



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

LATE

ON THE FOLLOWING MEASURE:

H.B. NO. 2572, RELATING TO THE MEDICAL USE OF CANNABIS.

BEFORE THE:

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Wednesday, February 7, 2018 **TIME:** 10:30 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Tara K.C.S. Molnar, Deputy Attorney General

Chair Mizuno and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill. This measure would amend section 329-14, Hawaii Revised Statutes (HRS), to remove cannabis, tetrahydrocannabinols, or their chemical derivatives from the schedule I controlled substances list when applied to the medical use of cannabis (page 22, lines 18 through 21). The bill would also recognize that “[f]or the purposes of “medical use”, the state and federal schedulings of cannabis as a controlled substance do not apply” (page 23, lines 8 through 10).

Although the measure aims to recognize that the state and federal scheduling of cannabis does not apply to the medical use of cannabis in Hawaii, the bill as currently written does not change cannabis’ classification as a Schedule I substance under the federal Controlled Substances Act (CSA). This classification makes it illegal under federal law to produce, possess, sell, or use marijuana in any amount.

To date, the federal government has not taken action in regards to this State’s medical cannabis registry program or medical cannabis dispensary system. However, inaction on the federal government’s part does not speak to the program’s legality on the federal level, but rather reflects the federal government’s past enforcement priorities in regards to marijuana. In addition, the United States Department of Justice recently issued a memorandum withdrawing earlier directives and instructing prosecutors to enforce federal laws related to marijuana activities (Sessions Memo).

We respectfully request that the Committee consider our comments.

HB-2572

Submitted on: 2/6/2018 12:41:50 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Maui Police Department	Oppose	No

Comments:

HB-2572

Submitted on: 2/5/2018 5:23:06 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Sakala	Hawaii Farmers Union United	Support	No

Comments:

Aloha Chair Mizuno, Vice Chair Kobayashi and Committee Members,

Firstly, thank you for hearing this bill. I write in strong support of HB 2572. Its is time for a formal recognition under state law that would confirm the federal regulation that has marijuana listed as a Schedule I controlled substance does not apply to the medical use of cannabis in Hawaii, and that Hawaii's Medical Use of Cannabis Program does not violate federal law. This recognition is essential for us as patients to engage in the medical use of cannabis in Hawaii without being considered federal criminals. It would also allow our local banks and University system to become involved without the fear of federal reprisal, and to eliminate the restriction on firearms possession by lawfully certified citizens.

Thank you again for your time and I strongly urge you to support and protect Hawaii's lawful abiding citizens with the passage of HB2572.

Mahalo,

Steve Sakala

HB-2572

Submitted on: 2/6/2018 8:55:37 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII
TO THE COMMITTEE ON HEALTH & HUMAN
SERVICES
HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018
Wednesday, February 7, 2018
10:30 a.m.
Hawaii State Capitol, Conference Room 329

RE: Testimony in Support of HB 2572, RELATING TO MEDICAL CANNABIS

To the Honorable John M. Mizuno, Chair; the Honorable Bertrand Kobayashi, Vice-Chair, and Members of the Committee on Health & Human Services:

Good morning. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No.2572 regarding the decriminalization of the medical use of cannabis.

The OCC Legislative Priorities Committee is in favor of House Bill No. 2572 and support its passage.

House Bill No.2572 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it clarifies that medical use of cannabis is not to be considered a state or federal crime.

Specifically, the DPH Platform provides that we "support fair and equitable access to medical marijuana to be administered by the State of Hawaii's Department of Health." (Platform of the DPH, P. 7, Lines 386-387 (2016)).

Given that House Bill No. 2572 clarifies the decriminalization of the medical use of cannabis, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

David J Barton MD

Hawaiian-Pacific Pain and Palliative Care

Waimanalo, HI

February 5, 2018

John M. Mizuno, Chair

Bertrand Kobayashi, Vice Chair

House Health and Human Services Committee

State of Hawaii Legislature

Honolulu, Hawaii

Re: HB2572 Medical use of cannabis; Clarifies that medical use of cannabis is not considered to be a state or federal crime.

Position: Strongly Support

Aloha,

I support this bill, which just formally points out what we all know to be true. In truth and in Hawaii, Cannabis has medical use. I have seen its use in chronic pain patients every day for the past ten years since I came to realize that the prohibition of cannabis has absolutely no medical justification, and that tens of thousands of Hawaiians were using cannabis safely to restore a good measure of their lives by significantly helping their chronic severe disabling pains.

Please consider adding the suggestions for justifications suggested by Dr Clif Otto, MD. Please show some strength with passage of this bill into law, and protect these Hawaiians who are part of every single ohana in Hawaii. This bill will help protect your family members as well as mine.

Sincerely,

David J Barton, MD

Clinical Pain Medicine Physician, Hawaiian Pacific Pain and Palliative Care

Medical Director, Hawaii Patients' Rights Hui

House Committee on Health and Human Services
Rep. John Mizuno (Chair), Rep. Bertrand Kobayashi (Co-chair)

Re: Testimony for HB2572 - Relating to the Medical Use of Cannabis

From: Clifton Otto, MD (Strong Support)

Public Hearing: February 7, 2018, 10:30 am, Room 329

Thank you for hearing this very important bill, which simply recognizes a situation that already exists, namely that the state-accepted medical use of cannabis in Hawaii is currently accepted medical use in treatment in the United States.

A formal recognition of this finding under state law would confirm that the federal regulation that has marijuana listed as a Schedule I controlled substance does not apply to the medical use of cannabis in Hawaii, and that Hawaii's Medical Use of Cannabis Program does not violate federal law.

Such recognition is essential for our patients to engage in the medical use of cannabis in Hawaii without being considered federal criminals, to allow our local banks and University system to become involved without the fear of federal reprisal, and to eliminate the restriction on firearms possession by lawfully registered patients.

Federal preemption does not apply in this case because there is no conflict between state and federal law regarding the medical use of cannabis in Hawaii: state law has established that cannabis has accepted medical use in Hawaii, and federal law has established that marijuana cannot be in federal Schedule I if it has accepted medical use.

Because the State of Hawaii accepted the medical use of cannabis in the first place, it is up to the State to remove the misconception that our medical program

is violating federal law, especially in light of the recent Sessions Memo and the current review of FinCEN's previous guidance on banking involvement.

While the current version of HB2572 produces the necessary statutory changes as it stands, it might be helpful to include more of the reasoning behind the need for these amendments in Part I of this bill. Please consider the following language:

"The Legislature finds that our system of government known as federalism provides that powers not transferred to the federal government remain with the state, and that a power retained by the state is the authority to accept the medical use of controlled substances under state law.

The Legislature also finds that the State of Hawaii lawfully exercised its authority to accept the medical use of controlled substances when it accepted the medical use of cannabis under state law in 2000 and created a state-regulated medical use of cannabis program.

The Legislature also finds that in *Gonzales v. Oregon*, 546 U.S. 243 (2006), the Supreme Court acknowledged that the decision making authority to accept the medical use of controlled substances is reserved to the states.

The Legislature also finds that the federal Controlled Substances Act requires that a substance with "currently accepted medical use in treatment in the United States" cannot be classified as a federal Schedule I controlled substance.

The Legislature also finds that in *Alliance for Cannabis Therapeutics v. Drug Enforcement Administration*, 930 F.2d 936, 939 (D.C. Cir. 1991), the Court acknowledged that Congress never defined the term "currently accepted medical use", which leaves it to the states to determine what constitutes accepted medical use in their state.

The Legislature also finds that in *Grinspoon v. Drug Enforcement Administration*, 828 F.3d 881, 886 (1st Cir. 1987), the Court acknowledged that Congress did not intend the term "accepted medical use in treatment in the United States" to require a finding of recognized medical use in every state.

The Legislature also finds that there is no conflict between state and federal law regarding the medical use of cannabis in Hawaii, and therefore no need to invoke federal preemption, because state law says that cannabis has accepted medical use in Hawaii and federal law says that cannabis cannot be in federal Schedule I if it has accepted medical use.

The Legislature also finds that, because the criminal penalties associated with the acquisition, possession, cultivation, use, distribution, or transportation of cannabis as a state Schedule I controlled substance do not apply to those who comply with Hawaii's Medical Use of Cannabis Act, the state scheduling of cannabis does not apply to the medical use of cannabis in Hawaii.

The Legislature also finds that, because the medical use of cannabis in Hawaii is currently accepted medical use in treatment in the United States, the federal scheduling of marijuana does not apply to the medical use of cannabis in Hawaii.

The purpose of this act is protect the medical use of cannabis in Hawaii from unlawful federal interference by recognizing certain legalities that already exist, namely that the medical use of cannabis in Hawaii is currently accepted medical use in treatment in the United States, that the federal scheduling of marijuana does not apply to the medical use of cannabis in Hawaii, and that Hawaii's Medical Use of Cannabis Program does not violate federal law."

HB-2572

Submitted on: 2/5/2018 3:20:28 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede		Support	Yes

Comments:

This is LONG overdue. The majority of people in the state support this legislation.

There is **no reason** to not implement this immediately and solve so many of the problems that are associated with the criminalization of cannabis use.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committee on Health and Human Services
FROM: Carl Bergquist, Executive Director
HEARING DATE: 7 February 2018, 10:30AM
RE: HB2572, RELATING TO THE MEDICAL USE OF CANNABIS, **SUPPORT**

Dear Chair Mizuno, Vice Chair Kobayashi, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) supports this measure to amend HRS 329-14 in order to highlight that the medical use of cannabis does not fall under both the federal and state controlled substances scheduling. With the State of Hawai'i having accepted the medical use of cannabis since 2000, it is congruent for HRS to simply list "cannabis" without further explanation as a schedule I controlled substance, which by the definition of the federal Controlled Substances Act (CSA) means that cannabis has "no currently accepted medical use." The amendments proposed by this bill put that non-sequitur to rest, and can help guide other states as they chart their own path regarding cannabis.

Case law, including Supreme Court precedents, either directly or indirectly support this conclusion. In the remand from the most famous Supreme Court case involving medical cannabis *Gonzales v. Raich*, the 9th Circuit was faced with a new claim that "the plain text of the Controlled Substances Act does not prohibit (Raich) from possessing marijuana pursuant to a doctor's order." As this had not previously raised during the litigation, the court ruled that the "claim based on the plain language of the Controlled Substances Act is waived. *We express no opinion as to the merits of that claim.*" (*Raich v. Gonzales*, 500 F.3d 850, 9th Circuit 2007.) In other words, the logic behind this bill has *not* been rejected by the relevant appellate court for Hawai'i. As the same opinion noted:

"As stated above, Justice Anthony Kennedy told us that "times can blind us to certain truths and later generations can see that *laws once thought necessary and proper in fact serve only to oppress.*" *Lawrence*, 539 U.S. at 579, 123 S.Ct. 2472. For now, federal law is blind to the wisdom of a future day when the right to use medical marijuana to alleviate excruciating pain may be deemed fundamental. *Although that day has not yet dawned, considering that during the last ten years eleven states have legalized the use of medical marijuana, that day may be upon us sooner than expected.*" (emphasis added.)

Thank you for the opportunity to testify.

2/06/18

Testimony of Robert

Petricci

Wednesday, February 7, 2018

Re: HB2572, 10:30am, Rm. 329, HHS,

Rep. John M. Mizuno, Chair, Rep. Bertrand Kobayashi, Vice Chair, Committee members Rep. Della Au Belatti, Rep. Andria P.L. Tupola, Rep. Lei R. Learmont

Aloha Chair Mizuno and committee members,

Thank you for the opportunity to testify, I strongly support HB2572 it is nice to see common sense legislation, I hope you will support HB2572 as well.

Mahalo for your consideration

Robert Petricci

HB-2572

Submitted on: 2/6/2018 8:16:10 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jari S.K. Sugano		Support	No

Comments:

HB-2572

Submitted on: 2/6/2018 3:16:49 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
natasha sky		Support	No

Comments:

HB-2572

Submitted on: 2/6/2018 2:28:27 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Foster		Support	No

Comments:

The purpose of HB2572 is protect the medical use of cannabis in Hawaii from unlawful federal interference by recognizing certain legalities that already exist, namely that the medical use of cannabis in Hawaii is currently accepted medical use in treatment in the United States, that the federal scheduling of marijuana does not apply to the medical use of cannabis in Hawaii, and that Hawaii's Medical Use of Cannabis Program does not violate federal law.

Submitted by Scott Foster for Hawai'i Advocates For Consumer Rights

TO: House Committee on Health and Human Services
Rep. John Mizuno (Chair), Rep. Bertrand Kobayashi (Co-chair)

RE: Testimony for **HB2572** - Relating to the Medical Use of Cannabis

From: Wendy Gibson, RN, Cannabis Nurse (Strong Support)
Public Hearing: February 7, 2018, 10:30 am, Room 329

Dear Chair Mizuno, Co-Chair Kobayashi and member of the Committee,

I'm Wendy Gibson, an RN and Cannabis Nurse Educator who would like to offer strong support for HB2572.

Although the Federal Government has not yet recognized cannabis as a medicine, States have the right to control the practice of medicine. In 2006, the Supreme Court acknowledged that the decision-making authority to accept the medical use of controlled substances is reserved to the states (Gonzales v. Oregon, 546 U.S. 243).

In 2000, Hawai'i legislators formally recognized state-accepted medical use with the passage of Act 228. In the U.S. there are currently at least 29 states with solid medical cannabis programs and another 14 that allow for a limited use of cannabis products (such as CBD only) programs.

It is now up to the State to remove the misconception that our medical program is in violation of federal law.

HB2572 is the formal recognition of the acceptance of medical use in Hawai'i. It is a confirmation that the federal regulation listing "marijuana" as a Schedule I controlled substance **does not apply to the medical use of cannabis in Hawaii**, and that Hawaii's Medical Use of Cannabis Program does not violate federal law.

Scientifically, cannabis or "Marijuana" does not meet ANY of the 3 criteria for, and does not belong in a Controlled Substance Act Schedule I "drug" category.

Hawai'i currently has over 20,000 patients who are safely using cannabis as medicine under medical supervision.

The National Academies of Science, Engineering and Medicine released a review of research showing that we have STRONG EVIDENCE of the effectiveness of cannabinoids in treating at least three medical conditions. Link <https://www.nap.edu/catalog/24625/the-health-effects-of-cannabis-and-cannabinoids-the-current-state>

I respectfully request that you amend the language of Section 329-14 of Hawaii Revised Statutes to read as follows:

"§329-14 Schedule I. to (h) The enumeration of cannabis, tetrahydrocannabinols, or chemical derivatives of these as schedule I controlled substances does not apply to the medical use of cannabis pursuant to section 329, part IX, and chapter 329D."

Thank you for this opportunity to provide testimony,

Wendy Gibson R.N./BSN, Cannabis Nurse Educator
(808) 321-4503

HB-2572

Submitted on: 2/6/2018 8:54:53 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Reed		Support	No

Comments:

HB-2572

Submitted on: 2/6/2018 11:24:17 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Georgina Mckinley		Support	No

Comments:

HB-2572

Submitted on: 2/5/2018 8:25:21 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Culina		Oppose	No

Comments:

HB-2572

Submitted on: 2/5/2018 8:28:43 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Whispering Wind	Patients Without Time	Oppose	No

Comments:

I OPPOSE HB2572

because I SUPPORT LEGALIZATION OF CANNABIS!

The illegal cannabis prohibition is based on racial prejudice, discrimination, and corporate greed. This unjust bill is blatantly prejudice against seriously ill and disabled cannabis patients, and continues to deny the rights of cannabis consumers, patients, and entrepreneurs.

The hypocrisy of the cannabis prohibition is obvious, when alcohol and cigarettes are both legal;

According to the CDC, alcohol kills 88,000 American every year, and cigarettes cause 400,000 premature deaths every year, while cannabis kills zero citizens, providing scientific medical research that consuming alcohol or cigarettes is far more dangerous than consuming cannabis. Therefore, legalize cannabis to SAVE LIVES!

Hawaii is experiencing a housing crisis, and we desperately need to raise revenue. Cannabis has proven to be a very safe and successful way to raise revenue, while increasing jobs and businesses, and ending the tragic incarceration of good citizens for consuming natural herbal cannabis products.

Please, amend this bill to LEGALIZE CANNABIS.

HB-2572

Submitted on: 2/5/2018 9:05:32 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tamara Paltin		Oppose	No

Comments:

Aloha Representatives,

I oppose this bill because it continues to support the injustice of cannabis prohibition.

The hypocrisy of the cannabis prohibition is obvious when alcohol and cigarettes are both legal.

Hawaii is experiencing a housing crisis and we desperately need to raise revenue. annabis has proven to be a safe and successful way to raise revenue, while increasing jobs and businesses, and ending the tragic incarceration of good citizens for consuming natural herbal cannabis products.

Please amend this bill to legalize cannabis.

Tamara Paltin

808-870-0052

HB-2572

Submitted on: 2/6/2018 5:48:25 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry		Oppose	No

Comments:

Aloha,

I oppose HB2572. Please amend this Bill to legalize Cannabis use for adults over 21.

Follow Washington, Oregon and Colorado's example.

Mahalo,

Ms. Barbara Barry

Ha'iku, HI

HB-2572

Submitted on: 2/6/2018 6:24:08 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Debra Koonohiokala Norenberg		Comments	No

Comments:

Aloha,

I understand that the point of this bill is to decriminalize the medical use of marijuana so, I applaud the bill on those grounds. However, I still can't fully support the bill as it stands because I strongly believe the use of marijuana whether for recreational or medical purposes needs to be decriminalized in it's entirety. Other states who've excersized their lawful prerogative and decriminalized marijuana entirely, do adequately demonstrate that the benefits of decriminalizing marijuana in it's entirety far out weigh all perceived negative impacts on society. So, I propose we move to decriminalize marijuana in its' entirety by amending this bill to reflect that intention. Aloha.

HB-2572

Submitted on: 2/6/2018 12:26:10 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
DONNIE BECKER		Oppose	No

Comments:

HB-2572

Submitted on: 2/6/2018 10:45:05 AM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tulsi Greenlee		Oppose	No

Comments:

Please oppose this bill. Thank you Tulsi

HB-2572

Submitted on: 2/6/2018 10:02:28 PM

Testimony for HHS on 2/7/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Murphy	Patients Without Time	Oppose	No

Comments:

I SUPPORT LEGALIZATION OF CANNABIS!

The illegal cannabis prohibition is based on racial prejudice, discrimination, and corporate greed. This unjust bill is blatantly prejudice against seriously ill and disabled cannabis patients, and continues to deny the rights of cannabis consumers, patients, and entrepreneurs.

The hypocrisy of the cannabis prohibition is obvious, when alcohol and cigarettes are both legal;

According to the CDC, alcohol kills 88,000 American every year, and cigarettes cause 400,000 premature deaths every year, while cannabis kills zero citizens, providing scientific medical research that consuming alcohol or cigarettes is far more dangerous than consuming cannabis. Therefore, legalize cannabis to SAVE LIVES!

Hawaii is experiencing a housing crisis, and we desperately need to raise revenue. Cannabis has proven to be a very safe and successful way to raise revenue, while increasing jobs and businesses, and ending the tragic incarceration of good citizens for consuming natural herbal cannabis products.

Please, amend this bill to LEGALIZE CANNABIS.