
A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1 SECTION 1. The legislature finds that existing state law
2 recognizes the beneficial use of cannabis in treating certain
3 debilitating medical conditions, their symptoms, and certain
4 side effects of treatment of these conditions, including severe
5 pain, nausea, muscle spasms, and seizures. Act 241, Session
6 Laws of Hawaii 2015 (Act 241), provided patient access to
7 medical cannabis beyond the access that existed prior to the
8 creation of the dispensary system authorized by Act 241.
9 However, the intent of the legislature as expressed in Act 241
10 was, and continues to be, to expand qualifying patients' access
11 to cannabis rather than to replace existing access routes.
12 According to the rapid survey of Hawaii medical cannabis
13 patients and providers conducted by the department of health in
14 2022, fifty-five per cent of patients indicated that they
15 obtained their cannabis exclusively from a licensed medical
16 cannabis dispensary. This means that up to forty-five per cent
17 of patients obtain their cannabis for medical use from other



1 sources, including cultivation. Part of the justification for
2 establishing the medical cannabis dispensary system was that
3 some patients may not be able to grow their own supply of
4 medical cannabis due to limitations such as disability or lack
5 of space. These patients should continue to have multiple
6 options for obtaining medical cannabis, including having a
7 primary caregiver grow an adequate supply of cannabis for
8 medical use on their behalf.

9 Accordingly, the purpose of this Act is to maintain and
10 clarify the multiple options currently available for qualifying
11 patients to access a safe and legal supply of medical cannabis.

12 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
13 amended by adding a new section to part IX to be appropriately
14 designated and to read as follows:

15 "§329- Violations; penalties. (a) In addition to any
16 other penalties allowed by law, any person who violates this
17 part or rules adopted thereunder shall be fined not more than
18 \$5,000 for each separate violation. Each day on which a
19 violation occurs or continues shall constitute a separate
20 violation.



1 (b) The department of health may impose an administrative
2 penalty on a person pursuant to subsection (a), or rules adopted
3 pursuant to this part. The department of health shall serve the
4 person with written notice of the administrative penalty and the
5 basis for the administrative penalty. Any notice of an
6 administrative penalty may be accompanied by a cease-and-desist
7 order or a corrective action order. The violation of the cease-
8 and-desist order or the corrective action order shall constitute
9 a further violation of this part.

10 (c) Any person aggrieved by the imposition of an
11 administrative penalty, cease-and-desist order, or corrective
12 action order may request a contested case hearing pursuant to
13 chapter 91. To request a contested case hearing, the person
14 shall submit a written request to the department of health
15 within twenty calendar days of the date of the written notice.
16 Appeal to the circuit court under section 91-14 or any other
17 applicable statute shall only be taken from the department of
18 health's final order pursuant to a contested case.

19 (d) Any action taken to recover, collect, or enforce the
20 penalty provided for in this section shall be considered a civil
21 action. For any judicial proceeding to recover or collect an



1 administrative penalty imposed pursuant to subsection (a) or to
2 enforce a cease-and-desist order or a corrective action order
3 issued pursuant to subsection (b), the department of health may
4 petition any court of appropriate jurisdiction and need only
5 show that:

- 6 (1) Notice was served upon the person;
- 7 (2) A hearing was held, or the time granted for requesting
8 a hearing has expired without such a request;
- 9 (3) The administrative penalty, cease-and-desist order, or
10 corrective action order was imposed on the person; and
- 11 (4) The penalty remains unpaid, or the order was not complied
12 with."

13 SECTION 3. Section 329-123, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) Primary caregivers shall register with the department
16 of health. ~~Every~~ Each primary caregiver shall be responsible
17 for the care of ~~only one~~ not more than five qualifying
18 ~~patient~~ patients at any given time, unless the primary
19 caregiver is the parent, guardian, or person having legal
20 custody of more than one minor qualifying patient, in which case
21 the primary caregiver may be responsible for the care of more



1 than one minor qualifying patient at any given time; provided
 2 that the primary caregiver is the parent, guardian, or person
 3 having legal custody of all of the primary caregiver's
 4 qualifying patients. The department of health may permit
 5 registration of up to two primary caregivers for a minor
 6 qualifying patient; provided that both primary caregivers are
 7 the parent, guardian, or person having legal custody of the
 8 minor qualifying patient."

9 SECTION 4. Section 329-130, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "§329-130 Authorized sources of medical cannabis. (a)
 12 [~~After December 31, 2024,~~ a] A qualifying patient shall obtain
 13 medical cannabis or manufactured cannabis products only:

- 14 (1) From a dispensary licensed pursuant to chapter 329D;
 15 provided that the cannabis shall be purchased and paid
 16 for at the time of purchase; [~~or~~]
- 17 (2) By cultivating cannabis in an amount that does not
 18 exceed an adequate supply for the qualifying
 19 patient[~~]~~ pursuant to section 329-122; provided that
 20 each location used to cultivate cannabis shall be used



1 ~~[by ne]~~ to cultivate cannabis for not more than five
2 qualifying patients[-]; or

3 (3) From the qualifying patient's primary caregiver who
4 cultivates cannabis in an amount that does not exceed
5 an adequate supply for the qualifying patient pursuant
6 to section 329-121; provided that each location used
7 to cultivate cannabis shall be used to cultivate
8 cannabis for not more than five qualifying patients.

9 ~~[After December 31, 2024, no primary caregiver shall be~~
10 ~~authorized to cultivate cannabis for any qualifying patient.~~

11 ~~(b) This section shall not apply to:~~

12 ~~(1) A qualifying patient who is a minor or an adult~~
13 ~~lacking legal capacity and the primary caregiver is~~
14 ~~the parent, guardian, or person having legal custody~~
15 ~~of a qualifying patient described in the paragraph; or~~

16 ~~(2) A qualifying patient on any island on which there is~~
17 ~~no medical cannabis dispensary licensed pursuant to~~
18 ~~chapter 329D.~~

19 ~~(e)]~~ (b) A qualifying out-of-state patient and a caregiver
20 of a qualifying out-of-state patient shall be authorized to



1 obtain cannabis for medical use only from retail dispensing
2 locations of dispensaries licensed pursuant to chapter 329D."

3 SECTION 5. Section 329D-27, Hawaii Revised Statutes, is
4 amended by amending subsections (b) and (c) to read as follows:

5 "(b) No later than January 4, 2016, the department shall
6 adopt interim rules, which shall be exempt from chapter 91 and
7 chapter 201M, to effectuate the purposes of this chapter;
8 provided that the interim rules shall remain in effect until
9 July 1, [~~2025~~] 2027, or until rules are adopted pursuant to
10 subsection (a), whichever occurs sooner.

11 (c) The department may amend the interim rules, and the
12 amendments shall be exempt from chapters 91 and 201M, to
13 effectuate the purposes of this chapter; provided that any
14 amended interim rules shall remain in effect until July 1,
15 [~~2025~~] 2027, or until rules are adopted pursuant to subsection
16 (a), whichever occurs sooner."

17 SECTION 6. Act 241, Session Laws of Hawaii 2015, section
18 14, as amended by Act 41, Session Laws of Hawaii 2017, section
19 11, as amended by Act 159, Session Laws of Hawaii 2018, section
20 4, is amended to read as follows:



1 "SECTION 14. For the purposes of effectuating this Act,
2 the personnel hired and the contracts entered into by the
3 department of health, pursuant to this Act, shall be exempt from
4 chapter 76, Hawaii Revised Statutes, for a period beginning on
5 July 1, 2015, and ending on June 30, [~~2025~~] 2027; provided
6 that:

- 7 (1) All personnel actions taken pursuant to this Act by
8 the department of health after June 30, [~~2025~~] 2027,
9 shall be subject to chapter 76, Hawaii Revised
10 Statutes, as appropriate; and
- 11 (2) Any employee hired by the department of health to
12 effectuate this Act, who occupies a position exempt
13 from civil service on July 1, [~~2025~~] 2027, shall:
14 (A) Be appointed to a civil service position; and
15 (B) Not suffer any loss of prior service credit,
16 vacation or sick leave credits previously earned,
17 or other employee benefits or privileges;
18 provided that the employee possesses the minimum
19 qualifications and public employment requirements for
20 the class or position to which appointed; provided
21 further that subsequent changes in status shall be



1 made pursuant to applicable civil service and
2 compensation laws."

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect retroactive to
6 December 31, 2050.



Report Title:

DOH; Office of Medical Cannabis Control and Regulation;
Caregivers; Medical Cannabis; Cultivation; Penalties

Description:

Authorizes the Department of Health to issue notices of violations, impose administrative penalties, and issue cease-and-desist and corrective action orders for violations of medical cannabis laws. Retroactively repeals the sunset date of the authorization for primary caregivers to cultivate medical cannabis for their qualifying patients. Increases the number of qualifying patients a primary caregiver is authorized to care for from one to five patients. Establishes that each location used by primary caregivers to cultivate cannabis can be used to cultivate cannabis for not more than five qualifying patients. Extends the effective date of interim rules adopted by the Department of Health pursuant to section 329D-27, Hawaii Revised Statutes, to 7/1/2027. Extends the sunset date for the exemption from civil service of personnel hired by or contracts entered into by the Department of Health pursuant to Act 241, Session Laws of Hawaii 2015, to 6/30/2027. Effective 12/31/2050. (SD2)

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