
A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1 SECTION 1. Section 329-121, Hawaii Revised Statutes, is
2 amended by amending the definition of "written certification" to
3 read as follows:
4 "Written certification" means the qualifying patient's
5 medical records or a statement signed by a qualifying patient's
6 physician or advanced practice registered nurse, stating that in
7 the physician's or advanced practice registered nurse's
8 professional opinion, the qualifying patient has a debilitating
9 medical condition and the potential benefits of the medical use
10 of cannabis would likely outweigh the health risks for the
11 qualifying patient. The department of health may require,
12 through its rulemaking authority, that all written
13 certifications comply with a designated form. "Written
14 certifications" are valid for one year from the time of signing;
15 provided that the department of health may allow for the
16 validity of any written certification for ~~up to~~ three years if
17 the qualifying patient's physician or advanced practice



1 registered nurse states that the patient's debilitating medical
2 condition is chronic in nature."

3 SECTION 2. Section 329-123, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Physicians or advanced practice registered nurses who
6 issue written certifications shall provide, in each written
7 certification, the name, address, patient identification number,
8 and other identifying information of the qualifying patient.
9 The department of health shall require, in rules adopted
10 pursuant to chapter 91, that all written certifications comply
11 with a designated form completed by or on behalf of a qualifying
12 patient. The form shall require information from the applicant,
13 primary caregiver, and physician or advanced practice registered
14 nurse as specifically required or permitted by this chapter.
15 The form shall require the address of the location where the
16 cannabis is grown and shall appear on the registry card issued
17 by the department of health. The certifying physician or
18 advanced practice registered nurse shall be required to have a
19 [~~bona fide~~] physician-patient relationship or [~~bona fide~~]
20 advanced practice registered nurse-patient relationship, as
21 applicable, with the qualifying patient. All current active



1 medical cannabis permits shall be honored through their
2 expiration date."

3 SECTION 3. Section 329-126, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§329-126 Protections afforded to a treating physician or
6 advanced practice registered nurse. (a) No physician or
7 advanced practice registered nurse shall be subject to arrest or
8 prosecution, penalized in any manner, or denied any right or
9 privilege for providing written certification for the medical
10 use of cannabis for a qualifying patient; provided that:

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

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

18 (3) The written certification is based upon the
19 physician's or advanced practice registered nurse's
20 professional opinion after having completed a full
21 assessment of the patient's medical history and



1 current medical condition made in the course of a
2 [~~bona fide~~] physician-patient relationship or [~~bona~~
3 ~~fide~~] advanced practice registered nurse-patient
4 relationship, as applicable; and

5 (4) The physician or advanced practice registered nurse
6 has complied with the registration requirements of
7 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~~] advanced
11 practice registered nurse-patient relationship may be
12 established via telehealth, as defined in section 457-2;
13 provided that treatment recommendations that include certifying
14 a patient for the medical use of cannabis via telehealth shall
15 be allowed only after an initial in-person consultation between
16 the certifying physician or advanced practice registered nurse
17 and the patient."

18 SECTION 4. Section 329D-1, Hawaii Revised Statutes, is
19 amended by adding a new definition to be appropriately inserted
20 and to read as follows:



1 "Waiting room" means a designated area at the public
2 entrance of a retail dispensing location that may be accessed by
3 a member of the general public who is waiting for, assisting, or
4 accompanying a qualifying patient, primary caregiver, qualifying
5 out-of-state patient, or caregiver of a qualifying out-of-state
6 patient who enters or remains on the premises of a retail
7 dispensing location for the purpose of a transaction conducted
8 pursuant to sections 329D-6 and 329D-13, provided that the
9 storage, display, and retail sale of cannabis and manufactured
10 cannabis products shall be prohibited within the waiting room
11 area."

12 SECTION 5. Section 329D-6, Hawaii Revised Statutes, is
13 amended by amending subsection (r) to read as follows:

14 "(r) The department may authorize a dispensary to purchase
15 cannabis and manufactured cannabis products from another
16 dispensary in a manner prescribed by the department by rules
17 adopted pursuant to [~~this chapter and chapter 91,~~] section 329D-
18 27; provided that:

19 (1) The purchasing dispensary establishes to the
20 department's satisfaction that:



- 1 (A) The purchase is necessary to ensure that
2 qualifying patients have continuous access to
3 cannabis for medical use; or
- 4 (B) The cannabis and manufactured cannabis products
5 are for medical, scientific, or other legitimate
6 purposes approved by the State;
- 7 (2) The selling dispensary may transport no more than
8 eight hundred ounces of cannabis or manufactured
9 cannabis products to the purchasing dispensary within
10 a thirty-day period;
- 11 (3) The cannabis and manufactured cannabis products are
12 transported between the dispensaries for medical,
13 scientific, or other legitimate purposes approved by
14 the State; and
- 15 (4) Nothing in this subsection shall relieve any
16 dispensary of its responsibilities and obligations
17 under this chapter and chapter 329."

18 SECTION 6. Section 329D-7, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§329D-7 Medical cannabis dispensary rules.** The
21 department shall establish standards with respect to:



- 1 (1) The number of medical cannabis dispensaries that shall
- 2 be permitted to operate in the State;
- 3 (2) A fee structure for:
- 4 (A) The submission of applications and renewals of
- 5 licenses to dispensaries; provided that the
- 6 department shall consider the market conditions
- 7 in each county in determining the license renewal
- 8 fee amounts;
- 9 (B) The submission of applications for each
- 10 additional production center; and
- 11 (C) Dispensary-to-dispensary sales authorized by
- 12 section 329D-6(r);
- 13 (3) Criteria and procedures for the consideration and
- 14 selection, based on merit, of applications for
- 15 licensure of dispensaries; provided that the criteria
- 16 shall include but not be limited to an applicant's:
- 17 (A) Ability to operate a business;
- 18 (B) Financial stability and access to financial
- 19 resources; provided that applicants for medical
- 20 cannabis dispensary licenses shall provide
- 21 documentation that demonstrates control of not



- 1 less than \$1,000,000 in the form of escrow
2 accounts, letters of credit, surety bonds, bank
3 statements, lines of credit, or the equivalent to
4 begin operating the dispensary;
- 5 (C) Ability to comply with the security requirements
6 developed pursuant to paragraph (6);
- 7 (D) Capacity to meet the needs of qualifying patients
8 and qualifying out-of-state patients;
- 9 (E) Ability to comply with criminal background check
10 requirements developed pursuant to paragraph (8);
11 and
- 12 (F) Ability to comply with inventory controls
13 developed pursuant to paragraph (13);
- 14 (4) Specific requirements regarding annual audits and
15 reports required from each production center and
16 dispensary licensed pursuant to this chapter;
- 17 (5) Procedures for announced and unannounced inspections
18 by the department or its agents of production centers
19 and dispensaries licensed pursuant to this chapter;
20 provided that inspections for license renewals shall
21 be unannounced;



- 1 (6) Security requirements for the operation of production
2 centers and retail dispensing locations; provided
3 that, at a minimum, the following shall be required:
- 4 (A) For production centers:
- 5 (i) Video monitoring and recording of the
6 premises; provided that recordings shall be
7 retained for fifty days;
- 8 (ii) Fencing that surrounds the premises and that
9 is sufficient to reasonably deter intruders
10 and prevent anyone outside the premises from
11 viewing any cannabis in any form;
- 12 (iii) An alarm system; and
- 13 (iv) Other reasonable security measures to deter
14 or prevent intruders, as deemed necessary by
15 the department;
- 16 (B) For retail dispensing locations:
- 17 (i) Presentation of a valid government-issued
18 photo identification and a valid
19 identification as issued by the department
20 pursuant to section 329-123 by a qualifying
21 patient or caregiver, or section 329-123.5



- 1 by a qualifying out-of-state patient or
2 caregiver of a qualifying out-of-state
3 patient, upon entering the premises;
- 4 (ii) Video monitoring and recording of the
5 premises; provided that recording shall be
6 retained for fifty days;
- 7 (iii) An alarm system;
- 8 (iv) Exterior lighting; and
- 9 (v) Other reasonable security measures as deemed
10 necessary by the department;
- 11 (7) Security requirements for the transportation of
12 cannabis and manufactured cannabis products between
13 production centers and retail dispensing locations and
14 between a production center, retail dispensing
15 location, qualifying patient, primary caregiver,
16 qualifying out-of-state patient, or caregiver of a
17 qualifying out-of-state patient and a certified
18 laboratory, pursuant to section 329-122(f);
- 19 (8) Standards and criminal background checks to ensure the
20 reputable and responsible character and fitness of all
21 license applicants, licensees, employees,



1 subcontractors and their employees, and prospective
2 employees of medical cannabis dispensaries to operate
3 a dispensary; provided that the standards, at a
4 minimum, shall exclude from licensure or employment
5 any person convicted of any felony;

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

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

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

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



1 qualifying out-of-state patient any combination of
2 cannabis and manufactured products that:

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

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

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

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



- 1 (B) Product packaging standards sufficient to allow
2 law enforcement personnel to reasonably determine
3 the contents of an unopened package;
- 4 (14) Limitation to the size or format of signs placed
5 outside a retail dispensing location or production
6 center; provided that the signage limitations, at a
7 minimum, shall comply with section 329D-6(o)(2) and
8 shall not include the image of a cartoon character or
9 other design intended to appeal to children;
- 10 (15) The disposal or destruction of unwanted or unused
11 cannabis and manufactured cannabis products;
- 12 (16) The enforcement of the following prohibitions against:
- 13 (A) The sale or provision of cannabis or manufactured
14 cannabis products to unauthorized persons;
- 15 (B) The sale or provision of cannabis or manufactured
16 cannabis products to a qualifying patient,
17 primary caregiver, qualifying out-of-state
18 patient, or caregiver of a qualifying out-of-
19 state patient in quantities that exceed limits
20 established by this chapter;



- 1 (C) Any use or consumption of cannabis or
- 2 manufactured cannabis products on the premises of
- 3 a retail dispensing location or production
- 4 center; and
- 5 (D) The distribution of cannabis or manufactured
- 6 cannabis products, for free, on the premises of a
- 7 retail dispensing location or production center;
- 8 (17) The establishment of a range of penalties for
- 9 violations of this chapter or rule adopted thereto;
- 10 [and]
- 11 (18) A process to recognize and register patients who are
- 12 authorized to purchase, possess, and use medical
- 13 cannabis in another state, a United States territory,
- 14 or the District of Columbia as qualifying out-of-state
- 15 patients; provided that this registration process may
- 16 commence no sooner than January 1, 2018[-]; and
- 17 (19) Security requirements and restrictions regarding
- 18 waiting rooms, including but not limited to:
- 19 (A) Security measures to prevent unauthorized access
- 20 to any area within the retail dispensing location
- 21 outside of the waiting room;



- 1 (B) Restrictions on marketing and advertising within
- 2 the waiting room;
- 3 (C) Restrictions on signage within the waiting room;
- 4 (D) Other reasonable security measures or
- 5 restrictions as deemed necessary by the
- 6 department."

7 SECTION 7. Section 329D-15, Hawaii Revised Statutes, is
 8 amended by amending subsection (a) to read as follows:

9 "(a) No person shall intentionally or knowingly enter or
 10 remain upon the premises of a medical cannabis retail dispensing
 11 location unless the individual is:

- 12 (1) An individual licensee or registered employee of the
- 13 dispensary;
- 14 (2) A qualifying patient, primary caregiver, qualifying
- 15 out-of-state patient, or caregiver of a qualifying
- 16 out-of-state patient;
- 17 (3) A government employee or official acting in the
- 18 person's official capacity; or
- 19 (4) Previously included on a current department-approved
- 20 list provided to the department by the licensee of
- 21 those persons who are allowed into that dispensary's



1 facilities for a specific purpose for that dispensary,
2 including but not limited to construction,
3 maintenance, repairs, legal counsel, providers of
4 paratransit or other assistive services required by a
5 qualifying patient, primary caregiver, qualifying out-
6 of-state patient, or caregiver of a qualifying out-of-
7 state patient to access a retail dispensary location,
8 or investors; provided that;

9 (A) The person has been individually approved by the
10 department to be included on the list;

11 (B) The person is at least twenty-one years of age,
12 as verified by a valid government issued
13 identification card;

14 (C) The department has confirmed that the person has
15 no felony convictions;

16 (D) The person is escorted by an individual licensee
17 or registered employee of the dispensary at all
18 times while in the dispensary facility;

19 (E) The person is only permitted within those
20 portions of the dispensary facility as necessary
21 to fulfill the person's purpose for entering;



1 (F) The person is only permitted within the
2 dispensary facility during the times and for the
3 duration necessary to fulfill the person's
4 purpose for entering;

5 (G) The dispensary shall keep an accurate record of
6 each person's first and last name, date and times
7 upon entering and exiting the dispensary
8 facility, purpose for entering, and the identity
9 of the escort; and

10 (H) The approved list shall be effective for one year
11 from the date of the department approval [-];
12 provided that a member of the general public may enter or remain
13 within the waiting room of a retail dispensing location."

14 SECTION 8. Section 329D-21, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Any person who violates any of the provisions of this
17 chapter or the rules adopted pursuant thereto shall be fined not
18 less than \$100 nor more than \$1,000 for each [~~violation.~~]
19 separate violation. Each day on which a violation occurs or
20 continues shall be counted as a separate violation."



1 SECTION 9. Section 329D-26, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~{}~~ §329D-26 ~~{}~~ Public education. ~~{(a) The department}~~
4 Medical cannabis dispensaries, in conjunction with physicians
5 and advanced practice registered nurses who issue written
6 certifications pursuant to section 329-123, shall conduct a
7 continuing education and training program to explain and clarify
8 the purposes and requirements of this chapter or to provide
9 substance abuse prevention and education. The program shall
10 target community partner agencies, physicians and other health
11 care providers, patients and caregivers, law enforcement
12 agencies, law and policy makers, and the general public.

13 ~~{(b) The department shall employ at least one full-time~~
14 ~~staff member whose qualifications and duties include the~~
15 ~~provision of medical cannabis health education.}~~"

16 SECTION 10. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 11. This Act shall take effect on July 1, 2050.



Report Title:

Medical Cannabis Dispensary System; Physician-Patient Relationship; Advanced Practice Registered Nurse-Patient Relationship; Written Certification; Waiting room; Violations; Continuing Education

Description:

Requires that written certifications for a patient with a chronic condition be valid for three years. Removes the requirement that a certifying physician or advanced practice registered nurse have a "bona fide" physician-patient or advanced practice registered nurse-patient relationship to certify that a patient has a debilitating medical condition pursuant to chapter 329, Hawaii Revised Statutes. Defines "waiting room" within a medical cannabis retail dispensary and allows primary caregivers, qualifying out-of-state patients, and caregivers of a qualifying out-of-state patient to access the waiting room; clarifies that each day of a violation of chapter 329D, Hawaii Revised Statutes, is a separate violation; and amends the rule-making authority for dispensary-to-dispensary sales. Requires medical cannabis dispensaries, in conjunction with physicians and advanced practice registered nurses who issue written certifications pursuant to section 329-123, Hawaii Revised Statutes, to conduct the continuing education and training program required by section 329D-26, Hawaii Revised Statutes, rather than the Department of Health. Effective 7/1/2050. (SD1)

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