

JAN 21 2022

A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1 SECTION 1. The legislature finds that real-world
2 experience in states around the country shows medical cannabis
3 to have numerous positive effects treating debilitating
4 conditions as well as chronic conditions, such as insomnia,
5 anxiety, stress, and other issues. Medical cannabis has been
6 demonstrated to positively help with these often-recurring
7 health issues, resulting in a better quality of life.

8 The legislature further finds that such conditions have
9 been broadly exacerbated by the pandemic, economic instability,
10 and increasing uncertainty in recent years. Accordingly, the
11 purpose of this Act is to make it easier for senior citizens to
12 access the state medical cannabis program.

13 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
14 amended by amending the definition of "qualifying patient" to
15 read as follows:

16 "Qualifying patient" means a person who has been diagnosed
17 by a physician or advanced practice registered nurse as having a



1 debilitating medical condition[?] or who has reached the age of
2 sixty-five."

3 SECTION 3. Section 329-122, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§329-122 Medical use of cannabis; conditions of use. (a)**

6 Notwithstanding any law to the contrary, the medical use of
7 cannabis by a qualifying patient shall be permitted only if:

- 8 (1) The qualifying patient has been diagnosed by a
9 physician or advanced practice registered nurse as
10 having a debilitating medical condition;
- 11 (2) The qualifying patient's physician or advanced
12 practice registered nurse has certified in writing
13 that, in the physician's or advanced practice
14 registered nurse's professional opinion, the potential
15 benefits of the medical use of cannabis would likely
16 outweigh the health risks for the particular
17 qualifying patient; and
- 18 (3) The amount of cannabis possessed by the qualifying
19 patient does not exceed an adequate supply.

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



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

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

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

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

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

(c) Subsection (a) shall not apply to a qualifying patient aged sixty-five or older.

~~[(e)]~~ (d) Notwithstanding any law to the contrary, the medical use of cannabis within the State by a qualifying out-of-state patient aged eighteen years or older legally authorized to use cannabis for medical purposes in another state, a United



1 States territory, or the District of Columbia shall be permitted
2 only if the qualifying out-of-state patient:

3 (1) Provides to the department of health a valid medical
4 use of cannabis card with an explicit expiration date
5 that has not yet passed from the issuing jurisdiction
6 and a valid photographic identification card or
7 driver's license issued by the same jurisdiction;

8 (2) Attests under penalty of law pursuant to section
9 710-1063 that the condition for which the qualifying
10 out-of-state patient is legally authorized to use
11 cannabis for medical purposes is a debilitating
12 medical condition as defined in section 329-121;

13 (3) Provides consent for the department of health to
14 obtain information from the qualifying out-of-state
15 patient's certifying medical provider and from the
16 entity that issued the medical cannabis card for the
17 purpose of allowing the department of health to verify
18 the information provided in the registration process;

19 (4) Pays the required fee for out-of-state registration to
20 use cannabis for medical purposes;



1 (5) Registers with the department of health pursuant to
2 section 329-123.5 to use cannabis for medical
3 purposes;

4 (6) Receives a medical cannabis registry card from the
5 department of health; and

6 (7) Abides by all laws relating to the medical use of
7 cannabis, including not possessing an amount of
8 cannabis that exceeds an adequate supply.

9 [~~(d)~~] (e) Notwithstanding any law to the contrary, the
10 medical use of cannabis by a qualifying out-of-state patient
11 under eighteen years of age shall only be permitted if:

12 (1) The caregiver of the qualifying out-of-state patient
13 provides the information required pursuant to
14 subsection (c); and

15 (2) The caregiver of the qualifying out-of-state patient
16 consents in writing to:

17 (A) Allow the qualifying out-of-state patient's
18 medical use of cannabis;

19 (B) Undertake the responsibility for managing the
20 well-being of the qualifying out-of-state patient



1 who is under eighteen years of age with respect
2 to the medical use of cannabis; and

3 (C) Control the acquisition of the cannabis, the
4 dosage, and the frequency of the medical use of
5 cannabis by the qualifying out-of-state patient
6 who is under eighteen years of age.

7 ~~[(e)]~~ (f) The authorization for the medical use of
8 cannabis in this section shall not apply to:

9 (1) The medical use of cannabis that endangers the health
10 or well-being of another person;

11 (2) The medical use of cannabis:

12 (A) In a school bus, public bus, or any moving
13 vehicle;

14 (B) In the workplace of one's employment;

15 (C) On any school grounds;

16 (D) At any public park, public beach, public
17 recreation center, recreation or youth center; or

18 (E) At any other place open to the public; provided
19 that a qualifying patient, primary caregiver,
20 qualifying out-of-state patient, caregiver of a
21 qualifying out-of-state patient, or an owner or



1 employee of a medical cannabis dispensary
2 licensed under chapter 329D shall not be
3 prohibited from transporting cannabis or any
4 manufactured cannabis product, as that term is
5 defined in section 329D-1, in any public place;
6 provided further that the cannabis or
7 manufactured cannabis product shall be
8 transported in a sealed container, not be visible
9 to the public, and shall not be removed from its
10 sealed container or consumed or used in any way
11 while it is in the public place; and

12 (3) The use of cannabis by a qualifying patient, parent,
13 primary caregiver, qualifying out-of-state patient, or
14 caregiver of a qualifying out-of-state patient, for
15 purposes other than medical use permitted by this
16 part.

17 [~~(f)~~] (g) For the purposes of this section, "transport"
18 means the transportation of cannabis, usable cannabis, or any
19 manufactured cannabis product between:

20 (1) A qualifying patient and the qualifying patient's
21 primary caregiver;



(2) A qualifying out-of-state patient under eighteen years of age and the caregiver of a qualifying out-of-state patient;

(3) The production centers and the retail dispensing locations under a dispensary licensee's license; or

(4) A production center, retail dispensing location, qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient and a certified laboratory for the purpose of laboratory testing; provided that a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may only transport up to one gram of cannabis per test to a certified laboratory for laboratory testing and may only transport the product if the qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient:

(A) Secures an appointment for testing at a certified laboratory;



- 1 (B) Obtains confirmation, which may be electronic,
2 that includes the specific time and date of the
3 appointment and a detailed description of the
4 product and amount to be transported to the
5 certified laboratory for the appointment; and
6 (C) Has the confirmation, which may be electronic,
7 available during transport.

8 For purposes of interisland transportation, "transport" of
9 cannabis, usable cannabis, or any manufactured cannabis product,
10 by any means is allowable only between a production center or
11 retail dispensing location and a certified laboratory for the
12 sole purpose of laboratory testing pursuant to section 329D-8,
13 as permitted under section 329D-6(m) and subject to section
14 329D-6(j), and with the understanding that state law and its
15 protections do not apply outside of the jurisdictional limits of
16 the State. Allowable transport pursuant to this section does
17 not include interisland transportation by any means or for any
18 purpose between a qualified patient, primary caregiver,
19 qualifying out-of-state patient, or caregiver of a qualifying
20 out-of-state patient and any other entity or individual,
21 including an individual who is a qualified patient, primary



1 caregiver, qualifying out-of-state patient, or caregiver of a
2 qualifying out-of-state patient."

3 SECTION 4. Section 329D-7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§329D-7 Medical cannabis dispensary rules. The
6 department shall establish standards with respect to:

7 (1) The number of medical cannabis dispensaries that shall
8 be permitted to operate in the State;

9 (2) A fee structure for the submission of applications and
10 renewals of licenses to dispensaries; provided that
11 the department shall consider the market conditions in
12 each county in determining the license renewal fee
13 amounts;

14 (3) Criteria and procedures for the consideration and
15 selection, based on merit, of applications for
16 licensure of dispensaries; provided that the criteria
17 shall include but not be limited to an applicant's:

18 (A) Ability to operate a business;

19 (B) Financial stability and access to financial
20 resources; provided that applicants for medical
21 cannabis dispensary licenses shall provide



1 documentation that demonstrates control of not
2 less than \$1,000,000 in the form of escrow
3 accounts, letters of credit, surety bonds, bank
4 statements, lines of credit or the equivalent to
5 begin operating the dispensary;

6 (C) Ability to comply with the security requirements
7 developed pursuant to paragraph (6);

8 (D) Capacity to meet the needs of qualifying patients
9 and qualifying out-of-state patients;

10 (E) Ability to comply with criminal background check
11 requirements developed pursuant to paragraph (8);
12 and

13 (F) Ability to comply with inventory controls
14 developed pursuant to paragraph (13);

15 (4) Specific requirements regarding annual audits and
16 reports required from each production center and
17 dispensary licensed pursuant to this chapter;

18 (5) Procedures for announced and unannounced inspections
19 by the department or its agents of production centers
20 and dispensaries licensed pursuant to this chapter;



1 provided that inspections for license renewals shall
2 be unannounced;

3 (6) Security requirements for the operation of production
4 centers and retail dispensing locations; provided
5 that, at a minimum, the following shall be required:

6 (A) For production centers:

7 (i) Video monitoring and recording of the
8 premises; provided that recordings shall be
9 retained for fifty days;

10 (ii) Fencing that surrounds the premises and that
11 is sufficient to reasonably deter intruders
12 and prevent anyone outside the premises from
13 viewing any cannabis in any form;

14 (iii) An alarm system; and

15 (iv) Other reasonable security measures to deter
16 or prevent intruders, as deemed necessary by
17 the department;

18 (B) For retail dispensing locations:

19 (i) Presentation of a valid government-issued
20 photo identification and a valid
21 identification as issued by the department



1 pursuant to section 329-123 by a qualifying
2 patient or caregiver, or section 329-123.5
3 by a qualifying out-of-state patient or
4 caregiver of a qualifying out-of-state
5 patient, upon entering the premises;

6 (ii) Video monitoring and recording of the
7 premises; provided that recordings shall be
8 retained for fifty days;

9 (iii) An alarm system;

10 (iv) Exterior lighting; and

11 (v) Other reasonable security measures as deemed
12 necessary by the department;

13 (7) Security requirements for the transportation of
14 cannabis and manufactured cannabis products between
15 production centers and retail dispensing locations and
16 between a production center, retail dispensing
17 location, qualifying patient, primary caregiver,
18 qualifying out-of-state patient, or caregiver of a
19 qualifying out-of-state patient and a certified
20 laboratory, pursuant to section [~~329-122(f)~~], 329-
21 122(g);



(8) Standards and criminal background checks to ensure the reputable and responsible character and fitness of all license applicants, licensees, employees, subcontractors and their employees, and prospective employees of medical cannabis dispensaries to operate a dispensary; provided that the standards, at a minimum, shall exclude from licensure or employment any person convicted of any felony;

(9) The training and certification of operators and employees of production centers and dispensaries;

(10) The types of manufactured cannabis products that dispensaries shall be authorized to manufacture and sell pursuant to sections 329D-9 and 329D-10;

(11) Laboratory standards related to testing cannabis and manufactured cannabis products for content, contamination, and consistency;

(12) The quantities of cannabis and manufactured cannabis products that a dispensary may sell or provide to a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient; provided that no dispensary shall sell



1 or provide to a qualifying patient, primary caregiver,
2 qualifying out-of-state patient, or caregiver of a
3 qualifying out-of-state patient any combination of
4 cannabis and manufactured products that:

5 (A) During a period of fifteen consecutive days,
6 exceeds the equivalent of four ounces of
7 cannabis; or

8 (B) During a period of thirty consecutive days,
9 exceeds the equivalent of eight ounces of
10 cannabis;

11 (13) Dispensary and production center inventory controls to
12 prevent the unauthorized diversion of cannabis or
13 manufactured cannabis products or the distribution of
14 cannabis or manufactured cannabis products to a
15 qualifying patient, primary caregiver, qualifying out-
16 of-state patient, or caregiver of a qualifying out-of-
17 state patient in quantities that exceed limits
18 established by this chapter; provided that the
19 controls, at a minimum, shall include:

20 (A) A computer software tracking system as specified
21 in section 329D-6(j) and (k); and



(B) Product packaging standards sufficient to allow law enforcement personnel to reasonably determine the contents of an unopened package;

(14) Limitation to the size or format of signs placed outside a retail dispensing location or production center; provided that the signage limitations, at a minimum, shall comply with section 329D-6(o)(2) and shall not include the image of a cartoon character or other design intended to appeal to children;

(15) The disposal or destruction of unwanted or unused cannabis and manufactured cannabis products;

(16) The enforcement of the following prohibitions against:

(A) The sale or provision of cannabis or manufactured cannabis products to unauthorized persons;

(B) The sale or provision of cannabis or manufactured cannabis products to a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient in quantities that exceed limits established by this chapter;



(C) Any use or consumption of cannabis or manufactured cannabis products on the premises of a retail dispensing location or production center; and

(D) The distribution of cannabis or manufactured cannabis products, for free, on the premises of a retail dispensing location or production center;

(17) The establishment of a range of penalties for violations of this chapter or rule adopted thereto; and

(18) A process to recognize and register patients who are authorized to purchase, possess, and use medical cannabis in another state, a United States territory, or the District of Columbia as qualifying out-of-state patients; provided that this registration process may commence no sooner than January 1, 2018."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY: _____



S.B. NO. 2718

Report Title:

Medical Cannabis; Qualifying Patient; Elderly

Description:

Exempts any person who has reached the age of sixty-five from the requirement of having a debilitating medical condition to be eligible for the use of medical cannabis.

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

