:

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

14 (2) The physician or advanced practice registered nurse  
15 has explained the potential risks and benefits of the  
16 medical use of cannabis, as required under section  
17 329-122;

18 (3) The written certification is based upon the  
19 physician's or advanced practice registered nurse's  
20 professional opinion after having completed a full  
21 assessment of the patient's medical history and



1 current medical condition made in the course of a bona  
2 fide physician-patient relationship or bona fide  
3 advanced practice registered nurse-patient  
4 relationship, as applicable; and

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

8 (b) As used in this section, "bona fide physician-patient  
9 relationship" and "bona fide advanced practice registered nurse-  
10 patient relationship" includes the practice of "telehealth" as  
11 defined under section 453-1.3."

12 SECTION 5. Section 329D-10, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

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

- 17 (1) Capsules;  
18 (2) Lozenges;  
19 (3) Pills;  
20 (4) Oils and oil extracts;  
21 (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 6. Section 329D-11, Hawaii Revised Statutes, is amended to read as follows:

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

(1) Is child-resistant and opaque so that the product cannot be seen from outside the packaging;



(2) Uses only black lettering on a white background with no pictures or graphics;

(3) Is clearly labeled with the phrase "For medical use only";

(4) Is clearly labeled with the phrase "Not for resale or transfer to another person";

(5) Includes instructions for use and "use by date";

(6) Contains information about the contents and potency of the product;

(7) Includes the name of the production center where cannabis in the product was produced, including the batch number and date of packaging;

(8) Includes a barcode generated by tracking software; and

(9) In the case of a manufactured cannabis product, a listing of the equivalent physical weight of the cannabis used to manufacture the amount of the product that is within the packaging, pursuant to section 329D-9(c).

(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





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."

7 SECTION 7. Section 329D-12, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

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

- 10 (1) Qualifying patients and their primary caregivers who  
11 enter or remain on the premises of a retail dispensing  
12 location for the purpose of a transaction conducted  
13 pursuant to sections 329D-6 and 329D-13; [~~or~~]
- 14 (2) Employees of a medical cannabis dispensary or  
15 employees of a subcontracted production center or  
16 retail dispensing location when the employee will have  
17 no direct access, contact, or exposure to any cannabis  
18 or manufactured cannabis product; provided that the  
19 department may require, prior to access on the  
20 premises with written notification to the dispensary,



1 a criminal background check for any employee who is  
2 exempt under this subsection;

3 (3) Any other person approved for access and entry by the  
4 department; provided that:

5 (A) The person will have no direct access, contact,  
6 or exposure to any cannabis or manufactured  
7 cannabis product; and shall be accompanied at all  
8 times on the premises by an authorized employee  
9 of the dispensary; and

10 (B) The department may require, prior to access on  
11 the premises with written notice to the  
12 dispensary, a criminal background check for any  
13 person who is exempt under this subsection; or

14 ~~[(+2)]~~ (4) Government officials and employees acting in an  
15 official capacity and employees of a certified  
16 laboratory who enter or remain on the premises of a  
17 retail dispensing location or production center for  
18 any purpose authorized by this chapter."

19 SECTION 8. Section 329D-13, Hawaii Revised Statutes, is  
20 amended to read as follows:



1 " [H] §329D-13 [H] Qualifying patients and primary  
2 caregivers; dispensing limits; other states. (a) A qualifying  
3 patient or a primary caregiver on behalf of a qualifying patient  
4 shall be allowed to purchase no more than four ounces of  
5 cannabis within a consecutive period of fifteen days, or no more  
6 than eight ounces of cannabis within a consecutive period of  
7 thirty days.

8 (b) A qualifying patient or a primary caregiver on behalf  
9 of a qualifying patient may purchase cannabis from any  
10 dispensary location in the State, subject to the limits set  
11 forth in subsection (a).

12 (c) Beginning on January 1, 2018, this section may apply  
13 to qualifying patients from other states, territories of the  
14 United States, or the District of Columbia; provided that [the]:

15 (1) The patient [is verified as a patient in their home  
16 state and registers with the department through a  
17 registration process established by the department.]  
18 shall be allowed to purchase no more than one ounce of  
19 cannabis within a consecutive period of fifteen days  
20 or no more than two ounces of cannabis within a  
21 consecutive period of thirty days;



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

3        (A) Government issued photo identification;

4        (B) An active United States state, District of  
5        Columbia, or territory issued medical cannabis  
6        card from the patient's home state, or the  
7        patient furnishes a written certification from  
8        the patient's primary care physician certifying  
9        that the patient has a debilitating medical  
10       condition; and

11       (C) A visiting patient certifying fee of \$  
12       that shall be valid for a period of no more than  
13       six months and may be renewed prior to expiration  
14       every six months for \$       ;

15       (3) A medical cannabis dispensary shall make reasonable  
16       good faith efforts to verify that the patient's:

17       (A) Identification card is valid;

18       (B) Medical cannabis card or written certification is  
19       not expired; and

20       (C) Certifying physician's license remains in good  
21       standing with the applicable state or territory;



- 1        (4) A medical cannabis dispensary shall make copies of all  
2        documents presented and used in the verification of a  
3        patient's identification and certification and log the  
4        patient's information in the department's computer  
5        tracking system as provided under subsection 329D-6(j)  
6        to ensure compliance with dispensing requirements of  
7        this subsection; and  
8        (5) A medical cannabis dispensary may opt not to serve any  
9        out-of-state patients."

10        SECTION 9. Section 329D-20, Hawaii Revised Statutes, is  
11        amended to read as follows:

12        "[+]§329D-20[+] **Law enforcement access to dispensary and**  
13        **production center records.** Notwithstanding any other law, the  
14        department may disclose information, documents, and other  
15        information of medical cannabis dispensaries and production  
16        centers for the purpose of verifying medical cannabis patient  
17        information; provided that the department shall disclose  
18        information, documents, and other records regarding medical  
19        cannabis dispensaries and production centers, only upon  
20        ~~[request,]~~ receipt of a legally authorized subpoena, to any  
21        state, federal, or county agency engaged in the criminal



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1 investigation or prosecution of violations of applicable state,  
2 county, or federal laws or regulations related to the operations  
3 or activities of a medical cannabis dispensary."

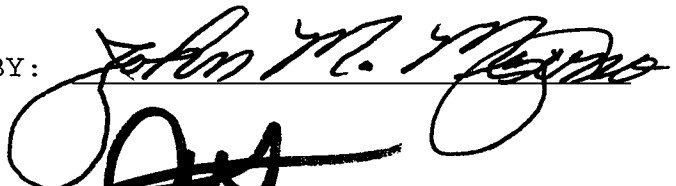
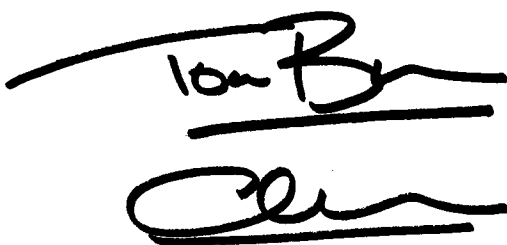
4 SECTION 10. This Act does not affect rights and duties  
5 that matured, penalties that were incurred, and proceedings that  
6 were begun before its effective date.

7 SECTION 11. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect upon its approval.

10

INTRODUCED BY:

Julia A. Belletti

Cindy Evans  
[unclear]

JAN 24 2018



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**Report Title:**

Medical Cannabis

**Description:**

Medical Cannabis Omnibus Bill. Extends the time that a qualifying patient's certification is valid. Acknowledges patient-relationship in practice of telehealth. Allows for safe inhalation of cannabis products in prescribed devices. Increases the tetrahydrocannabinol limit per package. Exempts background checks of employees under certain conditions. Establishes a reciprocity program for visiting patients.

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

