

JOSH GREEN, M.D.
GOVERNOR



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

TESTIMONY ON SENATE BILL 673, SENATE DRAFT 1
RELATING TO MEDICAL CANNABIS

By

Tommy Johnson, Director

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Wednesday, February 24, 2023; 9:30 a.m.
State Capitol, Conference Room 225 and Via Videoconference

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on Senate Bill (SB) 673, Senate Draft 1 (SD 1), which seeks to allow health care facilities to permit terminally ill patients to use medical cannabis under certain conditions.

PSD appreciates the Legislature's inclusion of our recommended amendments reflected in SB 673, SD1, which now includes health care programs within jails and prisons operated by the department in the definition of excluded health care facilities.

Thank you for the opportunity to provide testimony comments in support of SB 673, SD 1.



PALOLO CHINESE HOME
Better Care. Better Lives

February 24, 2023 at 9:30 am
Conference Room 016

Senate Committee on Judiciary

To: Chair Karl Rhoads
Vice Chair Mike Gabbard

From: Darlene Nakayama
CEO
Palolo Chinese Home

Re: Comments
SB 673 SD 1, Relating to Medical Cannabis

Palolo Chinese Home is a private, 501(c)(3) non-profit charitable organization and has been serving Hawaii's seniors for more than 125 years. Palolo Chinese Home was originally established to serve Chinese plantation workers who had no families in Hawaii to support them. Today, it serves all seniors, regardless of race, religion, nationality, or ethnic origin. PCH provides hospice, skilled rehab/nursing, residential care, day care, home care and meals to go. Almost 50% of PCH's nursing home residents are Medicaid. Medicaid services are also provided in PCH's meals to go, day care and home care programs.

Thank you for the opportunity to **submit comments** on this measure, which would allow—but not require—healthcare facilities to offer terminally ill patients who are registered medical marijuana users to access and use the drug while admitted to an inpatient setting. Only one state (California) has passed a law allowing this, and it has just recently gone into effect. We appreciate that this measure was amended to be permissive, rather than mandated, because there are remaining and serious concerns about allowing the possession and use of cannabis in federally-certified facilities. Further, healthcare facilities have contracts with private insurers that also contain requirements to limit controlled substance use in facilities.

As originally written, this measure would apply to inpatient care in hospitals, nursing homes, and hospice agencies providing inpatient care. This would have a significant impact on operations for many types of providers that rely on federal reimbursements—in fact, hospice is almost solely funded by Medicaid and Medicare revenues, so almost the entirety of their budgets could be at risk. Further, while we appreciate that there is an attempt to provide a safe harbor, it ultimately will not protect providers since any enforcement action or investigation by a federal agency will not stop if the policy is ended. Once an enforcement action or investigation has been initiated, there is the potential for any provider to lose their license and ability to participate in any federal programs, including grants or

education reimbursements. There are also no guarantees that current or future policies at the federal level will ensure that providers can provide this option without risk.

We would ask that your committee maintain the permissive nature of this measure, or defer the measure overall, considering the substantial unanswered questions that remain about how it can be implemented without risk to providers. Thank you for the opportunity to provide testimony on this measure.



February 24, 2023 at 9:30 am
Conference Room 016

Senate Committee on Judiciary

To: Chair Karl Rhoads
Vice Chair Mike Gabbard

From: Paige Heckathorn Choy
Associate Vice President, Government Affairs
Healthcare Association of Hawaii

Re: **Comments**
SB 673 SD 1, Relating to Medical Cannabis

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 30,000 people statewide.

Thank you for the opportunity to **submit comments** on this measure, which would allow—but not require—healthcare facilities to offer terminally ill patients who are registered medical marijuana users to access and use the drug while admitted to an inpatient setting. Only one state (California) has passed a law allowing this, and it has just recently gone into effect. We appreciate that this measure was amended to be permissive, rather than mandated, because there are remaining and serious concerns about allowing the possession and use of cannabis in federally-certified facilities. Further, healthcare facilities have contracts with private insurers that also contain requirements to limit controlled substance use in facilities.

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Dedicated to safe, responsible, humane and effective drug policies since 1993

TESTIMONY IN SUPPORT OF SB 673, SD 1

TO: Chair Rhoads, Vice Chair Gabbard & Judiciary Committee Members

FROM: Nikos Leverenz
DPFH Board President

DATE: February 24, 2023 (9:30 AM)

Drug Policy Forum of Hawai'i (DPFH) **strongly supports** SB 673, SD 1, and request that the bill be amended by replacing “may” to “shall” on page 1, line 9, to require that healthcare facilities providing hospice services in Hawaii allow terminally ill patients to consume cannabis in a manner that is safe and unintrusive to other patients, guests, and staff.

California's Compassionate Access to Medical Cannabis Act (also known as Ryan's Law) passed the legislature unanimously in 2021 and was signed into law by Governor Gavin Newsom. As a result, terminally ill Californians have had access to medical cannabis in healthcare facilities providing hospice services since January 1, 2022.

Medical cannabis is most commonly used for pain relief and is also used to improve appetite and reduce nausea. In certain cases, it can be used as an alternative to heavy pain relievers like fentanyl and morphine. Many terminally ill patients choose to use cannabis for treatment or pain relief and wish to continue that use while at the hospital. Allowing access to medical cannabis ensures that these patients have consistency in their treatment.

While medical cannabis in Hawai'i is legal, it remains a Schedule I drug at the federal level. Healthcare facilities that are Medicare and/or Medicaid providers receive accreditation from the Centers for Medicare and Medicaid Services (CMS) and are generally required to comply with local, state, and federal laws in order to continue receiving reimbursements. Consequently, many healthcare facilities have adopted policies prohibiting cannabis on their grounds out of a perceived risk of losing federal funding if they were to allow it.

This fear is unfounded, as the Medicare and Medicaid regulations do not address the use of medical cannabis, and CMS states that it is not aware of a provider that has specifically lost funding or been penalized for permitting the use of medical cannabis. Furthermore, CMS states it would not cite healthcare facilities for allowing medical cannabis use unless the US Department of Justice (US DOJ), declares its intent or acts to interfere with state medical cannabis laws.

To address any lingering concerns about federal intervention, this bill provides a safe harbor clause. Healthcare facilities would be permitted to suspend compliance with this bill if a federal regulatory agency, the US DOJ, or CMS takes specified actions, including initiating an enforcement action against a healthcare facility for its compliance with a state regulated medical cannabis program, or otherwise issuing a rule or notice that expressly prohibits the use of medical cannabis in healthcare facilities.

Americans for Safe Access, a longstanding organization dedicated to ensuring safe and legal access to cannabis for therapeutic use and research, has an [online resource guide to assist healthcare facilities with the implementation](#) of Ryan’s Law in California that should also be of value to Hawai’i facilities.

Thank you for the opportunity to testify on this important measure.

SB-673-SD-1

Submitted on: 2/21/2023 5:34:59 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mark Gordon	Individual	Support	Written Testimony Only

Comments:

Medical cannabis should definitely be allowed to be given to terminally ill patients. This drug is much safer for pain relief and not addictive as other drugs given to these patients, such as hydrocodone and especially fentanyl, which as we know, is very harmful and deadly.

SB-673-SD-1

Submitted on: 2/21/2023 7:57:38 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cards Pintor

SB-673-SD-1

Submitted on: 2/21/2023 9:11:36 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

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

Comments:

Please support SB673 SD1.

SB-673-SD-1

Submitted on: 2/22/2023 1:32:07 PM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andy Kagemoto	Individual	Support	Written Testimony Only

Comments:

Thank you Chair Rhoads for hearing SB673. Please accept my testimony in strong support!
Warm aloha!

SB-673-SD-1

Submitted on: 2/23/2023 8:56:47 AM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
David Shizuma	Individual	Support	Written Testimony Only

Comments:

I am writing in support of SB673.

Terminally ill patients must often decide between the suffering of side-effects from medications or the pain of their bodies shutting down due to their illness. Cannabis is a way to ease their pain and suffering, allowing them to remain at ease in their final moments. Please support this bill and help those coming to the end of their days pass with ease.

Mahalo for your consideration.

SB-673-SD-1

Submitted on: 2/23/2023 9:43:12 AM

Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo. I'm born and raised in the Hawaiian Kingdom a Kanaka Maoli.

I'm writing in SUPPORT of SB673 SD1.

me ke aloha 'āina,
Nanea Lo, Mō'ili'ili