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## 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 is to expand the scope of professionals who may provide written  
5 certification for qualifying patients to use medical cannabis.  
6 The legislature further finds that, as determined by the state  
7 board of naturopathic medicine, it is within the scope of  
8 naturopathic practice that medical cannabis be prescribed by  
9 naturopathic physicians.

10           Accordingly, the purpose of this Act is to improve patient  
11 access to medical cannabis by authorizing naturopathic  
12 physicians to provide written certifications to qualified  
13 patients for the medical use of cannabis, as physicians and  
14 advanced practice registered nurses are authorized to do.

15           SECTION 2. Chapter 329, Hawaii Revised Statutes, is  
16 amended by adding a new section to part III to be appropriately  
17 designated and to read as follows:



1           "§329-       Registration of naturopaths; medical cannabis;  
2 restrictions.   (a) A naturopathic physician may register  
3 pursuant to this part to provide written certifications under  
4 part IX for the medical use of cannabis.

5           (b) All provisions of this part relating to practitioners  
6 who prescribe controlled substances shall be applied to  
7 naturopathic physicians providing written certifications under  
8 part IX for the medical use of cannabis; provided that this  
9 section shall not be construed to authorize any naturopathic  
10 physician to manufacture, distribute, prescribe, dispense, or  
11 conduct reverse distribution with any controlled substance  
12 within this State."

13           SECTION 3. Chapter 455, Hawaii Revised Statutes, is  
14 amended by adding a new section to be appropriately designated  
15 and to read as follows:

16           "§455-       Medical use of cannabis; authorization.   Subject  
17 to any requirements imposed by the department of public safety  
18 and the federal Drug Enforcement Administration, a naturopathic  
19 physician may register with the department of public safety  
20 pursuant to part III of chapter 329 and may obtain any federal  
21 Drug Enforcement Administration registration necessary to



1 provide written certifications under part IX of chapter 329 for  
2 the medical use of cannabis."

3 SECTION 4. Section 329-121, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By adding a new definition to be appropriately inserted  
6 and to read:

7 "Naturopathic physician" means a person who holds a  
8 current license issued under chapter 455 to practice  
9 naturopathic medicine and is registered pursuant to part III to  
10 provide written certifications under this part for the medical  
11 use of cannabis."

12 2. By amending the definition of "debilitating medical  
13 condition" to read:

14 "Debilitating medical condition" means:

15 (1) Cancer, glaucoma, lupus, epilepsy, multiple sclerosis,  
16 rheumatoid arthritis, positive status for human  
17 immunodeficiency virus, acquired immune deficiency  
18 syndrome, or the treatment of these conditions;

19 (2) A chronic or debilitating disease or medical condition  
20 or its treatment that produces one or more of the  
21 following:



- 1 (A) Cachexia or wasting syndrome;
- 2 (B) Severe pain;
- 3 (C) Severe nausea;
- 4 (D) Seizures, including those characteristic of
- 5 epilepsy;
- 6 (E) Severe and persistent muscle spasms, including
- 7 those characteristic of multiple sclerosis or
- 8 Crohn's disease; or
- 9 (F) Post-traumatic stress disorder; or
- 10 (3) Any other medical condition approved by the department
- 11 of health pursuant to administrative rules in response
- 12 to a request from a physician, naturopathic physician,
- 13 or advanced practice registered nurse or potentially
- 14 qualifying patient."

15 3. By amending the definition of "primary caregiver" to read:

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



1 case of a minor or an adult lacking legal capacity, the primary  
2 caregiver shall be a parent, guardian, or person having legal  
3 custody."

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

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

9 5. By amending the definition of "written certification"  
10 to read:

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



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

7 SECTION 5. Section 329-122, Hawaii Revised Statutes, is  
8 amended by amending subsections (a) and (b) to read as follows:

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

- 12 (1) The qualifying patient has been diagnosed by a  
13 physician, naturopathic physician, or advanced  
14 practice registered nurse as having a debilitating  
15 medical condition;
- 16 (2) The qualifying patient's physician, naturopathic  
17 physician, or advanced practice registered nurse has  
18 certified in writing that, in the physician's,  
19 naturopathic physician's, or advanced practice  
20 registered nurse's professional opinion, the potential  
21 benefits of the medical use of cannabis would likely



1           outweigh the health risks for the particular  
2           qualifying patient; and  
3           (3) The amount of cannabis possessed by the qualifying  
4           patient does not exceed an adequate supply."  
5           (b) Subsection (a) shall not apply to a qualifying patient  
6 under the age of eighteen years, unless:  
7           (1) The qualifying patient's physician, naturopathic  
8           physician, or advanced practice registered nurse has  
9           explained the potential risks and benefits of the  
10          medical use of cannabis to the qualifying patient and  
11          to a parent, guardian, or person having legal custody  
12          of the qualifying patient; and  
13          (2) A parent, guardian, or person having legal custody  
14          consents in writing to:  
15               (A) Allow the qualifying patient's medical use of  
16               cannabis;  
17               (B) Serve as the qualifying patient's primary  
18               caregiver; and  
19               (C) Control the acquisition of the cannabis, the  
20               dosage, and the frequency of the medical use of  
21               cannabis by the qualifying patient."



1 SECTION 6. Section 329-123, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Physicians, naturopathic physicians, or advanced  
4 practice registered nurses who issue written certifications  
5 shall provide, in each written certification, the name, address,  
6 patient identification number, and other identifying information  
7 of the qualifying patient. The department of health shall  
8 require, in rules adopted pursuant to chapter 91, that all  
9 written certifications comply with a designated form completed  
10 by or on behalf of a qualifying patient. The form shall require  
11 information from the [~~applicant, primary~~]:

12 (1) Applicant;

13 (2) Primary caregiver[7]; and [~~physician~~]

14 (3) Physician, naturopathic physician, or advanced  
15 practice registered nurse, as specifically required or  
16 permitted by this chapter.

17 The form shall require the address of the location where  
18 the cannabis is grown and shall appear on the registry card  
19 issued by the department of health. The certifying physician,  
20 naturopathic physician, or advanced practice registered nurse  
21 shall be required to have a bona fide physician-patient





1 relationship, bona fide naturopathic physician-patient  
2 relationship, or bona fide advanced practice registered nurse-  
3 patient relationship, as applicable, with the qualifying  
4 patient. All current active medical cannabis permits shall be  
5 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 7. Section 329-126, Hawaii Revised Statutes, is  
21 amended as follows:



1           1. By amending its title to read:  
2           "**§329-126 Protections afforded to a treating physician,**  
3 **naturopathic physician, or advanced practice registered nurse.**"

4           2. By amending subsection (a) to read:

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

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

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

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



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

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

10 SECTION 8. Section 329-128, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) Notwithstanding any law to the contrary, fraudulent  
13 misrepresentation to a law enforcement official of any fact or  
14 circumstance relating to the issuance of a written certificate  
15 by a physician, naturopathic physician, or advanced practice  
16 registered nurse not covered under section 329-126 for the  
17 medical use of cannabis shall be a misdemeanor. This penalty  
18 shall be in addition to any other penalties that may apply for  
19 the non-medical use of cannabis."

20 SECTION 9. Section 455-1, Hawaii Revised Statutes, is  
21 amended as follows:



1           1. By adding two new definitions to be appropriately  
2 inserted and to read:

3           "Cannabis" shall have the same meaning as in section  
4 329-121.

5           "Medical use" with respect to cannabis shall have the same  
6 meaning as "medical use" in section 329-121."

7           2. By amending the definition of "naturopathic formulary"  
8 to read:

9           "Naturopathic formulary" means vitamins, minerals, dietary  
10 supplements, botanical medicines, homeopathic medicines,  
11 hormones, [~~and~~] those legend drugs consistent with naturopathic  
12 medical practice[-], and cannabis for medical use; provided that  
13 the naturopathic formulary shall not include any narcotic drugs  
14 or other controlled substances, as defined in section 329-1."

15           SECTION 10. Section 455-11, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17           "(a) In addition to any other actions authorized by law,  
18 the board shall have the power to deny, revoke, suspend, or  
19 refuse to renew any license to practice naturopathic medicine  
20 applied for or issued by the board in accordance with this  
21 chapter, and to fine or otherwise discipline a licensee for any



1 cause authorized by law, including but not limited to the  
2 following:

- 3 (1) Failing to meet or maintain the conditions and  
4 requirements necessary to qualify for the issuance of  
5 a license;
- 6 (2) Procuring, or aiding or abetting in procuring, a  
7 criminal abortion;
- 8 (3) Employing any person to solicit patients;
- 9 (4) Obtaining a fee on the assurance that a manifestly  
10 incurable disease can be permanently cured;
- 11 (5) Betraying a patient's confidence;
- 12 (6) Making any untruthful and improbable statement in  
13 advertising one's naturopathic practice or business;
- 14 (7) False, fraudulent, or deceptive advertising;
- 15 (8) Being habituated to the excessive use of drugs or  
16 alcohol; or being addicted to, dependent on, or an  
17 habitual user of a narcotic, barbiturate, amphetamine,  
18 hallucinogen, or other drug having similar effects;
- 19 (9) Practicing naturopathic medicine while the ability to  
20 practice is impaired by alcohol, drug, physical  
21 disability, or mental instability;



- 1 (10) Procuring a license through fraud, misrepresentation,  
2 or deceit or knowingly permitting an unlicensed person  
3 to perform activities requiring a license;
- 4 (11) Professional misconduct or gross carelessness or  
5 manifest incapacity in the practice of naturopathic  
6 medicine;
- 7 (12) Conduct or practice contrary to recognized standard of  
8 ethics of the naturopathic profession;
- 9 (13) Using medical service or treatment which is  
10 inappropriate or unnecessary;
- 11 (14) Submitting to or filing with the board any notice,  
12 statement, or other document required under this  
13 chapter [~~which~~] that is false or untrue or contains  
14 any material misstatement of fact, including any false  
15 certification of compliance with the continuing  
16 education requirement specified under section 455-8;
- 17 (15) Failure to report to the board any disciplinary action  
18 taken against the licensee in another jurisdiction  
19 within thirty days after the disciplinary action  
20 becomes final;



- 1 (16) Using the title "physician" without clearly  
2 identifying oneself as being a naturopathic physician;  
3 (17) Prescribing, administering, and dispensing  
4 naturopathic formulary that are not included in the  
5 formulary established by the board under section 455-  
6 6; [~~and~~]  
7 (18) Violation of chapter 329, the uniform controlled  
8 substances act, or any rule adopted thereunder, except  
9 as provided in section 329-122; and  
10 [~~(18)~~] (19) Violation of any provision of this chapter or  
11 rules adopted under this chapter."

12 SECTION 11. This Act does not affect rights and duties  
13 that matured, penalties that were incurred, and proceedings that  
14 were begun before its effective date.

15 SECTION 12. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 13. This Act shall take effect on July 1, 2023;  
18 provided that, effective January 1, 2024, references in section  
19 3 to the department of public safety shall be replaced with the  
20 department of law enforcement.

21



H.B. NO. 1454

INTRODUCED BY: *Stan*

JAN 25 2023





# H.B. NO. 1454

**Report Title:**

Medical Cannabis; Naturopathic Physicians; Written Certification

**Description:**

Authorizes naturopathic physicians to provide written certifications to qualified patients for the medical use of cannabis.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

