THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.B. NO. 2718 S.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) Allow a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth;

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

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

SECTION 2. 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 section, 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 3. Section 329D-1, Hawaii Revised Statutes, is amended by amending the definition of "manufactured cannabis product" to read as follows:

"Manufactured cannabis product" means any [~~capsule, lozenge, oil or oil extract, tincture, ointment or skin lotion, pill, transdermal patch, or pre-filled and sealed container used to aerosolize and deliver cannabis orally, such as an inhaler or nebulizer, that has been manufactured using cannabis, or any other products as~~] type of medical cannabis product that is enumerated in section 329D-10(a) or specified by the department pursuant to section [~~329D-10(a)(9).~~] 329D-10(a)."

SECTION 4. 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:

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

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

(C) The device is used to aerosolize and deliver cannabis orally, such as a medical-grade inhaler, medical-grade nebulizer, or other medical grade volitization device; and

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

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

SECTION 5. 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[~~.~~]; provided further that no dispensary shall exceed the dispensing limits imposed by section 329D-7."

SECTION 6. Section 453-1.3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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

a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing opiates [~~or medical cannabis~~], a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

S.B. NO. 2718 S.D. 1

Report Title:
Medical Cannabis; Telehealth; Packaging; Manufactured Cannabis Products

Description:
Allows a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth. Adds certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed. Increases the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products up to the existing statutory dispensing limits. (SD1)

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