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# A BILL FOR AN ACT

RELATING TO MENTAL HEALTH TREATMENT.

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

1           SECTION 1. The legislature finds that, in clinical trials,  
2 psilocybin has shown promising potential for treating mental  
3 health conditions. Research suggests that psilocybin may be  
4 effective in reducing symptoms and improving outcomes for  
5 conditions, such as depression, anxiety, post-traumatic stress  
6 disorder, and addiction. Studies have demonstrated psilocybin's  
7 ability to induce profound and transformative experiences,  
8 leading to increased neural plasticity and psychological  
9 flexibility, reduced depressive and anxious states, and enhanced  
10 emotional processing. There is sufficient medical and anecdotal  
11 evidence to support the proposition that these conditions may  
12 respond favorably to the regulated and therapeutic use of  
13 psilocybin.

14           The legislature understands that scientific evidence on the  
15 medicinal benefits of psilocybin should be recognized. The  
16 legislature further recognizes that the Federal Drug  
17 Administration has twice granted psilocybin breakthrough therapy



1 designation in 2018 and 2019 for mental health treatments and  
2 will likely approve the medical use of psilocybin for treatment-  
3 resistant depression and other ailments in the next few years.  
4 Additionally, a number of states are already taking the  
5 initiative to license and regulate the use of psilocybin for  
6 medical and wellness purposes. Voter initiatives permitting the  
7 medical use of psilocybin have passed in Colorado and Oregon,  
8 and current complementary state initiatives are being considered  
9 in California, Connecticut, Illinois, Iowa, Kentucky, Maine,  
10 Massachusetts, Missouri, Montana, Nevada, New Hampshire, New  
11 York, Vermont, Virginia, Washington, and the District of  
12 Columbia. Bills to create task forces, committees, or working  
13 groups, along with bills to authorize research on psilocybin  
14 have been created in many more states.

15       Accordingly, the purpose of this Act is to ensure that  
16 people who struggle with trauma and treatment-resistant mental  
17 health ailments are not penalized by the State for the use of  
18 psilocybin for therapeutic purposes when the qualifying  
19 patient's licensed medical professional provides a professional  
20 recommendation that the benefits of therapeutic use of



1 psilocybin would likely outweigh the health risks for the  
2 qualifying patient.

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

6 "PART . THERAPEUTIC USE OF PSILOCYBIN

7 §329-A Definitions. As used in this part:

8 "Administration session" means a session during which a  
9 qualifying patient purchases, consumes, and experiences the  
10 effects of psilocybin under the supervision of a facilitator.

11 "Debilitating mental health condition" includes:

- 12 (1) Addiction;
- 13 (2) Anorexia, bulimia, and other eating disorders;
- 14 (3) End-of-life anxiety, existential stress, and  
15 demoralization;
- 16 (4) Obsessive compulsive disorder;
- 17 (5) Post-traumatic stress disorder;
- 18 (6) Treatment-resistant depression or major depressive  
19 disorder; and
- 20 (7) Any other mental health condition approved by the  
21 department of health pursuant to rules adopted in



1 response to a request from a potential qualifying  
2 patient or licensed medical professional.

3 "Facilitator" means an individual who facilitates the  
4 administration of psilocybin to one or more qualifying patients  
5 in the State.

6 "Integration session" means a meeting between a qualifying  
7 patient and facilitator in which the facilitator provides  
8 ongoing care to the qualifying patient and informs the  
9 qualifying patient about additional peer support and other  
10 resources.

11 "Licensed medical professional" includes physicians,  
12 including psychiatrists, licensed under chapter 453 and advanced  
13 practice registered nurses or clinical nurse specialists  
14 licensed under chapter 457 with prescriptive authority.

15 "Preparation session" means a meeting between a qualifying  
16 patient and facilitator that occurs before the qualifying  
17 patient participates in an administration session.

18 "Primary caregiver" means a person eighteen years of age or  
19 older, other than the qualifying patient and the qualifying  
20 patient's licensed medical professional, who has agreed to  
21 undertake responsibility for managing the well-being of the



1 qualifying patient with respect to the therapeutic use of  
2 psilocybin. In the case of a minor or an adult lacking legal  
3 capacity, the primary caregiver shall be a parent, guardian, or  
4 person having legal custody.

5 "Psilocybin" includes psilocin.

6 "Qualifying patient" means a person who has been identified  
7 by a licensed medical professional as having a debilitating  
8 mental health condition.

9 "Therapeutic use" means the acquisition, possession,  
10 cultivation, use, distribution, or transportation of psilocybin,  
11 psilocybin derivatives, or paraphernalia relating to the  
12 administration of psilocybin to alleviate the symptoms or  
13 effects of a qualifying patient's debilitating mental health  
14 condition. As used in this definition, "distribution" means the  
15 transfer of psilocybin, psilocybin derivatives, and psilocybin  
16 paraphernalia from the primary caregiver or facilitator to the  
17 qualifying patient.

18 "Written certification" means the qualifying patient's  
19 medical records or a statement signed by a qualifying patient's  
20 licensed medical professional, stating that in the licensed  
21 medical professional's professional opinion, the qualifying



1 patient has a debilitating mental health condition and the  
2 potential benefits of the therapeutic use of psilocybin would  
3 likely outweigh the health risks for the qualifying patient.

4 **§329-B Therapeutic use of psilocybin; conditions of use.**

5 (a) Notwithstanding any law to the contrary, the therapeutic  
6 use of psilocybin by a qualifying patient shall be permitted  
7 only if:

8 (1) The qualifying patient has been identified by a  
9 licensed medical professional as having a debilitating  
10 mental health condition;

11 (2) The qualifying patient's licensed medical professional  
12 has issued a written certification authorized under  
13 this part to the qualifying patient; and

14 (3) The amount of psilocybin to be administered does not  
15 exceed five grams per session.

16 (b) The authorization for the therapeutic use of  
17 psilocybin in this section shall not apply to:

18 (1) The therapeutic use of psilocybin that endangers the  
19 health or well-being of another person;

20 (2) The therapeutic use of psilocybin:



- 1 (A) In a school bus, public bus, or any moving
- 2 vehicle;
- 3 (B) In the workplace of one's employment;
- 4 (C) On any school grounds;
- 5 (D) At any public park, public beach, or recreation
- 6 or youth center; or
- 7 (E) At any other place open to the public; and
- 8 (3) The use of psilocybin by a qualifying patient or
- 9 primary caregiver for purposes other than therapeutic
- 10 use permitted by this chapter.
- 11 (c) Each qualifying patient shall have only one primary
- 12 caregiver at any given time and each primary caregiver shall be
- 13 responsible for the care of only one qualifying patient at any
- 14 given time.
- 15 (d) Each qualifying patient shall attend a preparation
- 16 session before attending any administration session or
- 17 integration session. After completion of the preparation
- 18 session and administration session, the applicable facilitator
- 19 shall offer to provide the qualifying patient with an
- 20 integration session; provided that nothing in this subsection



1 shall be construed as requiring the qualifying patient to  
2 participate in an integration session.

3 (e) The qualifying patient shall determine the location at  
4 which the preparation session, administration session, and  
5 integration session shall be held; provided that in making this  
6 determination, the qualifying patient may seek guidance from the  
7 facilitator.

8 **§329-C Written certification; validity.** Each written  
9 certification issued pursuant to this part shall be valid for  
10 one year from the date of signing by the qualifying patient's  
11 licensed medical professional.

12 **§329-D Insurance requirements.** Nothing in this part shall  
13 be construed as requiring insurance coverage for the therapeutic  
14 use of psilocybin.

15 **§329-E Facilitator eligibility requirements.** Each  
16 facilitator shall:

- 17 (1) Be twenty-one years of age or older;  
18 (2) Have received a high school diploma or equivalent  
19 degree;



- 1 (3) Complete a psychedelic integration training program  
2 having a curriculum approved by the office of wellness  
3 and resilience;
- 4 (4) Be a resident of the State; and
- 5 (5) Support each qualifying patient during the three  
6 components of psilocybin services, including a  
7 preparation session, an administration session, and an  
8 integration session without directing the qualifying  
9 patient's experience; provided that nothing in this  
10 section shall be construed as requiring the  
11 facilitator to be physically present for the  
12 administration of psilocybin to the applicable  
13 qualifying patient.

14 **§329-F Qualifying patient or primary caregiver**  
15 **protections.** (a) Each qualifying patient or primary caregiver  
16 may assert the therapeutic use of psilocybin as an affirmative  
17 defense to any prosecution involving psilocybin under this  
18 chapter or chapter 712; provided that the qualifying patient or  
19 primary caregiver shall have complied with the requirements of  
20 this part.



1 (b) No qualifying patient or primary caregiver who fails  
2 to comply with the scope of the therapeutic use of psilocybin  
3 permitted under this part shall be afforded the protections  
4 against searches and seizures pertaining to the misapplication  
5 of the therapeutic use of psilocybin.

6 (c) No person shall be subject to arrest or prosecution  
7 solely for being in the presence or vicinity of any therapeutic  
8 use of psilocybin permitted under this part.

9 **§329-G Licensed medical professional protections.** No  
10 licensed medical professional shall be subject to arrest or  
11 prosecution, penalized in any manner, or denied any right or  
12 privilege for providing a written certification for the  
13 therapeutic use of psilocybin for a qualifying patient; provided  
14 that:

15 (1) The licensed medical professional has diagnosed the  
16 qualifying patient as having a debilitating mental  
17 health condition;

18 (2) The licensed medical professional has explained the  
19 potential risks and benefits of the therapeutic use of  
20 psilocybin; and



1           (3) The written certification was based upon the licensed  
2           medical professional's professional opinion after  
3           having completed a full assessment of the qualifying  
4           patient's mental health history and current mental  
5           health condition made in the course of a bona fide  
6           health care provider-patient relationship.

7           **§329-H Seized property.** (a) Any psilocybin, psilocybin  
8           paraphernalia, or other property seized from a qualifying  
9           patient or primary caregiver in connection with a claimed  
10          therapeutic use of psilocybin under this part shall be returned  
11          immediately upon the determination by a court that the  
12          qualifying patient or primary caregiver is entitled to the  
13          protections of this part, as evidenced by a decision not to  
14          prosecute, a dismissal of charges, or an acquittal.

15          (b) Any law enforcement agency that seizes any live plants  
16          or fungi as evidence shall not be responsible for the care and  
17          maintenance of the plants or fungi.

18          **§329-I Fraudulent misrepresentation; penalty.** (a)  
19          Notwithstanding any law to the contrary, fraudulent  
20          misrepresentation to a law enforcement official of any fact or  
21          circumstance relating to:



1 (1) The therapeutic use of psilocybin to avoid arrest or  
2 prosecution under this part or chapter 712 shall be a  
3 petty misdemeanor and subject to a fine of \$500; and

4 (2) The issuance of a written certification for the  
5 therapeutic use of psilocybin by a licensed medical  
6 professional that is not in compliance with this part  
7 shall be a misdemeanor; provided that this penalty  
8 shall be in addition to any other penalties that may  
9 apply for the non-therapeutic use of psilocybin.

10 (b) Nothing in this section shall be construed as  
11 precluding the conviction of any person for any offense under  
12 part V of chapter 710."

13 SECTION 3. Section 453-8, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15 "(a) In addition to any other actions authorized by law,  
16 any license to practice medicine and surgery may be revoked,  
17 limited, or suspended by the board at any time in a proceeding  
18 before the board, or may be denied, for any cause authorized by  
19 law, including but not limited to the following:

20 (1) Procuring, or aiding or abetting in procuring, an  
21 abortion that is unlawful under the laws of this State



- 1 or that would be unlawful under the laws of this State  
2 if performed within this State;
- 3 (2) Employing any person to solicit patients for one's  
4 self;
- 5 (3) Engaging in false, fraudulent, or deceptive  
6 advertising, including but not limited to:
- 7 (A) Making excessive claims of expertise in one or  
8 more medical specialty fields;
- 9 (B) Assuring a permanent cure for an incurable  
10 disease; or
- 11 (C) Making any untruthful and improbable statement in  
12 advertising one's medical or surgical practice or  
13 business;
- 14 (4) Being habituated to the excessive use of drugs or  
15 alcohol; or being addicted to, dependent on, or a  
16 habitual user of a narcotic, barbiturate, amphetamine,  
17 hallucinogen, or other drug having similar effects;
- 18 (5) Practicing medicine while the ability to practice is  
19 impaired by alcohol, drugs, physical disability, or  
20 mental instability;



- 1 (6) Procuring a license through fraud, misrepresentation,  
2 or deceit, or knowingly permitting an unlicensed  
3 person to perform activities requiring a license;
- 4 (7) Professional misconduct, hazardous negligence causing  
5 bodily injury to another, or manifest incapacity in  
6 the practice of medicine or surgery;
- 7 (8) Incompetence or multiple instances of negligence,  
8 including but not limited to the consistent use of  
9 medical service, [~~which~~] that is inappropriate or  
10 unnecessary;
- 11 (9) Conduct or practice contrary to recognized standards  
12 of ethics of the medical profession as adopted by the  
13 Hawaii Medical Association, the American Medical  
14 Association, the Hawaii Association of Osteopathic  
15 Physicians and Surgeons, or the American Osteopathic  
16 Association;
- 17 (10) Violation of the conditions or limitations upon which  
18 a limited or temporary license is issued;
- 19 (11) Revocation, suspension, or other disciplinary action  
20 by another state or federal agency of a license,  
21 certificate, or medical privilege, except when the



1 revocation, suspension, or other disciplinary action  
2 was based on the provision or assistance in receipt or  
3 provision of medical, surgical, pharmaceutical,  
4 counseling, or referral services relating to the human  
5 reproductive system, including but not limited to  
6 services relating to pregnancy, contraception, or the  
7 termination of a pregnancy, so long as the provision  
8 or assistance in receipt or provision of the services  
9 was in accordance with the laws of this State or would  
10 have been in accordance with the laws of this State if  
11 it occurred within this State;

12 (12) Conviction, whether by nolo contendere or otherwise,  
13 of a penal offense substantially related to the  
14 qualifications, functions, or duties of a physician or  
15 osteopathic physician, notwithstanding any statutory  
16 provision to the contrary, except when the conviction  
17 was based on the provision or assistance in receipt or  
18 provision of medical, surgical, pharmaceutical,  
19 counseling, or referral services relating to the human  
20 reproductive system, including but not limited to  
21 services relating to pregnancy, contraception, or the



1 termination of a pregnancy, so long as the provision  
2 or assistance in receipt or provision of the services  
3 was in accordance with the laws of this State or would  
4 have been in accordance with the laws of this State if  
5 it occurred within this State;

6 (13) Violation of chapter 329, the uniform controlled  
7 substances act, or any rule adopted thereunder except  
8 as provided in [~~section~~] sections 329-122[+] and  
9 329-B;

10 (14) Failure to report to the board, in writing, any  
11 disciplinary decision issued against the licensee or  
12 the applicant in another jurisdiction within thirty  
13 days after the disciplinary decision is issued; or

14 (15) 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 or omission of fact."

18 SECTION 4. Section 712-1240.1, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§712-1240.1 Defense to promoting.** (1) It [~~is~~] shall be  
21 a defense to prosecution for any offense defined in this part



1 that the person who possessed or distributed the dangerous[7]  
2 drug, harmful[7] drug, or detrimental drug did so under  
3 authority of law as a practitioner, as an ultimate user of the  
4 drug pursuant to a lawful prescription, or as a person otherwise  
5 authorized by law.

6 (2) It [~~is~~] shall be an affirmative defense to prosecution  
7 for any marijuana-related offense defined in this part that the  
8 person who possessed or distributed the marijuana was authorized  
9 to possess or distribute the marijuana for medical purposes  
10 pursuant to part IX of chapter 329.

11 (3) It shall be an affirmative defense to prosecution for  
12 any offense in this part that the person who possessed or  
13 distributed the psilocybin was authorized to possess or  
14 distribute the psilocybin for therapeutic use pursuant to  
15 part \_\_\_\_\_ of chapter 329."

16 SECTION 5. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19 SECTION 6. If any provision of this Act, or the  
20 application thereof to any person or circumstance, is held  
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 7. In codifying the new sections added by  
5 section 2 of this Act, the revisor of statutes shall substitute  
6 appropriate section numbers for the letters used in designating  
7 the new sections in this Act.

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

10 SECTION 9. This Act shall take effect on July 1, 3000.



**Report Title:**

Psilocybin; Therapeutic Uses; Authorization

**Description:**

Authorizes, and establishes a regulatory framework for, the administration of psilocybin for therapeutic use. Effective 7/1/3000. (HD2)

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