

JAN 27 2021

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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that although the State  
2 has taken many important steps to make medical cannabis  
3 available, further action is needed to ensure access. One way  
4 is to expand the scope of professionals who may provide written  
5 certification for qualifying patients to use medical cannabis.  
6 The legislature further finds that, as determined by the state  
7 board of naturopathic medicine, it is within the scope of  
8 naturopathic practice that medical cannabis be prescribed by  
9 naturopathic physicians.

10           Accordingly, the purpose of this Act is to improve patient  
11 access to medical cannabis by authorizing naturopathic  
12 physicians with the same authority as physicians and advanced  
13 practice registered nurses in regards to providing written  
14 certifications to qualified patients for the medical use of  
15 cannabis.



1 SECTION 2. Chapter 329, Hawaii Revised Statutes, is  
2 amended by adding a new section to part III to be appropriately  
3 designated and to read as follows:

4 "§329- Registration of naturopaths; medical cannabis;  
5 restrictions. (a) A naturopathic physician may register  
6 pursuant to this part to provide written certifications under  
7 part IX for the medical use of cannabis.

8 (b) All provisions of this part relating to practitioners  
9 who prescribe controlled substances shall be applied to  
10 naturopathic physicians providing written certifications under  
11 part IX for the medical use of cannabis; provided that this  
12 section shall not be construed to authorize any naturopathic  
13 physician to manufacture, distribute, prescribe, dispense, or  
14 conduct reverse distribution with any controlled substance  
15 within this State."

16 SECTION 3. Chapter 455, Hawaii Revised Statutes, is  
17 amended by adding a new section to be appropriately designated  
18 and to read as follows:

19 "§455- Medical use of cannabis; authorization. Subject  
20 to any requirements imposed by the department of public safety  
21 and the federal Drug Enforcement Administration, a naturopathic



1 physician may register with the department of public safety  
2 pursuant to part III of chapter 329 and may obtain any federal  
3 Drug Enforcement Administration registration necessary to  
4 provide written certifications under part IX of chapter 329 for  
5 the medical use of cannabis."

6 SECTION 4. Section 329-121, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted  
9 and to read:

10 "Naturopathic physician" means a person who holds a  
11 current license issued under chapter 455 to practice  
12 naturopathic medicine and is registered pursuant to part III to  
13 provide written certifications under this part for the medical  
14 use of cannabis."

15 2. By amending the definition of "debilitating medical  
16 condition" to read:

17 "Debilitating medical condition" means:

18 (1) Cancer, glaucoma, lupus, epilepsy, multiple sclerosis,  
19 rheumatoid arthritis, positive status for human  
20 immunodeficiency virus, acquired immune deficiency  
21 syndrome, or the treatment of these conditions;



1           (2) A chronic or debilitating disease or medical condition  
2           or its treatment that produces one or more of the  
3           following:

4           (A) Cachexia or wasting syndrome;

5           (B) Severe pain;

6           (C) Severe nausea;

7           (D) Seizures, including those characteristic of  
8           epilepsy;

9           (E) Severe and persistent muscle spasms, including  
10          those characteristic of multiple sclerosis or  
11          Crohn's disease; or

12          (F) Post-traumatic stress disorder; or

13          (3) Any other medical condition approved by the department  
14          of health pursuant to administrative rules in response  
15          to a request from a physician, naturopathic physician,  
16          or advanced practice registered nurse or potentially  
17          qualifying patient."

18          3. By amending the definition of "primary caregiver" to read:

19                "Primary caregiver" means a person eighteen years of age  
20          or older, other than the qualifying patient and the qualifying  
21          patient's physician, naturopathic physician, or advanced



1 practice registered nurse, who has agreed to undertake  
2 responsibility for managing the well-being of the qualifying  
3 patient with respect to the medical use of cannabis. In the  
4 case of a minor or an adult lacking legal capacity, the primary  
5 caregiver shall be a parent, guardian, or person having legal  
6 custody."

7 4. By amending the definition of "qualifying patient" to  
8 read:

9 "Qualifying patient" means a person who has been diagnosed  
10 by a physician, naturopathic physician, or advanced practice  
11 registered nurse as having a debilitating medical condition."

12 5. By amending the definition of "written certification"  
13 to read:

14 "Written certification" means the qualifying patient's  
15 medical records or a statement signed by a qualifying patient's  
16 physician, naturopathic physician, or advanced practice  
17 registered nurse, stating that in the physician's, naturopathic  
18 physician's, or advanced practice registered nurse's  
19 professional opinion, the qualifying patient has a debilitating  
20 medical condition and the potential benefits of the medical use  
21 of cannabis would likely outweigh the health risks for the



1 qualifying patient. The department of health may require,  
2 through its rulemaking authority, that all written  
3 certifications comply with a designated form. "Written  
4 certifications" are valid for one year from the time of signing;  
5 provided that the department of health may allow for the  
6 validity of any written certification for up to three years if  
7 the qualifying patient's physician, naturopathic physician, or  
8 advanced practice registered nurse states that the patient's  
9 debilitating medical condition is chronic in nature."

10 SECTION 5. Section 329-122, Hawaii Revised Statutes, is  
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) Notwithstanding any law to the contrary, the medical  
13 use of cannabis by a qualifying patient shall be permitted only  
14 if:

15 (1) The qualifying patient has been diagnosed by a  
16 physician, naturopathic physician, or advanced  
17 practice registered nurse as having a debilitating  
18 medical condition;

19 (2) The qualifying patient's physician, naturopathic  
20 physician, or advanced practice registered nurse has  
21 certified in writing that, in the physician's,



1           naturopathic physician's, or advanced practice  
2           registered nurse's professional opinion, the potential  
3           benefits of the medical use of cannabis would likely  
4           outweigh the health risks for the particular  
5           qualifying patient; and

6           (3) The amount of cannabis possessed by the qualifying  
7           patient does not exceed an adequate supply."

8           (b) Subsection (a) shall not apply to a qualifying patient  
9           under the age of eighteen years, unless:

10          (1) The qualifying patient's physician, naturopathic  
11          physicians, or advanced practice registered nurse has  
12          explained the potential risks and benefits of the  
13          medical use of cannabis to the qualifying patient and  
14          to a parent, guardian, or person having legal custody  
15          of the qualifying patient; and

16          (2) A parent, guardian, or person having legal custody  
17          consents in writing to:

18               (A) Allow the qualifying patient's medical use of  
19               cannabis;

20               (B) Serve as the qualifying patient's primary  
21               caregiver; and



1           (C) Control the acquisition of the cannabis, the  
 2           dosage, and the frequency of the medical use of  
 3           cannabis by the qualifying patient."

4           SECTION 6. Section 329-123, Hawaii Revised Statutes, is  
 5 amended by amending subsections (a) and (b) to read as follows:

6           "(a) Physicians, naturopathic physicians, or advanced  
 7 practice registered nurses who issue written certifications  
 8 shall provide, in each written certification, the name, address,  
 9 patient identification number, and other identifying information  
 10 of the qualifying patient. The department of health shall  
 11 require, in rules adopted pursuant to chapter 91, that all  
 12 written certifications comply with a designated form completed  
 13 by or on behalf of a qualifying patient. The form shall require  
 14 information from [~~the~~]:

- 15           (1) The applicant[~~7~~];
- 16           (2) The primary caregiver[~~7~~]; and
- 17           (3) The physician, naturopathic physician, or advanced  
 18           practice registered nurse, as specifically required or  
 19           permitted by this chapter.

20           The form shall require the address of the location where  
 21 the cannabis is grown and shall appear on the registry card



1 issued by the department of health. The certifying physician,  
2 naturopathic physician, or advanced practice registered nurse  
3 shall be required to have a bona fide physician-patient  
4 relationship, bona fide naturopathic physician-patient  
5 relationship, or bona fide advanced practice registered nurse-  
6 patient relationship, as applicable, with the qualifying  
7 patient. All current active medical cannabis permits shall be  
8 honored through their expiration date.

9 (b) Qualifying patients shall register with the department  
10 of health. The registration shall be effective until the  
11 expiration of the certificate issued by the department of health  
12 and signed by the physician, naturopathic physician, or advanced  
13 practice registered nurse. Every qualifying patient shall  
14 provide sufficient identifying information to establish the  
15 personal identities of the qualifying patient and the primary  
16 caregiver. Qualifying patients shall report changes in  
17 information within ten working days. Every qualifying patient  
18 shall have only one primary caregiver at any given time. The  
19 department of health shall issue to the qualifying patient a  
20 registration certificate, and shall charge \$35 per year."



1 SECTION 7. Section 329-126, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending its title to read:

4 "§329-126 Protections afforded to a treating physician,  
5 naturopathic physician, or advanced practice registered nurse."

6 2. By amending subsection (a) to read:

7 "(a) No physician, naturopathic physician, or advanced  
8 practice registered nurse shall be subject to arrest or  
9 prosecution, penalized in any manner, or denied any right or  
10 privilege for providing written certification for the medical  
11 use of cannabis for a qualifying patient; provided that:

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

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

20 (3) The written certification is based upon the  
21 physician's, naturopathic physician's, or advanced



1 practice registered nurse's professional opinion after  
 2 having completed a full assessment of the patient's  
 3 medical history and current medical condition made in  
 4 the course of a bona fide physician-patient  
 5 relationship, bona fide naturopathic physician-patient  
 6 relationship, or bona fide advanced practice  
 7 registered nurse-patient relationship, as applicable;  
 8 and

9 (4) The physician, naturopathic physician, or advanced  
 10 practice registered nurse has complied with the  
 11 registration requirements of section 329-123."

12 SECTION 8. Section 329-128, Hawaii Revised Statutes, is  
 13 amended by amending subsection (b) to read as follows:

14 "(b) Notwithstanding any law to the contrary, fraudulent  
 15 misrepresentation to a law enforcement official of any fact or  
 16 circumstance relating to the issuance of a written certificate  
 17 by a physician, naturopathic physician, or advanced practice  
 18 registered nurse not covered under section 329-126 for the  
 19 medical use of cannabis shall be a misdemeanor. This penalty  
 20 shall be in addition to any other penalties that may apply for  
 21 the non-medical use of cannabis."



1 SECTION 9. Section 455-1, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding two new definitions to be appropriately  
4 inserted and to read:

5 "Cannabis" shall have the same meaning as in section  
6 329-121.

7 "Medical use" with respect to cannabis shall have the same  
8 meaning as "medical use" as in section 329-121."

9 2. By amending the definition of "naturopathic formulary"  
10 to read:

11 "Naturopathic formulary" means vitamins, minerals, dietary  
12 supplements, botanical medicines, homeopathic medicines,  
13 hormones, ~~and~~ those legend drugs consistent with naturopathic  
14 medical practice[-], and cannabis for medical use; provided that  
15 the naturopathic formulary shall not include any narcotic drugs  
16 or other controlled substances, as defined in section 329-1."

17 SECTION 10. Section 455-11, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) In addition to any other actions authorized by law,  
20 the board shall have the power to deny, revoke, suspend, or  
21 refuse to renew any license to practice naturopathic medicine



1 applied for or issued by the board in accordance with this  
2 chapter, and to fine or otherwise discipline a licensee for any  
3 cause authorized by law, including but not limited to the  
4 following:

- 5 (1) Failing to meet or maintain the conditions and  
6 requirements necessary to qualify for the issuance of  
7 a license;
- 8 (2) Procuring, or aiding or abetting in procuring, a  
9 criminal abortion;
- 10 (3) Employing any person to solicit patients;
- 11 (4) Obtaining a fee on the assurance that a manifestly  
12 incurable disease can be permanently cured;
- 13 (5) Betraying a patient's confidence;
- 14 (6) Making any untruthful and improbable statement in  
15 advertising one's naturopathic practice or business;
- 16 (7) False, fraudulent, or deceptive advertising;
- 17 (8) Being habituated to the excessive use of drugs or  
18 alcohol; or being addicted to, dependent on, or an  
19 habitual user of a narcotic, barbiturate, amphetamine,  
20 hallucinogen, or other drug having similar effects;



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- 1           (9) Practicing naturopathic medicine while the ability to  
2           practice is impaired by alcohol, drug, physical  
3           disability, or mental instability;
- 4           (10) Procuring a license through fraud, misrepresentation,  
5           or deceit or knowingly permitting an unlicensed person  
6           to perform activities requiring a license;
- 7           (11) Professional misconduct or gross carelessness or  
8           manifest incapacity in the practice of naturopathic  
9           medicine;
- 10          (12) Conduct or practice contrary to recognized standard of  
11          ethics of the naturopathic profession;
- 12          (13) Using medical service or treatment which is  
13          inappropriate or unnecessary;
- 14          (14) Submitting to or filing with the board any notice,  
15          statement, or other document required under this  
16          chapter [~~which~~] that is false or untrue or contains  
17          any material misstatement of fact, including any false  
18          certification of compliance with the continuing  
19          education requirement specified under section 455-8;
- 20          (15) Failure to report to the board any disciplinary action  
21          taken against the licensee in another jurisdiction



- 1           within thirty days after the disciplinary action
- 2           becomes final;
- 3       (16) Using the title "physician" without clearly
- 4           identifying oneself as being a naturopathic physician;
- 5       (17) Prescribing, administering, and dispensing
- 6           naturopathic formulary that are not included in the
- 7           formulary established by the board under section 455-
- 8           6; [and]
- 9       (18) Violation of chapter 329, the uniform controlled
- 10           substances act, or any rule adopted thereunder, except
- 11           as provided in section 329-122; and
- 12       ~~(18)~~ (19) Violation of any provision of this chapter or
- 13           rules adopted under this chapter."

14       SECTION 11. This Act does not affect rights and duties  
 15 that matured, penalties that were incurred, and proceedings that  
 16 were begun before its effective date.

17       SECTION 12. Statutory material to be repealed is bracketed  
 18 and stricken. New statutory material is underscored.

19       SECTION 13. This Act shall take effect on July 1, 2021.

20

INTRODUCED BY: *Roseley H. Bell*



# S.B. NO. 1272

**Report Title:**

Medical Cannabis; Naturopathic Physicians; Written Certification

**Description:**

Authorizes naturopathic physicians with the same authority as physicians and advanced practice registered nurses in regards to providing written certifications to qualified patients for the medical use of cannabis.

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