

ACT 241

H.B. NO. 302

A Bill for an Act Relating to Cannabis.

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

PART I

SECTION 1. The legislature finds that access for qualifying patients and primary caregivers to medical cannabis and particularly licensed medical cannabis dispensaries remains challenging due to limited access to medical providers, delays in obtaining allowed access to enter and purchase medical cannabis, and the availability of cannabis through a thriving illicit market.

The legislature further finds that registration for the medical cannabis program has decreased in the last few years. While the number of registered medical cannabis patients reached its peak in August 2021, with 35,444 card-holding patients, since then, the number of patients has decreased over fifteen per cent to 30,035 by November 2024. This appears to indicate that residents are

shifting away from licensed medical cannabis dispensaries, and instead are obtaining their medical cannabis from elsewhere due to administrative barriers, delays in registering, and the ease and lower costs in obtaining cannabis elsewhere.

The legislature also finds that this apparent shift away from licensed medical cannabis dispensaries toward the illicit market undermines the purposes of the medical cannabis program in ensuring patient safety, product safety, and public safety.

The legislature additionally finds that Act 34, Session Laws of Hawaii 2021, amended existing law governing physicians by eliminating the requirement for a physician-patient relationship to be established by an initial in-person consultation, and authorized the relationship to be established via telehealth.

The purpose of this part is to make various amendments to the medical use of cannabis and medical cannabis dispensaries laws by:

- (1) Authorizing the department of health to inspect a qualifying patient's medical records that are held by the physician, advanced practice registered nurse, or hospice provider who issued a written certification for the qualifying patient;
- (2) Amending definitions of "qualifying patient" and "written certification" and adding a definition of "primary treating medical provider";
- (3) Clarifying the conditions of use for the medical use of cannabis;
- (4) Authorizing the establishment of a provider-patient relationship via telehealth for purposes of issuing written certifications and limiting the maximum fee a provider may assess for issuing a written certification;
- (5) Authorizing the sale of hemp products and accessories to the medical use of cannabis at retail dispensing locations, except in the waiting room; and
- (6) Clarifying the transportation requirements for certain types of dispensary-to-dispensary purchases of cannabis or manufactured cannabis products.

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

"§329- Qualifying patient medical records; inspection and enforcement; authority. (a) The department may inspect a qualifying patient's medical records held by the physician, advanced practice registered nurse, or hospice provider who issued a written certification for the qualifying patient.

(b) The department may suspend or revoke the ability to issue a written certification for any physician, advanced practice registered nurse, or hospice provider who refuses inspection of a qualifying patient's medical records by the department pursuant to this section.

(c) The department may suspend or revoke the ability to issue a written certification for any physician, advanced practice registered nurse, or hospice provider whose medical records do not comply with the requirements of this chapter."

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

1. By adding a new definition to be appropriate¹ inserted and to read:

"Primary treating medical provider" means a physician or an advanced practice registered nurse located in, and with an active unrestricted license to practice in, the State who, within the physician's or advanced practice registered

nurse's scope of practice and individual competency, is primarily responsible for the treatment and ongoing care of the qualifying patient and has determined that the potential benefits of the medical use of cannabis are likely to outweigh the associated health risks for the qualifying patient."

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

““Qualifying patient” means a person who [has]:

- (1) Has been diagnosed [by a physician or advanced practice registered nurse] as having a debilitating medical condition[-] by a physician or advanced practice registered nurse who has certified in writing that, in the physician's or advanced practice registered nurse's professional opinion, the benefit of the medical use of cannabis would likely outweigh the health risks for the person;
- (2) Has been diagnosed as having a condition other than a debilitating medical condition by the person's primary treating medical provider who has certified in writing that, in the primary treating medical provider's professional opinion, the potential benefits of the medical use of cannabis would likely outweigh the health risks for the person; or
- (3) Is receiving hospice care and the hospice provider licensed in the State has certified in writing that the person is receiving hospice care."

3. 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 [or], advanced practice registered nurse, or hospice provider, stating that in the physician's [or], advanced practice registered nurse's, or hospice provider's professional opinion, the qualifying patient has a [debilitating medical condition and] condition for which the potential benefits of the medical use of cannabis would likely outweigh the health risks for the qualifying patient. The department of health may require, through its rulemaking authority, that all written certifications comply with a designated form. “Written certifications” are valid for one year from the time of signing; provided that the department of health may allow for the validity of any written certification for three years if the qualifying patient's physician or advanced practice registered nurse states that the patient's [debilitating medical] condition is chronic in nature."

SECTION 4. Section 329-122, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Notwithstanding any law to the contrary, the medical use of cannabis by a qualifying patient eighteen years of age or older shall be permitted only if:

- (1) ~~The qualifying patient has been diagnosed by a physician or advanced practice registered nurse as having a debilitating medical condition;~~
- (2) ~~The qualifying patient's physician or advanced practice registered nurse has certified in writing that, in the physician's or advanced practice registered nurse's professional opinion, the potential benefits of the medical use of cannabis would likely outweigh the health risks for the particular qualifying patient; and~~
- (3) (1) The physician, advanced practice registered nurse, or hospice provider who has determined the patient to be a qualifying patient has explained the potential risks and benefits of the medical use of

- cannabis to the qualifying patient and documented in the qualifying patient's medical record that the qualifying patient understands the potential risks and benefits of the medical use of cannabis; and
- (2) The amount of cannabis possessed by the qualifying patient does not exceed an adequate supply.
 - (b) ~~[Subsection (a) shall not apply to]~~ Notwithstanding any law to the contrary, the medical use of cannabis by a qualifying patient under the age of eighteen years[, unless:] shall be permitted only if:
 - (1) The ~~[qualifying patient's]~~ physician [or], advanced practice registered nurse, or hospice provider who has determined the patient to be a qualifying patient has explained the potential risks and benefits of the medical use of cannabis to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient~~[:]~~ and documented in the qualifying patient's medical record that the qualifying patient and the parent, guardian, or person having legal custody of the qualifying patient understand the potential risks and benefits of the medical use of cannabis; and
 - (2) A parent, guardian, or person having legal custody consents in writing to:
 - (A) Allow the qualifying patient's medical use of cannabis;
 - (B) Serve as the qualifying patient's primary caregiver; and
 - (C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient."

SECTION 5. Section 329-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Physicians or advanced practice registered nurses who issue written certifications shall provide, in each written certification, the name, address, patient identification number, and other identifying information of the qualifying patient. A written certification issued pursuant to this subsection shall originate from within the State. 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 physician or advanced practice registered nurse as specifically required or permitted by this chapter. The form shall require the address of the location where the cannabis is grown and shall appear on the registry card issued by the department of health. The certifying physician or advanced practice registered nurse shall be required to have a bona fide physician-patient relationship or bona fide advanced practice registered nurse-patient relationship, as applicable, with the qualifying patient[:]; provided that nothing under this part shall require that the bona fide physician-patient relationship or bona fide advanced practice registered nurse-patient relationship be established by conducting an initial in-person consultation. Any fees assessed by a certifying physician or advanced practice registered nurse to issue a written certification pursuant to this subsection shall not exceed an amount equal to three times the amount of the fee charged by the department of health to issue a registration certificate pursuant to subsection (b). All current active medical cannabis permits shall be honored through their expiration date."

SECTION 6. Section 329-126, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For purposes of this section, a bona fide physician-patient relationship may be established via telehealth, as defined in section 453-1.3(j), and a

bona fide advanced practice registered nurse-patient relationship may be established via telehealth, as defined in section 457-2; provided that nothing under this part shall require that treatment recommendations that include certifying a patient for the medical use of cannabis via telehealth [shall] be allowed only after an initial in-person consultation between the certifying physician or advanced practice registered nurse and the patient.”

SECTION 7. Section 329D-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “retail dispensing location” to read:
 ““Retail dispensing location” means an establishment owned, operated, or subcontracted by a medical cannabis dispensary where cannabis ~~[and]~~, manufactured cannabis products, hemp products, and accessories to the medical use of cannabis, including but not limited to rolling papers, rolling trays, grinders, and vaporizers, are made available for retail sale to a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient.”

2. By amending the definition of “waiting room” to read:
 ““Waiting room” means a designated area at the public entrance of a retail dispensing location that may be accessed by a member of the general public who is waiting for, assisting, or accompanying a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient who enters or remains on the premises of a retail dispensing location for the purpose of a transaction conducted pursuant to sections 329D-6 and 329D-13; provided that the storage, display, and retail sale of cannabis ~~[and]~~, manufactured cannabis products, hemp products, and accessories to the medical use of cannabis, including but not limited to rolling papers, rolling trays, grinders, and vaporizers, shall be prohibited within the waiting room area.”

SECTION 8. Section 329D-6, Hawaii Revised Statutes, is amended by amending subsection (r) to read as follows:

“(r) A dispensary may purchase cannabis and manufactured cannabis products from another dispensary. The department shall authorize a dispensary to purchase cannabis and manufactured cannabis products from another dispensary in a manner prescribed by the department by rules adopted pursuant to section 329D-27; provided that:

- (1) The selling dispensary may transport not more than eight hundred ounces, or other amounts with prior approval by the department, of cannabis or manufactured cannabis products to the purchasing dispensary within a thirty-day period; provided further that cannabis and manufactured cannabis products purchased pursuant to this section intended for:
 - (A) Direct retail sale to qualifying patients shall meet all applicable packaging, labeling, and testing requirements at the time of transport to the purchasing dispensary’s production center or one of its retail dispensing locations; and
 - (B) Further manufacturing by the purchasing dispensary at the time of transportation shall be transported to the purchasing dispensary’s production center;
- (2) The cannabis and manufactured cannabis products are transported between the dispensaries for medical sales, scientific use, or other legitimate purposes approved by the State; ~~[and]~~

- (3) The selling dispensary shall submit a transport manifest of the cannabis or manufactured cannabis products to be sold to the department before the sale is made, after which the selling dispensary may immediately proceed with the transfer of the cannabis or manufactured cannabis products; and
- [(3)] (4) Nothing in this subsection shall relieve any dispensary of its responsibilities and obligations under this chapter and chapter 329.”

SECTION 9. Section 453-1.3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include ~~[[an]]~~ in-person visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing opiates ~~[or certifying a patient for the medical use of cannabis]~~, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient.”

PART II

SECTION 10. The purpose of this part is to establish criminal penalties for the unlicensed operation of a medical cannabis dispensary.

SECTION 11. Chapter 329D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§329D- Unlicensed operation of a dispensary; criminal penalty. (a) No person shall intentionally, knowingly, or recklessly operate a dispensary without a license issued by the department pursuant to this chapter.

(b) No person shall intentionally, knowingly, or recklessly operate any search platform, web hosting service, social media platform, or other service that posts information advertising the sale of cannabis or manufactured cannabis products by a person or entity engaged in the production, manufacture, or sale of cannabis and manufactured cannabis products without a license issued by the department pursuant to this chapter.

(c) The department shall issue a cease and desist notice to any person who violates subsections (a) or (b); provided that the department shall issue the cease and desist notice before initiating any criminal proceedings.

(d) Any person who violates subsection (a) shall be guilty of a class C felony. Any person who violates subsection (b) shall be guilty of a misdemeanor.

(e) It shall be an affirmative defense to subsection (b) that the person operating any search platform, web hosting service, social media platform, or other service that posts information advertising the sale of cannabis or manufactured cannabis products had requested, examined, and reasonably relied upon a license that appeared to have been issued by the department that was shown to the person by the unlicensed person or unlicensed entity engaged in the production, manufacture, or sale of cannabis or manufactured cannabis products establishing that the unlicensed person or unlicensed entity was licensed by the department to engage in the production, manufacture, or sale of cannabis or manufactured cannabis products pursuant to this chapter. The failure of the per-

son operating any search platform, web hosting service, social media platform, or other service that posts information advertising the sale of cannabis and manufactured cannabis products to request and examine a license issued by the department from the unlicensed person or unlicensed entity engaged in the production, manufacture, or sale of cannabis or manufactured cannabis products before providing access to any search platform, web hosting service, social media platform, or other service that posts information advertising the sale of cannabis and manufactured cannabis products shall be construed against the person operating the search platform, web hosting service, social media platform, or other service that posts information advertising the sale of cannabis and manufactured cannabis products and form a conclusive basis for the person's violation of this section.

- (f) This section shall not apply to:
 - (1) Hemp processors or hemp product retailers with a valid permit under chapter 328G; or
 - (2) Primary caregivers registered under chapter 329 who are acting within the scope of their registration."

PART III

SECTION 12. The purpose of this part is to:

- (1) Authorize expenditures from the medical cannabis registry and regulation special fund to fund programs for the mitigation and abatement of nuisances related to illegal cannabis and hemp products or medical cannabis dispensaries; and
- (2) Appropriate funds to the department of the attorney general's drug nuisance abatement unit for these purposes.

SECTION 13. Section 28-131, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The purpose of the drug nuisance abatement unit shall be to provide for the effective enforcement and prosecution of those violations of the drug nuisance abatement laws under chapter 712, part V but only for offenses related to drugs and intoxicating compounds as provided under chapter 712, part IV[.] and violations of chapter 329D as provided under section 712-1270. The drug nuisance [[abatement]] unit may also review and take appropriate action on drug nuisance complaints of any citizen of the State, or drug nuisances that are discovered by the unit in carrying out its activities."

SECTION 14. Section 321-30.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established within the state treasury the medical cannabis registry and regulation special fund. The fund shall be expended at the discretion of the director of health:

- (1) To establish and regulate a system of medical cannabis dispensaries in the State;
- (2) To offset the cost of the processing and issuance of patient registry identification certificates and primary caregiver registration certificates;
- (3) To fund positions and operating costs authorized by the legislature;
- (4) To establish and manage a secure and confidential database;

- (5) To fund public education as required by section 329D-26;
- (6) To fund substance abuse prevention and education programs; ~~and~~
- (7) To fund programs for the mitigation and abatement of nuisances relating to illegal cannabis and hemp products and chapter 329D; and
- ~~[(7)]~~ (8) For any other expenditure necessary, consistent with this chapter and chapter 329D, to implement medical cannabis registry and regulation programs.”

SECTION 15. There is appropriated out of the medical cannabis registry and regulation special fund the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2025-2026 and the same sum or so much thereof as may be necessary for fiscal year 2026-2027 for the department of the attorney general to enforce, and mitigate nuisances relating to, illegal cannabis and hemp products and chapter 329D, Hawaii Revised Statutes, and to establish, recruit, and hire the following positions:

- (1) Four full-time equivalent (4.0 FTE) investigator V positions;
- (2) One full-time equivalent (1.0 FTE) investigator IV position; and
- (3) One full-time equivalent (1.0 FTE) analyst position.

The sums appropriated shall be expended by the attorney general for the purposes of this part.

PART IV

SECTION 16. The purpose of this part is to prohibit the cultivation of cannabis without a cannabis cultivator license issued by the department of health.

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

“§329D- Cannabis cultivator; license required. (a) Notwithstanding section 329D-24, it shall be unlawful for any person to cultivate cannabis without a license issued by the department pursuant to this section.

(b) A cannabis cultivator license shall authorize the licensee to:

- (1) Acquire and cultivate cannabis plants, seeds, cuttings, or clones; and
- (2) Distribute cannabis plants and cannabis flower to a medical cannabis dispensary.

(c) The department shall issue no more than one cannabis cultivator license for each person.

(d) A person issued a cannabis cultivator license under this section shall meet all production facility and processing requirements of this chapter.”

PART V

SECTION 18. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 19. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

ACT 241

SECTION 20. This Act shall take effect on July 1, 2025; provided that part IV of this Act shall take effect on January 1, 2028; provided further that the amendments made to section 453-1.3(c), Hawaii Revised Statutes, by section 9 of this Act shall not be repealed when that section is reenacted on December 31, 2025, pursuant to section 8 of Act 107, Session Laws of Hawaii 2023.

(Approved June 27, 2025.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.