
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 to improve access is to expand the scope for professionals who
5 may provide written certification for qualifying patients to use
6 medical cannabis. The legislature further finds that, as
7 determined by the state board of naturopathic medicine, it is
8 within the scope of naturopathic practice to manage patient's
9 medical cannabis use. Naturopathic physicians are considered
10 primary care providers in Hawaii, and there are many patients in
11 the State whose primary care provider is a naturopathic
12 physician.

13 Accordingly, the purpose of this Act is to improve patient
14 access to medical cannabis by authorizing naturopathic
15 physicians to provide written certifications to qualifying
16 patients for the medical use of cannabis.



1 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
2 amended as follows:

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

5 "Distant site" means the location of the physician,
6 naturopathic physician, or advanced practice registered nurse
7 delivering services through telehealth at the time the services
8 are provided.

9 "Naturopathic physician" means a person who holds a current
10 license to practice naturopathic medicine under chapter 455.

11 "Originating site" means the location where the patient is
12 located, whether accompanied or not by a health care provider,
13 at the time services are provided by a physician, naturopathic
14 physician, or advanced practice registered nurse through
15 telehealth, including but not limited to a physician's,
16 naturopathic physician's, nurse's, or other health care
17 provider's office, hospital, health care facility, a patient's
18 home, and other non-medical environments such as school-based
19 health centers, university-based health centers, or the work
20 location of a patient.



1 "Telehealth" means the use of telecommunications, as that
2 term is defined in section 269-1, to encompass four modalities:
3 store and forward technologies, remote monitoring, live
4 consultation, and mobile health; and which shall include but not
5 be limited to real-time video conferencing-based communication,
6 and secure asynchronous information exchange, to transmit
7 patient medical information, including diagnostic-quality
8 digital images and laboratory results for medical interpretation
9 and diagnosis, for the purposes of delivering enhanced health
10 care services and information, as appropriate to the
11 practitioner's scope of practice described in chapter 453, 455,
12 or 457, while a patient is at an originating site and the
13 physician, naturopathic physician, or advanced practice
14 registered nurse is at a distant site; establishing a physician-
15 patient, naturopathic physician-patient, or advanced practice
16 registered nurse-patient relationship; evaluating a patient; or
17 treating a patient."

18 2. By amending the definition of "advanced practice
19 registered nurse" to read:

20 "Advanced practice registered nurse" means [a] a person
21 who holds a current license to practice nursing as an advanced



1 practice registered nurse [~~with prescriptive authority as~~
2 ~~described in section 457-8.6 and registered under section 329-~~
3 ~~32-]~~ under chapter 457."

4 3. By amending the definition of "debilitating medical
5 condition" to read:

6 ""Debilitating medical condition" means:

7 (1) Cancer, glaucoma, lupus, epilepsy, multiple sclerosis,
8 rheumatoid arthritis, positive status for human
9 immunodeficiency virus, acquired immune deficiency
10 syndrome, or the treatment of these conditions;

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

14 (A) Cachexia or wasting syndrome;

15 (B) Severe pain;

16 (C) Severe nausea;

17 (D) Seizures, including those characteristic of
18 epilepsy;

19 (E) Severe and persistent muscle spasms, including
20 those characteristic of multiple sclerosis or
21 Crohn's disease; or



1 (F) Post-traumatic stress disorder; or
2 (3) Any other medical condition approved by the department
3 of health pursuant to administrative rules in response
4 to a request from a physician, naturopathic physician,
5 or advanced practice registered nurse or potentially
6 qualifying patient."

7 4. By amending the definitions of "physician" and "primary
8 caregiver" to read:

9 ""Physician" means a person who [~~is licensed~~] holds a
10 current license to practice medicine under chapter 453 [~~and is~~
11 ~~licensed with authority to prescribe drugs and is registered~~
12 ~~under section 329-32~~]. "Physician" does not include a physician
13 assistant as described in section 453-5.3.

14 "Primary caregiver" means a person eighteen years of age or
15 older, other than the qualifying patient and the qualifying
16 patient's physician, naturopathic physician, or advanced
17 practice registered nurse, who has agreed to undertake
18 responsibility for managing the well-being of the qualifying
19 patient with respect to the medical use of cannabis. In the
20 case of a minor or an adult lacking legal capacity, the primary



1 caregiver shall be a parent, guardian, or person having legal
2 custody."

3 5. By amending the definition of "qualifying patient" to
4 read:

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

8 6. By amending the definition of "written certification"
9 to read:

10 ""Written certification" means the qualifying patient's
11 medical records or a statement signed by a qualifying patient's
12 physician, naturopathic physician, or advanced practice
13 registered nurse, stating that in the physician's, naturopathic
14 physician's, or advanced practice registered nurse's
15 professional opinion, the qualifying patient has a debilitating
16 medical condition and the potential benefits of the medical use
17 of cannabis would likely outweigh the health risks for the
18 qualifying patient. The department of health may require,
19 through its rulemaking authority, that all written
20 certifications comply with a designated form. "Written
21 certifications" are valid for one year from the time of signing;



1 provided that the department of health may allow for the
2 validity of any written certification for up to three years if
3 the qualifying patient's physician, naturopathic physician, or
4 advanced practice registered nurse states that the patient's
5 debilitating medical condition is chronic in nature."

6 SECTION 3. Section 329-122, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

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

11 (1) The qualifying patient has been diagnosed by a
12 physician, naturopathic physician, or advanced
13 practice registered nurse as having a debilitating
14 medical condition;

15 (2) The qualifying patient's physician, naturopathic
16 physician, or advanced practice registered nurse has
17 obtained a registration issued by the department of
18 public safety under section 329-32;

19 [~~2~~] (3) 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)]~~ (4) The amount of cannabis possessed by the
7 qualifying 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 physician, 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 4. 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 applicant, primary caregiver, and
15 physician, naturopathic physician, or advanced practice
16 registered nurse as specifically required or permitted by this
17 chapter. The form shall require the address of the location
18 where the cannabis is grown and shall appear on the registry
19 card issued by the department of health. The certifying
20 physician, naturopathic physician, or advanced practice
21 registered nurse shall be required to have a bona fide



1 physician-patient relationship, bona fide naturopathic
2 physician-patient relationship, or bona fide advanced practice
3 registered nurse-patient relationship, as applicable, with the
4 qualifying patient. All current active medical cannabis permits
5 shall be honored through their expiration date.

6 (b) Qualifying patients shall register with the department
7 of health. The registration shall be effective until the
8 expiration of the certificate issued by the department of health
9 and signed by the physician, naturopathic physician, or advanced
10 practice registered nurse. Every qualifying patient shall
11 provide sufficient identifying information to establish the
12 personal identities of the qualifying patient and the primary
13 caregiver. Qualifying patients shall report changes in
14 information within ten working days. Every qualifying patient
15 shall have only one primary caregiver at any given time. The
16 department of health shall issue to the qualifying patient a
17 registration certificate and may charge a fee for the
18 certificate in an amount adopted by rules pursuant to chapter
19 91."

20 SECTION 5. Section 329-126, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§329-126 **Protections afforded to a treating physician,**
2 **naturopathic physician, or advanced practice registered nurse.**

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

8 (1) The physician, naturopathic physician, or advanced
9 practice registered nurse has diagnosed the patient as
10 having a debilitating medical condition, as defined in
11 section 329-121;

12 (2) The physician, naturopathic physician, or advanced
13 practice registered nurse has explained the potential
14 risks and benefits of the medical use of cannabis, as
15 required under section 329-122;

16 (3) The written certification is based upon the
17 physician's, naturopathic physician's, or advanced
18 practice registered nurse's professional opinion after
19 having completed a full assessment of the patient's
20 medical history and current medical condition made in
21 the course of a bona fide physician-patient



1 relationship, bona fide naturopathic physician-patient
2 relationship, or bona fide advanced practice
3 registered nurse-patient relationship, as applicable;
4 and

5 (4) The physician, naturopathic physician, or advanced
6 practice registered nurse has complied with the
7 registration requirements of section 329-123.

8 (b) For purposes of this section, a bona fide physician-
9 patient relationship, [~~may be established via telehealth, as~~
10 ~~defined in section 453-1.3(j), and a]~~ bona fide naturopathic
11 physician-patient relationship, or bona fide advanced practice
12 registered nurse-patient relationship may be established via
13 telehealth[~~, as defined in section 457-2~~]; provided that
14 treatment recommendations that include certifying a patient for
15 the medical use of cannabis via telehealth shall be allowed only
16 after an initial in-person consultation between the certifying
17 physician, naturopathic physician, or advanced practice
18 registered nurse and the patient."

19 SECTION 6. Section 329-128, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



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1 "(b) Notwithstanding any law to the contrary, fraudulent
2 misrepresentation to a law enforcement official of any fact or
3 circumstance relating to the issuance of a written certificate
4 by a physician, naturopathic physician, or advanced practice
5 registered nurse not covered under section 329-126 for the
6 medical use of cannabis shall be a misdemeanor. This penalty
7 shall be in addition to any other penalties that may apply for
8 the non-medical use of cannabis."

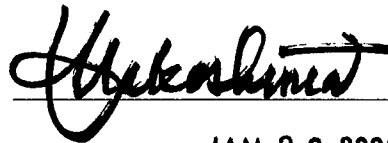
9 SECTION 7. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

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

14 SECTION 9. This Act shall take effect on July 1, 2023.

15

INTRODUCED BY:



JAN 20 2023



H.B. NO. 516

Report Title:

Naturopathic Physicians; Medical Use of Cannabis; Authorization; Telehealth

Description:

Authorizes naturopathic physicians to provide written certification to qualifying patients for the medical use of cannabis. Clarifies provisions regarding the establishment of bona fide physician-patient, naturopathic physician-patient, and advanced practice registered nurse-patient relationships via telehealth.

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