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VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
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Testimony COMMENTING on H.B. 2729, HD2
RELATING TO CANNABIS FOR MEDICAL USE.

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Hearing Date: Friday, February 23, 2018 Room Number: 308

Fiscal Implications: None determined.

Department Testimony: Thank you for the opportunity to COMMENT on this bill. The Department SUPPORTS some provisions with clarifications, definitions, and recommended language changes, and OPPOSES other provisions.

In summary, the bill:

1. Amends the reciprocity program where the dispensary verifies the out-of-state (OOS) patient qualifications.
2. Allows but does not require the Department to accept written certifications of debilitating medical condition for up to 3 years if the condition is chronic in nature;
3. Allows the Department to provide dispensaries an opportunity to retest their failed batches of cannabis or manufactured products;
4. Adds devices used for safe pulmonary delivery of cannabis as an allowed product; and
5. Increases milligrams of products sold in multiple dose packs to 1,000 ml.

Regarding reciprocity, the Department OPPOSES the proposed system. This system would place dispensaries in a conflict of interest position of self-validating patients to whom they would sell products. Other questions are unanswered by the bill, namely: 1. Would this bill provide the state's legal protection for an out-of-state individual to possess and use cannabis; 2. Do out-of-state individuals have to meet the state definition of qualifying patient including a debilitating medical condition recognized by the state; and 3. Would the reciprocity proposed in this bill require changes to other state statute? On the question of meeting the debilitating medical condition, this bill would provide an out-of-state individual the ability to obtain medical cannabis for a medical condition not allowed to a resident of the State of Hawaii.

A reciprocity program for medical cannabis is complex and requires the discipline of more independent and objective verification processes.

Implementation of reciprocity at this time could also jeopardize Hawaii patients' access to medical cannabis. Only half of the dispensaries have begun to sell medical cannabis products, and the Department continues to be responsive to dispensaries' requests to conduct inspections when they are ready for the next phase of cultivation or manufacture or retail sales, and the Department has also been responsive to dispensaries' requests for increased plant counts. We have seen news stories that local dispensaries have run out of retail product. The Department's focus continues to be on improving access of local medical cannabis for local patients. Creating this or any other reciprocity program at this immediate point in time could strain the availability of medical cannabis for local patients.

Regarding accepting medical certifications for up to three (3) years, the department supports the intent of this provision with the understanding that the department will likely take a more cautious approach based on standard medical practices and recognizing that the language gives the department the authority to accept multi-year certifications but does not require it. Standard medical practice normally requires annual visits to physicians or APRNs to continue receiving ongoing prescriptions for chronic conditions. This ensures the medical condition is in fact ongoing and determines whether specific medication or medication dosing needs to be changed. Medical cannabis was authorized by the Legislature for medical purposes and its continued access should be consistent with other medical practices. Otherwise, the department could be accepting certification for medical use of cannabis for a time period that exceeds the debilitating condition.

Regarding retesting of failed batches, the Department OPPOSES this provision as unnecessary. The bill implies that certified labs are using scientifically unreliable methods and procedures. Although all testing has limitations, the certification process is intended to minimize or prevent eliminate this. Specifically, this provision is unnecessary since:

1. Retesting is already allowed under Chapter 850-85(d) Hawaii Administrative Rules (HAR) which says "The certified laboratory may retest or reanalyze the sample or a different sample from the same batch by following its standard operating procedure to confirm or refute the original result, upon request by the dispensary licensee or upon request by the department at the dispensary licensee's expense." and

2. The laboratory certification process established by the Department's State Laboratory Division (SLD) is a rigorous process to ensure optimal scientifically reliable testing methods and procedures are used by the laboratories. All certified laboratories are certified using a consistent certification process to ensure product safety.

Regarding adding devices that provide safe pulmonary administration of cannabis to the list of allowed manufactured products, the Department requests the Legislature define "safe pulmonary administration" and "sub-combustion temperature" and amends the bill language to ensure against the use of vaping devices for vaping or smoking of tobacco or tobacco products.

Notwithstanding the above, the Department SUPPORTS the remaining language. In addition, the Department would require dispensaries to provide signage and packaging inserts consistent with the above and Department inspections will determine compliance.

Regarding multi-dose packs, the Department SUPPORTS this as cost beneficial to dispensaries and patients as long as dispensing limits are not exceeded. Department inspections will determine compliance.

Finally, the Department respectfully requests that the exempt status of the dispensary licensing supervisor position and inspector positions be made permanent to aid in the Department's recruitment and retention efforts. Without permanence, the exempt status requires

the positions to be renewed annually and makes it difficult for qualified persons in other permanent positions to want to apply.

In summary and in closing, the Department SUPPORTS THE INTENT on parts of this bill as long as definitions are included, and OPPOSES other parts of the bill as potentially diminishing the state's robust regulatory processes, potentially inviting federal law enforcement intervention, and risking access to medical cannabis by Hawaii's local patients.

Thank you for the opportunity to testify on this bill.

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

ON THE FOLLOWING MEASURE:
H.B. NO. 2729, H.D. 2, RELATING TO CANNABIS FOR MEDICAL USE.

BEFORE THE:
HOUSE COMMITTEE ON FINANCE

DATE: Friday, February 23, 2018 **TIME:** 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Jill T. Nagamine, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General provides the following comments.

The current draft of the bill would (1) amend the funding sources of the medical cannabis registry and regulation special fund to include fees derived from the certification of patients visiting Hawaii; (2) amend the definition of "written certification" in section 329-121, Hawaii Revised Statutes (HRS), to authorize the Department of Health (DOH) to allow a certification to be valid for up to three years for those patients whose certifier states their debilitating medical condition is chronic in nature; (3) amend section 329D-8, HRS, to allow for retesting of a failed batch of medical cannabis or manufactured cannabis products; (4) amend section 329D-10, HRS, to add certain types of pulmonary administration devices to the types of medical cannabis products that may be manufactured and distributed; (5) amend section 329D-11 to increase the allowable potency of manufactured cannabis products that are sold in packages of multiple doses and containers of oils from 100 milligrams of tetrahydrocannabinol (THC) to 1000 milligrams of THC; and (6) amend section 329D-13, HRS, to delete the authority of the DOH to establish a registration process for qualifying patients from other states and replace it with a method for dispensaries to determine whether a person from out-of-state qualifies as a patient, and to establish purchase limits for out-of-state qualifying patients.

Comments on Section 4 (page 4, line 7, through page 5, line 20)

This section is unnecessary. Section 11-850-85(d), Hawaii Administrative Rules, already details the process by which batches of cannabis may be retested to confirm or refute the original result. Furthermore, the wording proposed for section 329D-8(c)(2), at page 5, lines 18-20, implies that certified labs are using scientifically unreliable methods and procedures, and we are not aware of any basis for that implication. We recommend that section 329D-8(c)(2), at page 5, lines 18-20, be deleted.

Comments on Section 5 (page 6, line 1, through page 7, line 7)

This section would amend section 329D-10, HRS, to allow for the production of "[d]evices that provide safe pulmonary administration" (page 6, line 16), and which have a temperature control on the device "to ensure a sub-combustion temperature" (page 7, line 4). While this bill would allow distribution of these devices solely for use with disposable, pre-filled, and tamper-resistant sealed containers that do not contain nicotine or other tobacco related products, the terms "safe pulmonary administration" and "sub-combustion temperature" are not defined. If the Committee is inclined to allow for the production of these devices, we suggest that it define these terms in order to clarify what type of devices are "safe" and what temperature is "sub-combustion." These definitions are needed to ensure consumer protection and to instruct dispensaries what products may be manufactured.

Comments on Section 7 (page 7, line 19, through page 9, line18)

This section would amend section 329D-13, HRS, to delete the authority of the DOH to establish a registration process for qualifying patients from other states and replace it with a system where out-of-state patients may purchase cannabis from dispensaries by providing a government issued photo identification and an active medical cannabis card from the patient's home state, or a written certification from the patient's primary care physician certifying that the patient has a debilitating medical condition. The dispensaries "may make reasonable good faith efforts to verify" that the identification is valid and that the medical cannabis card has not expired, and that the certifying physician is in good standing with the applicable jurisdiction (page 9, lines 5-10). But the dispensary is not required to make those good faith efforts in order to sell

cannabis to the out-of-state patient. The dispensaries "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 . . . to ensure compliance with dispensing limits . . . ." (page 9, lines 11-16). But the dispensary is not required to take these steps to track an out-of-state patient's purchase limits.

Without a reliable requirement to determine an out-of-state patient's qualifications to purchase cannabis, there is a substantial risk of diversion of cannabis to people who are not entitled to have it, and that, in turn, may create a risk to the State of federal intervention to enforce laws against controlled substances. Without a reliable requirement to track the amount of cannabis purchased, there is a substantial risk of selling amounts of cannabis that exceed the legal limits.

Even if the dispensaries were required to make good faith efforts to verify an out-of-state patient's qualifications to purchase medical cannabis, it is unclear what would constitute reasonable good faith efforts and it is unlikely that dispensaries would be able to reliably verify the validity of a person's medical cannabis card without access to a computerized database, such as the DOH's medical cannabis registry.

An additional problem with the proposed reciprocity scheme is that out-of-state qualifying patients would be able to obtain cannabis more easily and with fewer requirements than residents of the State. Section 329D-13(c)(2)(B), HRS (page 8, lines 15-20), would allow an out-of-state patient to purchase cannabis from a dispensary merely by providing identification and a medical cannabis card, or furnishing a written certification from the patient's primary care physician certifying that the patient has a debilitating medical condition, and paying a fee. Hawaii's qualifying patients have the additional step of registering with the Department of Health before they can purchase cannabis from a dispensary. Also, what qualifies as a debilitating medical condition outside of Hawaii might not be consistent with Hawaii's definition of a debilitating medical condition, and that could result in a visitor being able to purchase cannabis for a condition for which a Hawaii resident could not qualify to be certified to use cannabis. These disparities could lead to equal protection challenges by Hawaii residents.

We recommend that this section of the bill be deleted so that the Department of Health can establish and control a registration process for qualifying patients from outside of the State that will be reliable and fair for residents and visitors alike.

Thank you for considering our comments.

HAWAII EDUCATIONAL ASSOCIATION
FOR LICENSED THERAPEUTIC HEALTHCARE

To: Representative Sylvia Luke, Chair Finance (FIN)
Representative Ty Cullen, Vice-Chair FIN
Members of the FIN Committee

Fr: Blake Oshiro, Esq. on behalf of the HEALTH Assn.

Re: REVISED Testimony **In Strong Support** on **House Bills (HB) 2729, HD2**
RELATING TO CANNABIS FOR MEDICAL USE - Amends the reciprocity program and adds a visiting patient certifying fee. Extends expiration of a written certification to 3 years for chronic conditions. 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

Dear Chair Luke, Vice-Chair Cullen, and Members of the Committee:

HEALTH is the trade association made up of the eight (8) licensed medical cannabis dispensaries under Haw. Rev. Stat. (HRS) Chapter 329D. We **support HB2729, HD1** as an important bill for the dispensary industry in order to enhance the medical cannabis dispensary program with additional patient access, product controls and safety, and provide improvements to the administration of the program.

We have also requested an additional amendment if the committee is willing to consider this new language.

1) Reciprocity program

The current law, Haw. Rev. Statutes (HRS) 329D-13, provided for a start date of January 1, 2018 for a program where patients from other states would be able to legally purchase medical cannabis from dispensaries. Unfortunately, that program has yet to be implemented and it is our understanding that it is highly unlikely for the Department of Health (DOH) to implement the program at any time in the foreseeable future.

As such, the bill proposes to allow for these out-of-state patients to obtain medical cannabis similar to the way in which Nevada ran its reciprocity program. By keeping the purchase limit low (basically half of what a Hawaii resident is able to obtain), this should help to minimize the concern about an out-of-state patient obtaining a large quantify of product. All purchases are to be logged into the state's tracking system, and dispensaries would be held accountable for any improper or invalid sale.

We further understand that the Department of the Attorney General has some concerns about the out-of-state patients being verified by the dispensaries rather than the DOH. However, this is exactly the way in which the Nevada program was implemented and it was found to have worked well in allowing out-of-state patients to purchase medical cannabis and its products, and had no reported instances of issues or problems before the state went to recreational marijuana.

Because dispensaries carry all of the liability and even potential loss of their license if there are abuses or violations, this alone is a strong deterrent and incentive for dispensaries to put forth a good faith effort and reasonable steps to avoid any basis for improper sales to an unqualified patient. But more importantly, as Hawaii is a state known for welcoming visitors, we believe that it is also important for Hawaii to allow patients with debilitating conditions to come here and still have access to their medical cannabis, which they would not be able to legally transport here.

As such we believe following that program and its experience would be prudent and a balanced way of ensuring patient access, with required safeguards.

2) Extend possible validity of a qualifying patient's written certification from 1 to 3 years

The current law authorizes a qualified patient's written certification to be valid for up to one year. However, because most, if not all, of the qualifying conditions under HRS 329-121 are chronic debilitating diseases and conditions by definition, these conditions will likely be with the patient for a significant and ongoing time. While their condition could be approached with many different types of treatment, the underlying condition will likely still remain with the patient, and we believe that medical cannabis should always remain as part of, it not an option for, their ongoing treatment.

3) Add safe pulmonary administration to the list of medical cannabis products

We support this addition to possible product offerings because of the ability for more precise dosage administration, safe inhalation of certain patients and their conditions, and the possible stigma associated with "smoking" cannabis.

Our research has shown that administration through pulmonary inhalation, can be more effective for certain patients who have a low tolerance for, or resistance to, smoking the cannabis. It is more readily absorbed, and its effects felt more quickly, so that the potential for taking too large a dose, is minimized.

The language ensures that the device's heating element would be made of inert materials, and there is a temperature control, so that there is additional safety against a device becoming unsafe and combustible.

4) THC limit per pack or container

Because edibles are not an authorized cannabis product, there is little need for any package or container limit. Should that product list ever change, then this provision should likely be revisited.

5) Appeal process for laboratory testing

We appreciate the House Health and Human Services Committee for adding in a provision in Section 5 of the bill to include a process for appealing a failed batch from a laboratory test. We believe that this is an important issue because there are certain

tests that we understand are more likely to result in “false positives,” and there is no recourse under the current system when that conclusion is reached. The costs for the retesting is borne by the licensed dispensaries, and we believe that even this additional cost is still more reasonable than the cost of an entire lost “failed” batch, which in the end, directly affects the patient’s cost and access to their desired cannabis or products.

6) REQUESTED AMENDMENT to **Allow the use of opt-in marketing by dispensaries.**

We would like to respectfully request that the committee consider the addition of language to allow dispensaries to be able to communicate with qualified patients who have opted-in to receive such communications such as va email and text message. We respectfully request that the following language be added to HB2729.

Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (r) to read as follows:

> *(r) A dispensary* licensed *pursuant to this chapter may communicate with the public via internet, social media, email or text message or other electronic medium in which the patient or member of the public has opted-in or requested to be included in such communications.*

Thank you for your consideration.

ON THE FOLLOWING MEASURE:
HB2729, HD2, RELATING TO CANNABIS FOR MEDICAL USE

BEFORE THE:
COMMITTEE ON FINANCE
DATE: Friday, February 23 TIME: 11:00AM
LOCATION: Conference Room 329

TESTIFIER: Brian Goldstein, Noa Botanicals

POSITION: **STRONG SUPPORT WITH REQUESTED CHANGES**

Chair LUKE, Vice Chair CULLEN and Members of the Committee:

Noa Botanicals is a licensed medical marijuana dispensary in the City and County of Honolulu. We strongly support this bill but request significant changes to be made to the section on reciprocity. Furthermore, we request that a new section be added relating to the use of op-in marketing by dispensaries.

Allow a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth. – REQUEST TO BE REINSTATED

Unfortunately, previous testimony provided by Queen's Health System was misleading and needs to be corrected. Contrary to the testimony provided by Queen's, physicians or APRNs are not allowed to "prescribed" cannabis. Prescribing a Schedule 1 substance is Federally illegal. In Hawaii Physicians and APRN simply certify that a patient has a qualifying condition and may benefit from the use of medical cannabis. They NEVER prescribe medical cannabis, which is a controlled substance. Therefore, allowing physicians or APRN to establish a patient relationship via Telehealth is not inconsistent with HRS. We respectfully request that this be reinstated in the bill.

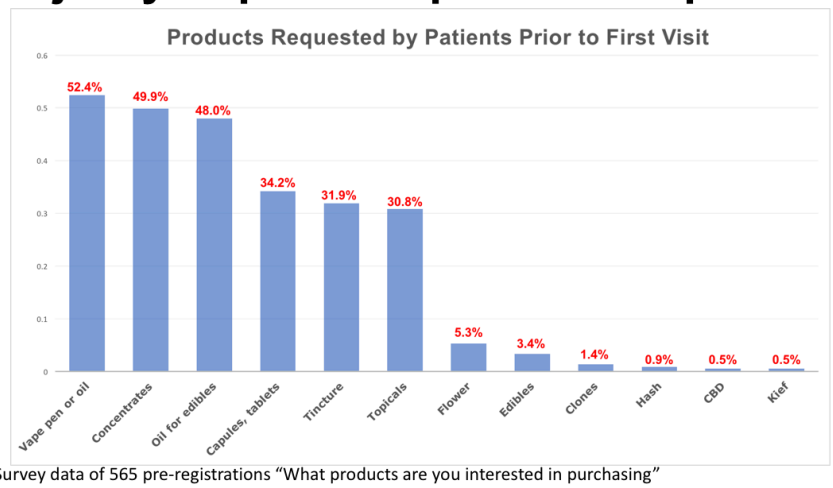
Allow dispensaries the opportunity for retesting of a failed batch of medical cannabis. - STRONG SUPPORT

It is not uncommon for test results to show a false positive. That is, showing positive for the presence of microbials or contaminants that come back negative upon re-testing. Given the extremely high operating costs in Hawaii, and the need to provide high quality medicine at reasonable prices, it is important that dispensaries have the opportunity to re-test failed batches.

Allowing devices for pulmonary administration to be sold by dispensaries. - STRONG SUPPORT

Hundreds of our patients have been asking that we sell cannabis oil in pre-filled cartridges. It is the number one request that we receive.

Majority of patients prefer to vaporize



Survey data of 565 pre-registrations "What products are you interested in purchasing"

NO OTHER STATE IN THE NATION PROHIBITS MEDICAL CANNABIS DISPENSARIES FROM SELLING PRE-FILLED VAPING CARTRIDGES.

A survey of our patients before their visit (via a pre-registration form) shows that over 52% of Hawaii patients are interested in vaping cannabis oil. Since we are not allowed to sell pre-filled cartridge, we sell cannabis oil in dispensing syringes. It is then up to the patient to purchase an appropriate tool for vaporizing the cannabis oil and for filling the cartridge. This increases patient cost and complexity and can place undue stress on oftentimes fragile patients.

Vaporizing cannabis is a safe delivery system. This is demonstrated in the peer reviewed, clinical study *Vaporization as a Smokeless Cannabis Delivery System: A Pilot Study*. According to this study "CO levels were reduced with vaporization. No adverse events occurred. Vaporization of cannabis is a safe and effective mode of delivery of THC."[1]

Increase Dosage Limitation to 1000 milligrams of tetrahydrocannabinol (THC) per pack or container - STRONG SUPPORT

The current limit of 100mg is unworkable, increases patient costs and does not provide any risk reduction or patient benefit. This limitation was likely mistakenly modeled after restrictions on edible products in other jurisdictions. Edibles are not allowed to be sold by dispensaries in Hawaii so this limitation is not needed.

[1] Abrams et al (2007): Vaporization as a smokeless delivery system, Clinical Pharmacology and Therapeutics 82(5) pg. 572: 'Vaporization is a safe and effective mode of delivery of THC.'

Amend reciprocity program – STRONG SUPPORT WITH CHANGES

This bill modifies the reciprocity system to one that is workable and does not require DOH rulemaking. In 2015 the legislature determined that Hawaii dispensaries should begin accepting qualifying patients from outside of Hawaii beginning January 1, 2018 (reciprocity system). Unfortunately, DOH never issued the necessary rules to implement a reciprocity system. The reciprocity system described in this bill limits purchases and provides a framework for a safe and fair system for accepting out-of-state patients.

Medical cannabis dispensaries in Hawaii have very high operating costs due, in part, to the stringent requirements of the Hawaii medical cannabis program. Currently, the number of qualifying patients in Hawaii is relatively small and growing at a slow pace. This can result in medical cannabis product costs that are higher than they would otherwise. The best way to reduce product costs is to increase demand for medical cannabis. **A well-run reciprocity program will provide additional revenues to the state and decreases product costs to Hawaii patients.**

Unfortunately, the current language does not provide protections from arrest for qualifying patients from out-of-state and further refinements are needed. We respectfully request that the language be modified in it's entirety to the following;

> Section 329D-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:
>
> "(c) Beginning on the date of enactment, this section shall apply to qualifying patients from other states, territories of the United States, or the District of Columbia, who are authorized to use medical cannabis in their state of residence. [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.]. Non-residents will be deemed to hold a valid medical cannabis card provided that:
>
> (1) The patient presents and provides to a medical cannabis dispensary:
>
> (A) Government-issued photo identification from another US state, territory of the United States, or the District of Columbia;
>
> (B) any document which is valid to prove the authorization of the person to engage in the medical use of marijuana under the laws of his or her state or jurisdiction of residence. Such documentation may include, without limitation, written documentation from a physician or other provider of health care if, under the laws of the person's state or jurisdiction of residence, written documentation from a physician or other provider of health care is sufficient to exempt the person from prosecution for engaging in the medical use of marijuana;

(2) A non-resident qualifying 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;

(3) The non-resident visiting patient pays a certifying fee of $_____, to the State Department of Health for deposit into the medical cannabis registry and regulation special fund at a dispensary, which shall permit the non-resident visiting patient to purchase medical cannabis from Hawaii dispensaries. The certification will be valid for a period of no more than six months and may be renewed prior to expiration every six months for $_____

(4) The medical cannabis dispensary makes a reasonable good faith effort to verify that the patient's government issued photo identification is valid and the patient's medical cannabis card or written certification is valid and has not expired

(5) The medical cannabis dispensary makes copies of all documents presented and used in the verification of the patient's eligibility for reciprocity and retains the document copies for a period of two years.

(6) A medical cannabis dispensary may opt to not serve any patients from other jurisdictions.

(7) Non-resident patients meeting the requirements of the previous section, may assert the medical use of cannabis authorized under this part as an affirmative defense to any prosecution involving cannabis under this part or part IV; or part IV of chapter 712; provided that the non-resident qualifying patient strictly complied with the requirements of this part.

(8) Any qualifying patient or primary caregiver not complying with the permitted scope of the medical use of cannabis shall not be afforded the protections against searches and seizures pertaining to the misapplication of the medical use of cannabis.

Allow the use of opt-in marketing by dispensaries.

DOH is not conducting mandated outreach and education. Furthermore, dispensaries need to be able to communicate with qualified patients who have opted-in to receive such communications such as va email and text message. We respectfully request that the following language be added to HB2729.

Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (r) to read as follows:

(r) A dispensary licensed *pursuant to this chapter may communicate with the public via internet, social media, email or text message or other electronic medium in which the patient or member of the public has opted-in or requested to be included in such communications.*

Thank you for your consideration.

KUSH BOTTLES
HAWAII

TO: House Committee on Finance
FROM: Miles W. Tuttle, Owner/Co-Founder
HEARING DATE: 23 February 2018, 11:00 AM
RE: HB2729 HD2, RELATING TO CANNABIS FOR MEDICAL USE, **STRONG SUPPORT**

Dear Chair Luke, Vice Chair Cullen, and Committee Members:

Thank you for this opportunity to testify.

We are in STRONG SUPPORT of this bill.

(1) Reciprocity

-Allowing a visiting patient access to medical cannabis could assist in lowering costs to a local patient.

-An online database or directory consisting of pre-approved medical professionals from varying jurisdictions could streamline the process.

-Visiting patients could pre-register online prior to arrival.

(2) Period of Validity

- Some medical conditions do not improve.

(3) Retesting

- Dispensaries deserve the opportunity to retest a failed batch of medical cannabis at their own expense.

(4) Devices

- "Devices that provide safe pulmonary administration; provided that the device is distributed solely for use with disposable, pre-filled and tamper-resistant sealed containers that do not contain nicotine or other tobacco related products and is used to deliver cannabis orally, 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; provided further that the dispensaries shall not be required to manufacture the devices;"

Example 1: Wisp Vapor (Keurig)

Example 2: Palm CCELL (iPod)

-Neither device resembles an e-cig, while ensuring a sub-combustion temperature.

(5) THC Limit per Pack/Container

As the packaging company servicing the local dispensaries, we see the current concentrate limitations as wasteful. Originally pertaining to edibles, the current concentration limitations create excess packaging waste and spillage. These costs are transferred to the dispensaries and eventually the patients. As edible products are introduced, these limitations could apply accordingly.

Thank you for your time,

Miles W. Tuttle

HB-2729-HD-2
Submitted on: 2/22/2018 10:48:34 AM
Testimony for FIN on 2/23/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

February 22, 2018

TO: House Finance Committee
Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice Chair

FROM: Teri Freitas Gorman, Maui Grown Therapies

RE: Testimony-**SUPPORT HOUSE BILL (HB) 2729**
RELATING TO CANNABIS FOR MEDICAL USE

Aloha e Chair Luke, Vice Chair Cullen and Members of the Committee:

My name is Teri Freitas Gorman and I am Director of Community Relations & Patient Affairs for Maui Grown Therapies and a board member of the Hawai'i Educational Association for Licensed Therapeutic Healthcare, the trade association for all state-licensed dispensaries. Mahalo for allowing me to testify in favor of SB 2729.

Maui Grown Therapies made history on August 8, last year when we became Hawai'i's first licensed medical cannabis dispensary. Those of you who participated in the October site visit to our facilities can appreciate the financial and intellectual investment we've made in the state's medical cannabis dispensary program. During the past six months we have worked closely with Department of Health (DOH) to launch our business as well as our fledgling industry.

As discussed with Chair Luke, there is a need for more resources for the regulators, especially law enforcement. This point was recently demonstrated by the illicit activities reported at the Hawai'i Cannabis Expo. For Hawaii's high safety standards to truly benefit our patients, the laws pertaining to illicit cultivation and sale of cannabis must be enforced and this requires resources.

My executive role puts me in close personal contact with a wide spectrum of Maui's medical cannabis patients. As legislators, it is important for you to understand both the characteristics and character of our patients. Most of them--65 percent--are well over the age of 45. Nearly 50 percent are retirement aged, 55 years or older. Our oldest patient is 93. Our patients come from every community in our county, including Hana, a two and a half-hour drive away, and others who travel from Moloka'i and Lana'i.

Several of our island-born patients live in multi-generational households to help their children and grandchildren cope with Maui's cost of living. Some of our patients get by on fixed incomes while others have retired to Maui with ample means. But they all share conditions that bring them to our dispensary in search of a better quality of life.

My testimony today is delivered as patient advocate who understands that our industry must thrive if we are to serve our fellow islanders with cannabis products that are second to none.

These are our positions on key provisions of HB 2729:

1. Amend a Program to Serve Visiting Patients
Act 231 provides that qualifying patients, verified as a patient in their home state, may be served by licensed dispensaries beginning January 1, 2018. Maui Grown Therapies started receiving inquiries from hopeful out-of-state patients as soon as we opened our doors. However, both phone and email inquiries have accelerated dramatically last month because some websites are erroneously reporting that qualified visitors to Hawai‘i may shop at a state-licensed dispensary beginning this year.

Even with information on our homepage explaining the status of reciprocity, we have received 118 email inquiries from out-of-state patients and our staff has answered over 250 telephone phone queries. Although we do not request personal information, many of those inquiring through our website offer medical reasons for their requests. Mentioned most often are cancer/chemotherapy, severe pain, and end-of-life care.

Compassion dictates that Hawai‘i develop a program to serve visiting patients without further delay. Pragmatism suggests the program be simple to implement and execute without unnecessary bureaucracy. More than 30 American jurisdictions oversee medical cannabis programs, each with different laws and regulations. To try to design a program that synchronizes the unique requirements of each jurisdiction with those of Hawai‘i is a recipe for failure.

For this reason, we recommend that any patient with a medical cannabis card or letter from their licensed healthcare provider be eligible to shop in a Hawai‘i-licensed dispensary if their provider is licensed and in good standing in the patient’s home state. This allows physicians to determine medical options for their patients. State-licensed dispensaries can vet and process visitor registrations as the only sanctioned method for them to access medical cannabis while in Hawai‘i. Additionally, dispensaries can collect visitor registration fees on behalf of the state to help offset costs of the medical cannabis dispensary program without adding to the financial burden of Hawai‘i patients.

Smart business dictates that reciprocity must begin before the end of this year. Licensees have invested millions of dollars based upon statute that promised out-of-state visitors would have access to dispensaries in 2018. As a result of DOH staffing shortages, the rate of growth for registered 329 patients has fallen from 4 percent per month one year ago to 0.55 percent during the last month of 2017. This is an area of concern for all licensees, especially those operating on the neighbor islands, serving several small rural communities.

Because the Hawai‘i medical cannabis program requires high fixed costs, the number of patients served is tied to product prices. The ability to serve out-of-state patients will benefit Hawai‘i patients. In every single jurisdiction, when the sector becomes economically viable, prices to patients inevitably fall. This is especially important for our kūpuna on fixed incomes.

2. Extend the maximum validity of a qualifying patient’s written certification
The current requirement for annual renewal for a 329 card does not consider the chronic nature of the vast majority of Hawai‘i’s qualifying conditions. Annual renewals add both cost and inconvenience for patients, and because of unpredictable registry response times, patients often experience a lapse in treatment.

3. Allow the department of health to provide a dispensary the opportunity for retesting a failed batch of cannabis

In the interest of transparency and fairness, dispensaries must have a mechanism to appeal failed lab results. The complexities of various methods for cannabis lab-testing is a matter for analytical chemists, but Maui Grown Therapies works closely with Justin Fischedick, Ph. D, principal scientist at Excelsior Analytical Labs in Union City, California. Dr. Fischedick has authored, or co-authored several scientific articles on cannabis, cannabinoids and terpenoids that were published in top scientific and medical journals.

Dr. Fischedick has identified anomalies in Hawai'i lab test results that he believes are directly tied to the use of deficient testing methods. Currently licenses have no mechanism to appeal suspect lab results. In our case, the affected products include CBD-dominant cannabis flower preferred by several of our patients for its therapeutic effects. An inability to appeal the validity of lab results is unfair to both patients and licensees.

4. Add certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be distributed

This provision is crucial for the large number of our patients who do not want to smoke herbal cannabis. Pulmonary administration of cannabinoids provides quick relief for severe pain, nausea and other conditions; effects are typically felt within two minutes of dosage. Ingestible forms of cannabis (tinctures, capsules, etc.) can take up to three hours before patients experience relief.

With DOH permission, Maui Grown Therapies sold pre-filled cartridges intended for use in personal vaporization devices for about four weeks in October of 2017. This position was later reversed and we were required to sell concentrate oils packaged in syringes that forced patients to fill their own cartridges. Our patients were angry about this development and wanted to express their displeasure, so we provided printed postcards for their signature and comment. We are aware of 127 signed postcards that our patients mailed to Department Director Pressler.

Because so many of our older patients live in multigenerational households, they prefer to use vaporization devices to get quick relief without the pungent, tell-tale smell of burning cannabis. Other patients have conditions such as paralysis, arthritis, tremors, or injuries that prevent them from using a syringe to fill a cartridge. This is not only callous it is also discriminatory because it prevents patients with disabilities from using this form of administration.

5. **Increase the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products**

As with all packaged products, smaller sizes are always more expensive for consumers than larger sizes. The current limit of 10 mg. per dose and 100 mg. per package for THC does not accomplish much more than increase final cost to patients. Many conditions and symptoms require larger doses of THC for relief so increasing the THC limit for manufactured products is important for our patients both therapeutically and economically.

Mahalo for your consideration.
Me ka ha'a ha'a (humbly yours),

Teri Freitas Gorman
Director of Community Relations & Patient Affairs

the Drug Policy Forum of hawai'i

LATE

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

TO: House Committee on Finance
FROM: Carl Bergquist, Executive Director
HEARING DATE: 23 February 2018, 11AM
RE: HB2729 HD2, RELATING TO CANNABIS FOR MEDICAL USE, **SUPPORT/COMMENTS**

Dear Chair Luke, Vice Chair Cullen, Committee Members:

The Drug Policy Forum of Hawai'i (DPFHI) **supports** this measure and offers the following comments. Among the provisions are several that would directly benefit *current* registered patients as well as help encourage *prospective* patients to register with the state. While these reforms are essential, there are *additional* reforms recommended to the legislature by a majority of the Act 230 Legislative Oversight Working Group. Those are all found in HB2740.

We particularly support the following provisions in **this** bill: ;

- the outlining of a reciprocity system for out of state patients, which will ultimately also benefit Hawaii's patients when they travel.
    - The reciprocity provisions in this bill are good for visiting patients and by extension for Hawai'i's current and prospective patients;
    - If we want to make medical cannabis accessible to visitors, the process to check if they are compliant needs to be secure yet not burdensome;
    - The process for out of state patients cannot be less cumbersome than for in-state ones, so we should use the prospect of reciprocity to make the certification of a condition by a health care professional, and a receipt to that effect, as the point when a patient can legally use and buy medical cannabis:
        - Several states follows this process, e.g. Oregon. Oregon Revised Statutes 475B.797 specifically says:

> (12) For any purpose described in ORS 475B.785 to 475B.949, including exemption from criminal liability under ORS 475B.907, ***a receipt issued by the authority*** verifying that an application has been submitted to the authority under subsection (2), (3) or (6)(b) of this

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section ***has the same legal effect as a registry identification card for 30 days*** following the date on which the receipt was issued to the applicant.

  - The current subsequent wait for a physical card results in delays for patients who need relief and may turn elsewhere for it;
  - Finally, if the dispensaries have more clients, this should help reduce the cost to all patients including local ones.
- longer valid certification periods for patients (up to 3 years in cases of chronic conditions);

Further, we request that the telehealth provisions, expanding the definition of what constitutes a "bona fide" relationship between the patient and his/her health care professional, be reinserted from the original version of this bill. This would also dovetail with the reciprocity provisions discussed above, and neither conflicts with state nor federal law.

The instant bill would be improved by incorporating the following from HB2740:

- An end to the prohibition on interisland travel by patients and caregivers carrying medicine, whether for personal use, for delivery to a patient or for testing at a laboratory on another island, see Part I, Section 4 of HB2740:
  - The explicit language in HRS 329-122 (d) prohibiting such travel blocks any kind of accommodation of the kind seen in other states, including Alaska, which also has a complex geography;
  - Federal law has not stood in the way of a solution in other states like Alaska;
  - It would not in Hawai'i but for our current state law;
  - If compliance with the spirit of the now rescinded Cole Memo is the guiding principle of our medical cannabis system, this simple fix would adhere to that principle;
- Protections for using medical cannabis, not including smoking, in places of public accommodation such as a café, restaurant or other place of business, see Part I, Section 10 of HB2740;
- Making it easier for incapacitated or bedridden patients to get the necessary identification in order to become a medical cannabis patient, see Part II, Section 18 of HB2740

Thank you for the opportunity to testify.