

- 1 (1) Inpatient care, including medical supervision,
2 twenty-four-hour skilled nursing and supportive care,
3 pharmacy, dietary, social, and recreational services,
4 to residents whose primary need is the availability of
5 skilled nursing care on a recurring, intermittent,
6 extended, or continuous basis;
- 7 (2) Care that is generally less intense than that provided
8 in general acute care hospitals but more intense than
9 that provided in skilled nursing facilities; and
- 10 (3) At least one type of the following specialized
11 services:
- 12 (A) Services for persons who are mentally alert,
13 persons with physical disabilities, or persons
14 who may be ventilator dependent;
- 15 (B) Services for persons who have a diagnosis of
16 terminal illness, a diagnosis of a
17 life-threatening illness, or both, as stated in
18 writing by the person's attending physician or
19 surgeon. For the purposes of this definition,
20 "life-threatening illness" means an illness that



1 can lead to a possibility of a termination of
2 life within five years or less; or
3 (C) Services for persons who are catastrophically and
4 severely disabled, including, for
5 catastrophically disabled persons, speech,
6 physical, and occupational therapy. For the
7 purposes of this definition, "a person who is
8 catastrophically and severely disabled" means a
9 person whose origin of disability was acquired
10 through trauma or nondegenerative neurologic
11 illness, for whom it has been determined that
12 active rehabilitation would be beneficial, and to
13 whom these services are being provided.

14 "Department" means the department of health.

15 "General acute care hospital" means a health facility
16 licensed by the department that has a duly constituted governing
17 body with overall administrative and professional responsibility
18 for the facility and an organized medical staff that provides
19 twenty-four-hour inpatient care, including the following basic
20 services: medical, nursing, surgical, anesthesia, laboratory,



1 radiology, pharmacy, and dietary services. "General acute care
2 hospital" includes a health facility that:

- 3 (1) Has more than one physical plant maintained and
4 operated on separate premises; or
- 5 (2) Exclusively provides acute medical rehabilitation
6 center services, including at least physical therapy,
7 occupational therapy, and speech therapy, and
8 contracts for required surgical and anesthesia
9 services with another acute care hospital.

10 "Health care facility" means a congregate living health
11 facility, general acute care hospital, home health agency,
12 hospice home, skilled nursing facility, or special hospital.
13 "Health care facility" does not include a chemical dependency
14 recovery hospital, a chemical dependency residential treatment
15 center, a state hospital, or an emergency department of a
16 general acute care hospital while the patient is receiving
17 emergency services and care.

18 "Home health agency" means a private or public
19 organization, including but not limited to any partnership,
20 corporation, political subdivision of the State, or other
21 government agency within the State, that provides, or arranges



1 for the provision of, skilled nursing services to persons in
2 their temporary or permanent place of residence and is licensed
3 by the department.

4 "Hospice home" has the same meaning as defined in section
5 321-15.1.

6 "Medical cannabis" means cannabis or a cannabis product
7 used in compliance with part IX of chapter 329.

8 "Patient" means an individual who meets one or both of the
9 following criteria:

- 10 (1) Is terminally ill; or
- 11 (2) Is over sixty-five years of age with a chronic disease
12 for which the patient has received a written
13 certification from the patient's physician or advanced
14 practice registered nurse pursuant to part IX of
15 chapter 329.

16 "Primary caregiver" has the same meaning as defined in
17 section 329-121.

18 "Skilled nursing facility" means a skilled nursing facility
19 licensed pursuant to section 321-571 that provides skilled
20 nursing care and supportive care to patients whose primary need



1 is for availability of skilled nursing care on an extended
2 basis.

3 "Special hospital" means a health facility that has a duly
4 constituted governing body with overall administrative and
5 professional responsibility for the facility and an organized
6 medical or dental staff that provides inpatient or outpatient
7 care in maternity or dentistry.

8 "Terminally ill" means a medical condition resulting in a
9 prognosis of life of one year or less if the disease follows its
10 natural course.

11 § -3 **Health care facilities; duties regarding permitted**
12 **use of medical cannabis.** (a) Except as provided in subsection
13 (b), a health care facility may allow patient use of medical
14 cannabis, as authorized by the patient's physician or advanced
15 practice registered nurse pursuant to part IX of chapter 329 and
16 indicated in the patient's medical record, and, if a health care
17 facility elects to allow patient use of medical cannabis, shall
18 do all of the following:

19 (1) Prohibit smoking or vaping as methods to use medical
20 cannabis; provided that a home health agency shall
21 only prohibit smoking or vaping immediately before or



- 1 while home health agency staff are present in the
2 residence;
- 3 (2) Include the use of medical cannabis within the
4 patient's medical records;
- 5 (3) Require a patient to provide a copy of the patient's
6 valid medical cannabis registry card or certificate
7 issued pursuant to part IX of chapter 329, or a copy
8 of the patient's written certification as defined
9 under section 329-121;
- 10 (4) Require a patient or primary caregiver to be
11 responsible for acquiring, retrieving, administering,
12 and removing medical cannabis;
- 13 (5) Require medical cannabis to be stored securely at all
14 times in a locked container in the patient's room,
15 other designated area, or with the patient's primary
16 caregiver; provided that this requirement shall not
17 apply to a home health agency;
- 18 (6) Prohibit health care professionals, health care
19 facility staff, and home health agency staff,
20 including but not limited to physicians, nurses, and



- 1 pharmacists, from administering medical cannabis or
2 retrieving medical cannabis from storage;
- 3 (7) Develop, disseminate, and train health care facility
4 staff on written guidelines developed by the health
5 care facility for the use and disposal of medical
6 cannabis within the health care facility pursuant to
7 this chapter; provided that this requirement shall not
8 apply to a home health agency; and
- 9 (8) Ensure that a patient is not denied admission to the
10 health care facility in whole or in part because of
11 the patient's use of medical cannabis.
- 12 (b) Notwithstanding subsection (a), a general acute care
13 hospital shall not allow a patient with a chronic disease to use
14 medical cannabis unless the patient is terminally ill.

15 **§ -4 Removal of medical cannabis from health care**
16 **facility upon discharge of patient.** (a) Upon discharge, all
17 remaining medical cannabis shall be removed by the patient or
18 the patient's primary caregiver. If a patient cannot remove the
19 medical cannabis and does not have a primary caregiver that is
20 available to remove the medical cannabis, the medical cannabis
21 shall be stored in a locked container until it is disposed of in



1 accordance with the health care facility's policy and procedure
2 governing medical cannabis.

3 (b) Subsection (a) shall not apply to a home health
4 agency.

5 § -5 **Medical cannabis recommendation not required.** This
6 chapter shall not require a health care facility to provide or
7 furnish a patient with a recommendation to use medical cannabis
8 in compliance with part IX of chapter 329 or include medical
9 cannabis in a patient's discharge plan.

10 § -6 **Enforcement; compliance with chapter not required**
11 **for licensing; construction.** (a) This chapter shall be
12 enforced by the department.

13 (b) Compliance with this chapter shall not be a condition
14 for obtaining, retaining, or renewing a license as a health care
15 facility.

16 (c) This chapter does not reduce, expand, or otherwise
17 modify the laws restricting the cultivation, possession,
18 distribution, or use of cannabis that may be otherwise
19 applicable.

20 § -7 **Actions permitting noncompliance.** If a federal
21 regulatory agency, the United States Department of Justice, or



1 the federal Centers for Medicare and Medicaid Services takes one
2 of the following actions, or makes an inquiry about the health
3 care facility's activities pursuant to section -3, a health
4 care facility may suspend compliance with section -3 until
5 the regulatory agency, the United States Department of Justice,
6 or the federal Centers for Medicare and Medicaid Services
7 notifies the health care facility that it may resume permitting
8 the use of medical cannabis within the facility:

- 9 (1) A federal regulatory agency or the United States
10 Department of Justice initiates enforcement action,
11 including a notice to suspend funding, against a
12 health care facility related to the health care
13 facility's compliance with a state-regulated medical
14 cannabis program; or
- 15 (2) A federal regulatory agency, the United States
16 Department of Justice, or the federal Centers for
17 Medicare and Medicaid Services issues a rule,
18 guidance, or otherwise provides notification to the
19 health care facility that expressly prohibits the use
20 of medical cannabis in health care facilities or



1 otherwise prohibits compliance with a state-regulated
2 medical cannabis program."

3 SECTION 2. Section 329-122, Hawaii Revised Statutes, is
4 amended by amending subsection (e) to read as follows:

5 "(e) [~~The~~] Except as allowed under chapter _____, the
6 authorization for the medical use of cannabis in this section
7 shall not apply to:

8 (1) The medical use of cannabis that endangers the health
9 or well-being of another person;

10 (2) The medical use of cannabis:

11 (A) In a school bus, public bus, or any moving
12 vehicle;

13 (B) In the workplace of one's employment;

14 (C) On any school grounds;

15 (D) At any public park, public beach, public
16 recreation center, recreation or youth center; or

17 (E) At any other place open to the public; provided
18 that a qualifying patient, primary caregiver,
19 qualifying out-of-state patient, caregiver of a
20 qualifying out-of-state patient, or an owner or
21 employee of a medical cannabis dispensary



1 licensed under chapter 329D shall not be
2 prohibited from transporting cannabis or any
3 manufactured cannabis product, as that term is
4 defined in section 329D-1, in any public place;
5 provided further that the cannabis or
6 manufactured cannabis product shall be
7 transported in a sealed container, not be visible
8 to the public, and shall not be removed from its
9 sealed container or consumed or used in any way
10 while it is in the public place; and

11 (3) The use of cannabis by a qualifying patient, parent,
12 primary caregiver, qualifying out-of-state patient, or
13 caregiver of a qualifying out-of-state patient, for
14 purposes other than medical use permitted by this
15 part."

16 SECTION 3. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect upon its approval.



Report Title:

DOH; Medical Cannabis; Health Care Facilities; Access

Description:

Allows terminally ill patients and qualifying patients over sixty-five years of age with chronic diseases to use medical cannabis within specified health care facilities under certain conditions. Requires enforcement by the Department of Health. (SD1)

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