

ACT 178

S.B. NO. 642

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State's medical marijuana program was enacted into law in 2000 as a public health program conceived out of compassion for the health and welfare of the seriously ill. After twelve years, the experience of the program indicates that improvements to the law will help to fulfill its original intent by clarifying provisions and removing serious obstacles to patient access and physician participation.

The purpose of this Act is to amend the medical use of marijuana law to address the concerns of Hawaii's seriously ill patients.

SECTION 2. Section 329-121, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "adequate supply" to read:

““Adequate supply” means an amount of marijuana jointly possessed between the qualifying patient and the primary caregiver that is not more than is reasonably necessary to assure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of a qualifying patient’s debilitating medical condition; provided that an “adequate supply” shall not exceed ~~[three mature]~~ seven marijuana plants~~[- four immature marijuana plants, and one ounce]~~, whether immature or mature, and four ounces of usable marijuana [per each mature plant.] at any given time.”

2. By amending the definition of “medical use” to read:

““Medical use” means the acquisition, possession, cultivation, use, distribution, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a qualifying patient’s debilitating medical condition. For the purposes of “medical use”, the term distribution is limited to the transfer of marijuana and paraphernalia ~~[from the primary caregiver to the qualifying patient].~~”

3. By amending the definition of “primary caregiver” to read:

““Primary caregiver” means a person~~[- eighteen years of age or older,~~ other than the qualifying patient and the qualifying patient’s physician, ~~[who is eighteen years of age or older]~~ who has agreed to undertake responsibility for managing the well-being of the qualifying patient with respect to the medical use of marijuana. In the case of a minor or an adult lacking legal capacity, the primary caregiver shall be a parent, guardian, or person having legal custody.”

4. By amending the definition of “usable marijuana” to read:

““Usable marijuana” means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture ~~[[]or[]]~~ preparation thereof, that are appropriate for the medical use of marijuana. “Usable marijuana” does not include the seeds, stalks, and roots of the plant.”

5. By amending the definition of “written certification” to read:

““Written certification” means the qualifying patient’s medical records or a statement signed by a qualifying patient’s physician, stating that in the physician’s professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. The department of ~~[public safety]~~ health may require, through its rulemaking authority, that all written certifications comply with a designated form. “Written certifications” are valid for only one year from the time of signing.”

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

“(a) Notwithstanding any law to the contrary, the medical use of marijuana by a qualifying patient shall be permitted only if:

- (1) The qualifying patient has been diagnosed by a physician as having a debilitating medical condition;
- (2) The qualifying patient’s physician has certified in writing that, in the physician’s professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the particular qualifying patient; and
- (3) The amount of marijuana possessed by the qualifying patient does not exceed an adequate supply.”

SECTION 4. Section 329-123, Hawaii Revised Statutes, is amended to read as follows:

“§329-123 Registration requirements. (a) Physicians who issue written certifications shall ~~register the names, addresses, patient identification numbers,~~ provide, in each written certification, the name, address, patient identification number, and other identifying information of the ~~patients issued written certifications with the department of public safety.~~ qualifying patient. The department of health shall require, in rules adopted pursuant to chapter 91, that all written certifications comply with a designated form completed by or on behalf of a qualifying patient. The form shall require information from the applicant, primary caregiver, and primary care physician as specifically required or permitted by this chapter. The form shall require the address of the location where the marijuana is grown and shall appear on the registry card issued by the department of health. The certifying physician shall be required to be the qualifying patient’s primary care physician. All current active medical marijuana permits shall be honored through their expiration date.

(b) Qualifying patients shall register with the department of ~~public safety.~~ health. The registration shall be effective until the expiration of the certificate issued by the department of health and signed by the physician. Every qualifying patient shall provide sufficient identifying information to establish the personal identities of the qualifying patient and the primary caregiver. Qualifying patients shall report changes in information within ~~five~~ ten working days. Every qualifying patient shall have only one primary caregiver at any given time. The department of health shall ~~then~~ issue to the qualifying patient a registration certificate, and ~~may~~ shall charge ~~a reasonable fee not to exceed~~ \$35[-] per year.

(c) Primary caregivers shall register with the department of ~~public safety.~~ health. Every primary caregiver shall be responsible for the care of only one qualifying patient at any given time.

(d) Upon ~~an~~ inquiry by a law enforcement agency, which inquiry may be made twenty-four hours a day, seven days a week, the department of ~~public safety.~~ health shall immediately verify whether the ~~particular qualifying patient~~ subject of the inquiry has registered with the department of health and may provide reasonable access to the registry information for official law enforcement purposes.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on January 2, 2015.

(Approved June 25, 2013.)