

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in OPPOSITION to SB1104
RELATING TO CANNABIS FOR MEDICAL USE.**

SENATOR JOY A. SAN BUENAVENTURA CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date: Monday, Feb. 6, 2023 Room Number: 225

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health (DOH) Office of Medical Cannabis
3 Control and Regulation (OMCCR) recognizes that the intent of this measure is to provide
4 qualifying patients with a legal channel from which to obtain laboratory tested propagules and
5 cuttings for personal cultivation (i.e., “home grow”). However, DOH OPPOSES this measure
6 because of the risk of diversion from the dispensary system and of patients exceeding their
7 allowed plant count limit.

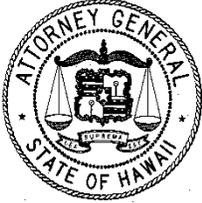
8 To maintain accountability over all cannabis plant material within a licensee’s operation, the
9 dispensary licensing system mandates the use of an electronic seed-to-sale tracking system which
10 tracks each individual plant and all the material from that plant, from cultivation through
11 production, manufacturing, and retail or destruction. Chapter 329D, HRS, defines “plant” as “a
12 cannabis plant that is greater than twelve vertical inches in height from where the base of the
13 stalk emerges from the growth medium to the tallest point of the plant, or greater than twelve
14 horizontal inches in width from the end of one branch to the end of another branch; provided that
15 multiple stalks emanating from the same root ball or root system shall be considered part of the
16 same single plant.” This means that propagules and cuttings would not be considered a “plant”
17 and would not be tracked. DOH would lose the accountability of all cannabis plant material
18 within the dispensary system, increasing the risk of diversion.

1 This measure would allow patients to acquire up to ten (10) propagules or cuttings within a
2 consecutive thirty (30) day period and to continuously acquire additional propagules and
3 cuttings. Each propagule or cutting could become a plant, allowing a patient to reach or exceed
4 their total limit of ten (10) plants within a short period of time. DOH would have no means of
5 maintaining oversight on patient compliance with plant limits creating a risk for diversion
6 outside the legal medical use system.

7 Thank you for the opportunity to testify.

8 **Offered Amendments:**

9



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 1104, RELATING TO CANNABIS FOR MEDICAL USE.

BEFORE THE:

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Monday, February 6, 2023 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Andrew Goff, Deputy Attorney General

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General offers the following comments.

This measure would amend section 329D-1, Hawaii Revised Statutes (HRS), to add two new definitions, "cannabis cutting" and "cannabis propagule," and amend the existing definition for "cannabis" to include cannabis propagules and cannabis cuttings (page 3, lines 6-18). The bill would also amend section 329D-13, HRS, to: (1) set dispensing limits for propagules and cuttings for qualifying patients and primary caregivers; and (2) prohibit qualifying out-of-state patients and caregivers for qualifying out-of-state patients from purchasing propagules and cuttings (page 3, lines 19 through page 5, line 20).

The measure's wording with respect to dispensing quantity limits (page 4, lines 10-18) raises concerns because it allows a qualifying patient or primary caregiver to purchase "a total of not more than five cannabis propagules or cannabis cuttings within a consecutive period of fifteen days, or a total of not more than ten cannabis propagules or cannabis cuttings within a consecutive period of thirty days[.]" It is unclear how these limits would work in conjunction with section 329-122, HRS, which permits qualifying patients to possess cannabis in an amount that does not exceed an adequate supply. Section 329-121 defines "adequate supply," in relevant part, as no more than ten cannabis plants at any time, whether immature or mature. Whether the intent is to expand the allowable supply of cannabis or to include cuttings and propagules within

the current definition of "adequate supply," we believe it would help regulators, dispensaries, and certificate holders if this were clarified with amendments appropriate to section 329-121, HRS.

For example, if the intent is to include cuttings and propagules within the current definition of "adequate supply," the amendments to section 329D-13(b) at page 4, line 19, through page 5, line 5, may be clarified by adding a new paragraph (1) to read as follows:

- (1) The amount of cannabis, including cannabis propagules and cannabis cuttings, possessed by the qualifying patient at any time shall not exceed the amount permitted under section 329-122;
- (2) The cannabis propagules or cannabis cuttings dispensed to the qualifying patient or primary caregiver shall have undergone laboratory-based testing for residual pesticides and heavy metals; and
- (3) The laboratory-based test results shall indicate that no pesticides or heavy metals have been detected from the cannabis propagules or cannabis cuttings.

We will be happy to work with the Committee to draft wording that would reflect the intent of the Legislature.

Thank you for the opportunity to provide comments.



February 5, 2023

To: Senator Joy A. San Buenaventura, Chair
Senator Henry J.C. Aquino, Vice Chair
Members of the Senate Committee on Health & Human Resources

From: David C. Cole, General Manager

Re: TESTIMONY in Support of Senate Bill 1104

Maui Grown Therapies (MGT) is licensed by the Department of Health pursuant to HRS 329D to cultivate, manufacture and dispense medical cannabis and medical cannabis manufactured products to registered patients. In calendar year 2022 MGT served 5,364 unique patients on Maui.

MGT **supports** Senate Bill 1104, which would improve patient access to affordable, quality assured medical cannabis by allowing licensed dispensaries to supply genetic material needed for safe and reliable home cannabis cultivation.

The right of registered patients to cultivate medical cannabis plants is enshrined in Hawai'i law. Indeed, **the medical dispensary system created by the legislature in 2015 did not intend to sunset the ability for qualified patients to cultivate a limited number of cannabis plants for their personal use.**¹

Patients frequently ask if they can purchase cuttings, seeds or other propagative material from MGT. Unfortunately, because propagative material is not included on the list of products licensed dispensaries may manufacture and distribute, we are unable to meet their needs – leaving patients with no alternative other than to turn to the illicit market to obtain questionable and often mislabeled genetics to propagate their gardens.

¹ Act 241 SLH 2015:

“SECTION 1. The legislature finds that Hawaii's medical use of marijuana law was enacted on June 14, 2000, as Act 228, Session Laws of Hawaii 2000, to provide medical relief for seriously ill individuals in the State. While the current law recognizes the beneficial use of marijuana in treating or alleviating pain or other symptoms associated with certain debilitating illnesses, it is silent on how patients can obtain medical marijuana if they or their caregivers are unable to grow their own supply of medical marijuana. The legislature further finds that many of the State's nearly thirteen thousand qualifying patients lack the ability to grow their own supply of medical marijuana due to a number of factors, including disability and limited space to grow medical marijuana. As a result, a regulated statewide dispensary system for medical marijuana is urgently needed by qualifying patients in the State.” (emphasis added)

Maui Grown Therapies
44 Pa'a St., Kahului, HI 96732
(808) 866 7576



By allowing dispensaries licensed under HRS 329D to dispense cuttings and other propagative material to registered medical cannabis patients, Senate Bill 1104 would establish a legal, transparent channel for the distribution of such products. Furthermore, because propagative material dispensed by licensed dispensaries would be subject to mandatory testing by an independent laboratory for the presence of contaminants, Senate Bill 1104 ensures 329 cardholders who wish to cultivate their medical cannabis at home have a source of safe, quality-assured plant material.

Mahalo for your consideration.

Maui Grown Therapies
44 Pa'a St., Kahului, HI 96732
(808) 866 7576

SB-1104

Submitted on: 2/4/2023 5:16:42 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Testifying for Drug Policy Forum of Hawaii	Support	Written Testimony Only

Comments:

Drug Policy Forum of Hawai‘i strongly supports this measure, which is long overdue.

Medical cannabis dispensaries in other jurisdictions have long offered propagules and cuttings so that patients are able to cultivate their own medical cannabis.

Mahalo for the opportunity to provide testimony.

LATE

SB-1104

Submitted on: 2/5/2023 8:44:02 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tai Cheng	Testifying for Aloha Green Holdings Inc.	Support	Written Testimony Only

Comments:

To: Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice-Chair

Members of the Committee on Health and Human Services

Fr: Tai Cheng, President of Aloha Green Holdings Inc.

Re: Testimony In Support of Senate Bill (SB) 1104

RELATING TO CANNABIS FOR MEDICAL USE.

Amends the definition of "cannabis" to include cannabis propagules and cannabis cuttings. Allows qualifying patients and primary caregivers who are authorized to cultivate cannabis for medical use to purchase cannabis propagules and cannabis cuttings from licensed dispensaries in the State under certain conditions. Establishes quantity limits and quality requirements for the dispensing of cannabis propagules and cannabis cuttings. Defines "cannabis cutting" and "cannabis propagule".

Dear Chair, Vice-Chair and Members of the Committee:

Aloha Green Apothecary is a state licensed medical cannabis dispensary licensee operating on Oahu. Aloha Green Supports with COMMENTS this bill which will affect how medical cannabis dispensaries operate.

Aloha Green's comment is to remove the testing requirement for cuttings and propagules as this product sold to qualifying patients is not in a usable form and still requires weeks of care. The testing of clones and propagules would be over regulation and merely increase the cost of the product to patients. Patients who purchase these products will be responsible for how they grow

these products to maturity and a usable form. There is a very high likelihood that testing results will change after the plants flower in 6 to 16 weeks depending on the patients experience and the plants growing conditions. Realistically, dispensary products fail for mainly microbial issues and not heavy metals, pesticides, or systemic problems that follow the plant. If the Department of Health discovers these issues at a licensees grow, then any cuttings or propagules can be recalled through the State's tracking system.

The current interim rules require testing of final usable products prior to their sale to patients, but as cuttings and propagules are not usable at the time of sale this category of product should be exempt in order to keep their cost low.

Thank you for the opportunity to testify with comments.

SB-1104

Submitted on: 2/4/2023 7:55:00 AM

Testimony for HHS on 2/6/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
dakin retzlaff	Individual	Support	Written Testimony Only

Comments:

Medical cannabis patients should have easier means to achieve the end of growing their medicine.

LATE

SB-1104

Submitted on: 2/5/2023 1:44:02 PM

Testimony for HHS on 2/6/2023 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

I support SB1104.