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KE KIA'ÂINA O KA MOKU'ÂINA 'O HAWAI'I

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Testimony in OPPOSITION to SB2461 SD2
RELATING TO MEDICAL CANNABIS

REPRESENTATIVE DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

REPRESENTATIVE CEDRIC ASUEGA GATES, CHAIR
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

Hearing Date: 03/13/2024 Room Number: 325

Fiscal Implications: N/A.

Department Testimony: The Department of Health (department) Office of Medical Cannabis Control and Regulation (OMCCR) OPPOSES SB2461 SD2 which proposes amendments to Section 329D-6, HRS, and Section 329D-l0, HRS, and respectfully requests that the legislature defer this measure.

OMCCR OPPOSES the proposed amendment to section 329D-6 which removes the department's discretion to determine whether a dispensary-to-dispensary sale is necessary to ensure that qualifying patients have continuous access to cannabis for medical use. A stated purpose of Act 309 SLH 2022 was to "amend the circumstances under which medical cannabis may be transported by and between dispensaries." In testifying on HB2260 during the 2022 legislative session, OMCCR asked that criteria on sales and transportation be in rules rather than codified in statute to allow OMCCR to maintain adequate oversight over these transactions. OMCCR maintains that this oversight is necessary because cannabis remains federally illegal. Many of these transactions require transport of cannabis and manufactured cannabis products from one island to another in contravention of federal law, thus it remains the state's responsibility to regulate the medical cannabis dispensary system adequately and effectively. OMCCR OPPOSES

the proposed amendment to Section 329D-6 as it will remove any discretion that OMCCR has in regulating dispensary-to-dispensary sales.

OMCCR also OPPOSES the amendment to section 329D-10 subsection (d) to require the adoption of rules no later than nine months after a product is permitted to be manufactured and distributed pursuant to subsection 329D-10(a). Specifying a time limit for rulemaking imposes an undue burden on OMCCR and removes OMCCR's ability to properly prioritize its activities. The OMCCR Medical Cannabis Dispensary Licensing Section (MCDLS) is currently staffed only by a Section Supervisor, an Office Assistant, and five (5) Surveyors. MCDLS is responsible for oversight of dispensary operations and medicinal cannabis products, cannabis testing, and since May 2023, hemp processor registration and regulation of hemp-cannabinoid consumer products. In addition to revising administrative rules, these duties include inspecting 37 licensed facilities, reviewing product manufacturing and packaging, ensuring compliance with laboratory testing, inventory tracking, and security requirements, investigating patient complaints, and responding to public and industry inquiries and open records requests. OMCCR OPPOSES the proposed amendment to section 329D-10 subsection (d) as imposing a strict time limit on rulemaking could force MCDLS to prioritize rulemaking over activities that protect the health and safety of patients and the public.

Thank you for the opportunity to testify.

Offered Amendments: None

To: Representative David Tarnas, Chair
Representative Gregg Takayama, Vice-Chair
Members of the Judiciary & Hawaiian Affairs Committee

To: Representative Cedric Gates, Chair
Representative Kristin Kahaloa, Vice-Chair
Members of the Agriculture and Food Systems Committee

Fr: TY Cheng, Chairman, Hawaii Cannabis Industry Association

Re: Testimony **In SUPPORT** of **Senate Bill (SB) 2461 SD2**

RELATING TO MEDICAL CANNABIS.
Amends the circumstances under which medical cannabis may be transported by and between dispensaries. Requires the Department of Health to adopt rules within a certain time period. Takes effect 7/1/2040. (SD2)

Dear Chairs, Vice-Chairs, and Members of the Joint Committee:

The Hawaii Cannabis Industry Association (HICIA) is an industry group representing medical cannabis dispensary licensee interests in Hawaii. HICIA **SUPPORTS SB2461 SD2** as this bill may affect the medical cannabis dispensary program by expediting wholesale transactions between existing medical cannabis dispensary licensees and allowing the sale of cannabis products (i.e. prerolls) previously approved by legislators.

The Department of Health (the "DOH") has been reluctant to support the medical cannabis program. The DOH did not implement rules in accordance with the legislative wishes of lawmakers and previously passed laws. Instead, the DOH has either implemented rules which are not within the spirit of the law (i.e. requiring conditions on when and why a wholesale transaction between licenses may occur); or have wholly disregarded newly passed laws (i.e. leaving out rules on allowing cannabis preroll sales and allowing members of the public to enter a dispensary lobby when assisting a disabled 329 patient). HB1952 addresses the glaring unilateral additions and omissions by requiring the DOH to issue rules in a timely manner. In a previous House testimony on this companion bill (HB1952), the DOH admitted to an institutional culture of anti-smoking which prevented them from issuing rules to allow for the manufacture and sale of cannabis prerolls even though the legislature amended the law to allow for prerolls as a manufactured cannabis product in 2022.

There are 5 other US States with medical cannabis sales only programs that have rules that allow for the sale and manufacture of cannabis prerolls. Previously, I have provided preroll rules from medical-only markets such as Florida, Oklahoma, and South Dakota that that require lab testing of finished products in order to restrict tobacco and flavor additives.

The DOH is an administrator and should not pick and choose what laws to implement when such laws are duly ratified because it does not agree with the policies of the legislative branch.

Thank you for the opportunity to testify. I am available over Zoom for any questions.

Aloha,

TY Cheng

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TESTIMONY ON SENATE BILL 2461 SD2
RELATING TO MEDICAL CANNABIS
By
Clifton Otto, MD

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair
and
House Committee on Agriculture & Food Systems
Representative Cedric Asuega Gates, Chair
Representative Kirstin Kahaloa, Vice Chair

Wednesday, March 13, 2024; 2:00 PM
State Capitol, Room 325 & Videoconference

Thank you for the opportunity to provide COMMENTS on this measure.

The department needs to have discretion over wholesaling between dispensaries, because the jurisdictional limits of the State do not connect all the Hawaiian Islands. The department needs to have control over the extent to which it participates in these activities.

The same should hold true for issuing rules that would regulate the sale of dispensary products that are intended to be smoked, such as pre-rolled marijuana cigarettes (Prerolls). The department should not be forced to adopt rules that violate the department's mission to protect public health from smoking.

In addition, if a patient does not have the manual dexterity to roll a joint, then they probably also don't have the manual dexterity to safely hold a joint, which means that Prerolls can be a fire hazard as well as a health risk.

The Legislature should correct this error by removing Prerolls from the allowed product list for patients and reserve this product for an adult use program that is administered by

a different department. The use of a dry herb vaporizer is the preferred inhalation method for the medical use of cannabis and is much easier to hold than a joint.

For those with one functional hand, dispensaries should provide on-site grinding of dried flower and loading of vaporizing pods to encourage the use of a dry herb vaporizer in this patient population. On-site grinding would also allow patients to customize their cannabis use by combining ratios of different cannabis varietals.

Please make the following amendments to this bill:

SECTION 2. Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (r) to read as follows:

"(r) A dispensary may purchase cannabis and manufactured cannabis products from another dispensary. The department [~~may~~] [~~shall~~] may authorize a dispensary to purchase cannabis and manufactured cannabis products from another dispensary in a manner prescribed by the department by rules adopted pursuant to section 329D-27; provided that:

[~~(1) The purchasing dispensary establishes to the department's satisfaction that:~~

~~(A) The purchase is necessary to ensure that qualifying patients have continuous access to cannabis for medical use; or~~

~~(B) The cannabis and manufactured cannabis products are for medical, scientific, or other legitimate purposes approved by the State;~~

~~(2)~~] (1) The selling dispensary may transport no more than eight hundred ounces, or other amounts with prior approval by

the department, of cannabis or manufactured cannabis products to the purchasing dispensary within a thirty-day period;

[~~(3)~~] (2) The cannabis and manufactured cannabis products are transported between the dispensaries for medical[~~,~~] sales, scientific[~~,~~] use, or other legitimate purposes approved by the State; and

[~~(4)~~] (3) Nothing in this subsection shall relieve any dispensary of its responsibilities and obligations under this chapter and chapter 329 with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State."

SECTION 3. Section 329D-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The types of medical cannabis products that a dispensary may [~~be manufactured and distributed~~] manufacture and distribute pursuant to this chapter shall be limited to:

(1) Capsules;

(2) Lozenges;

(3) Pills;

(4) Oils and oil extracts;

(5) Tinctures;

(6) Ointments and skin lotions;

(7) Transdermal patches;

(8) Pre-filled and sealed containers used to aerosolize and deliver cannabis orally or by inhalation, such as an inhaler, nebulizer, or device that provides safe pulmonary administration; provided that:

(A) Containers need not be manufactured by the licensed dispensary but shall be filled with cannabis, cannabis oils, or cannabis extracts manufactured by the licensed dispensary or purchased from another dispensary pursuant to section 329D-6(r); but shall not contain nicotine, tobacco-related products, or any other non-cannabis derived products; and

(B) For devices that provide safe pulmonary administration:

(i) The heating element of the device, if any, shall be made of inert materials such as glass, ceramic, or stainless steel, and not of plastic or rubber;

(ii) The device shall be distributed solely for use with single-use, pre-filled, tamper-resistant, sealed containers that do not contain nicotine or other tobacco products;

(iii) There shall be a temperature control on the device that is regulated to prevent the combustion of cannabis oil; and

(iv) The device need not be manufactured by the licensed dispensary;

[~~(9) Pre-rolled cannabis flower products, as specified by the department~~];

(~~10~~) (9) Edible cannabis products, as specified by the department; and

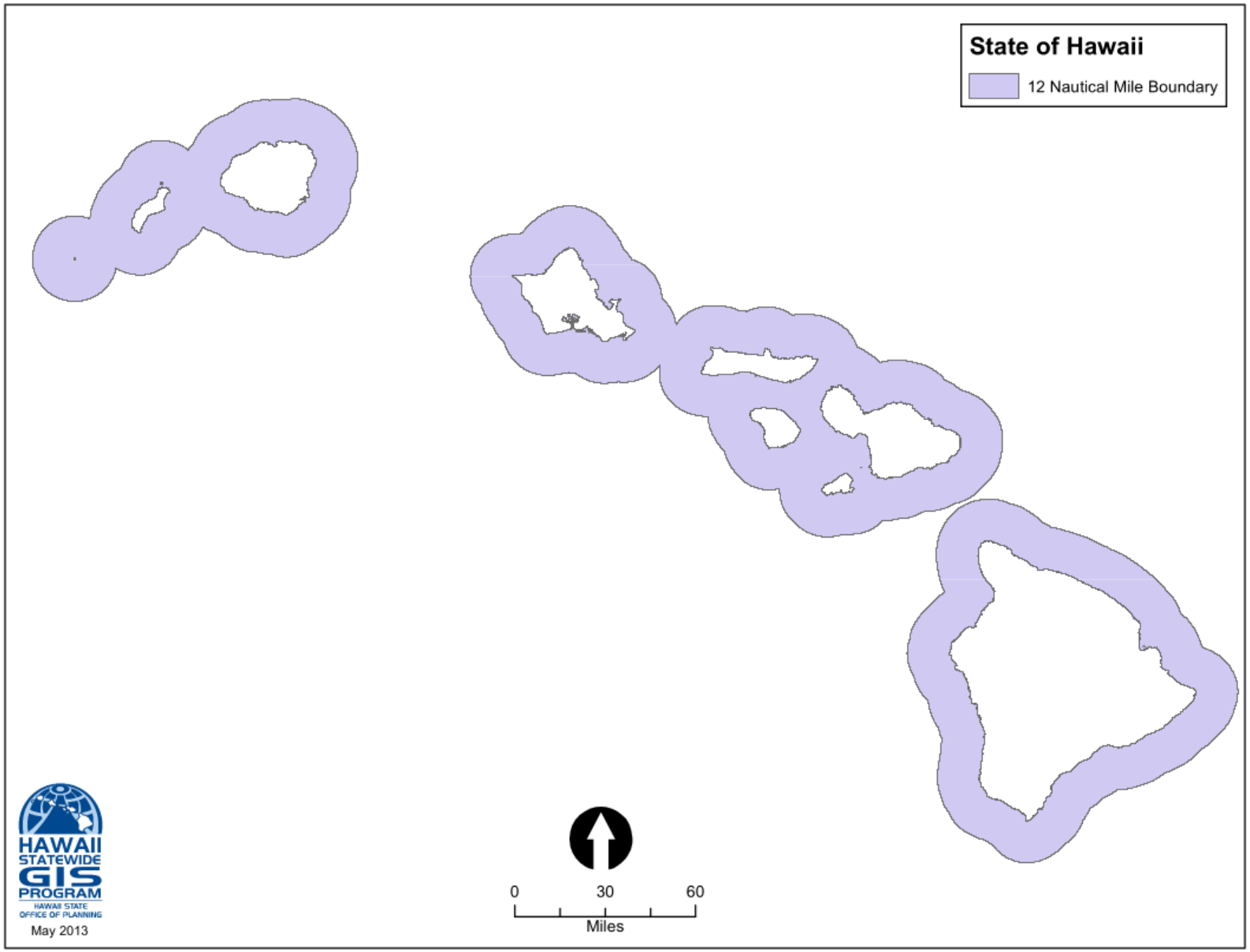
(~~11~~) (10) Other products as specified by the department."

2. By amending subsection (d) to read:

"(d) Any medical cannabis product manufactured and distributed pursuant to this chapter shall be regulated and approved by the department and meet all requirements of rules adopted pursuant to this chapter; provided that the department shall establish requirements for child-resistant packaging and accurate and proper labeling. All rules adopted pursuant to this section shall be adopted no later than nine months after a product is permitted to be manufactured and distributed pursuant to subsection (a)."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2040.


State of Hawaii
12 Nautical Mile Boundary
HAWAII STATEWIDE GIS PROGRAM
HAWAII STATE OFFICE OF PLANNING
May 2013
0
30
60
Miles

SanHi
GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 12, 2024

TO: Representative David Tarnas
Chair, Committee on Judiciary and Hawaiian Affairs

Representative Cedric Gates
Chair, Committee on Agriculture and Food Systems

Submitted Via Capitol Website

FROM: Jena Matila

RE: **S.B. 2461, S.D. 2 – Relating to Medical Cannabis**
Hearing Date: Wednesday, March 13, 2024 at 2:00 p.m.
Conference Room: 325

Dear Chair Tarnas, Chair Gates, and members of the Joint Committees:

We submit this testimony on behalf of Cure Oahu in **support** of S.B. 2461, S.D. 2. Cure Oahu is a vertically integrated licensed dispensary that has been operating in the State of Hawaii since 2018, with two retail locations in the Kapahulu and Kapolei areas.

S.B. 2461, S.D. 2, amends the dispensary program law to resolve matters that have arisen since the passage of Act 309 (SLH 2022) and Act 108 (SLH 2023). Specifically, the bill seeks to allow dispensary to dispensary sales to move forward and allow for the sale of cannabis products approved by the Legislature by putting a timeline on rulemaking.

Despite the legislative intent of Acts 309 and 108 to allow wholesale between dispensaries more freely, wholesale currently occurs on an emergency basis with an under 30 days request and approval process, or on a prove of need basis requiring over 30 days request and approval process. Current rules also give the Department of Health full discretion to reject requests with no specific timeline to respond. This limited wholesale approach impairs dispensaries' ability to do future planning, share manufacturing capabilities or specialize in equipment or products without facing significant risk of potential wholesale request rejections. Wholesale expands patient access to a variety of formulations, products and strains without sacrificing safety and consistency, and should be more widely supported. On a related matter, the sale of pre-rolled cannabis flower products was authorized under Act 108, but the Department has not engaged in rulemaking for the product since the law's passage. As a result, patients do not have access to this option. S.B. 2461, S.D.2, would address these issues by explicitly stating a dispensary may purchase

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cannabis and manufactured cannabis products from another dispensary, and placing a time limit on rulemaking to allow distribution of products in a timely manner.

Thank you for the opportunity to submit testimony in support of this bill.