

ACT 46

S.B. NO. 1429

A Bill for an Act Relating to Medical Cannabis.

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

SECTION 1. The legislature finds that existing state law recognizes the beneficial use of cannabis in treating certain debilitating medical conditions, their symptoms, and certain side effects of treatment of these conditions, including severe pain, nausea, muscle spasms, and seizures. Act 241, Session Laws of Hawaii 2015 (Act 241), provided patient access to medical cannabis beyond the access that existed before the creation of the dispensary system authorized by Act 241. However, the intent of the legislature as expressed in Act 241 was, and continues to be, to expand qualifying patients' access to cannabis rather than to replace existing access routes. According to the rapid survey of Hawaii medical cannabis patients and providers conducted by the department of health in 2022, fifty-five per cent of patients indicated that they obtained their cannabis exclusively from a licensed medical cannabis dispensary. This means that up to forty-five per cent of patients obtain their cannabis for medical use from other sources, including cultivation. Part of the justification for establishing the medical cannabis dispensary system was that some patients may not be able to grow their own supply of medical cannabis due to certain limitations, such as disability or lack of space. These patients should continue to have multiple options for obtaining medical cannabis, including having a primary caregiver grow an adequate supply of cannabis for medical use on their behalf.

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

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- Violations; penalties. (a) In addition to any other penalties allowed by law, any person who violates this part or rules adopted pursuant to this part shall be fined not more than \$5,000 for each separate violation. Each day on which a violation occurs or continues shall constitute a separate offense.

(b) The department of health may impose an administrative penalty on a person pursuant to subsection (a) or rules adopted pursuant to this part. The department of health shall serve the person with written notice of the administrative penalty and the basis for the administrative penalty. Any notice of an administrative penalty may be accompanied by a cease and desist order or order for corrective action, or both. The administrative penalty, cease and desist order, and order for corrective action shall become final twenty calendar days after the date of the written notice, unless a contested case hearing is requested pursuant to subsection (c). The violation of the cease and desist order or order for corrective action shall constitute a further violation of this part.

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

(d) Any action taken to recover, collect, or enforce the penalty provided for in this section shall be considered a civil action. For any judicial proceeding to recover or collect an administrative penalty imposed pursuant to subsection (a) or to enforce a cease and desist order or order for corrective action issued pursuant to subsection (b), the department of health may petition any court of appropriate jurisdiction and need only show that:

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

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

"(c) Primary caregivers shall register with the department of health. ~~[Every]~~ Each primary caregiver shall be responsible for the care of ~~[only one]~~ not more than five qualifying ~~[patient]~~ patients at any given time~~[-unless the primary caregiver is the parent, guardian, or person having legal custody of more than one minor qualifying patient, in which case the primary caregiver may be responsible for the care of more than one minor qualifying patient at any given time; provided that the primary caregiver is the parent, guardian, or person having legal custody of all of the primary caregiver's qualifying patients].~~ The department of health may permit registration of up to two primary caregivers for a minor qualifying patient; provided that both primary caregivers are the parent, guardian, or person having legal custody of the minor qualifying patient."

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

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

- (1) From a dispensary licensed pursuant to chapter 329D; provided that the cannabis shall be purchased and paid for at the time of purchase; ~~[or]~~
- (2) By cultivating cannabis in an amount that does not exceed an adequate supply for the qualifying patient~~[-]~~ pursuant to section 329-122; provided that each location used to cultivate cannabis shall be used ~~[by no]~~ to cultivate cannabis for not more than five qualifying patients[-]; or
- (3) From the qualifying patient's primary caregiver who cultivates cannabis in an amount that does not exceed an adequate supply for the qualifying patient pursuant to section 329-122; provided that each location used to cultivate cannabis shall be used to cultivate cannabis for not more than five qualifying patients.

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

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

- ~~(1) A qualifying patient who is a minor or an adult lacking legal capacity and the primary caregiver is the parent, guardian, or person having legal custody of a qualifying patient described in the¹ paragraph; or~~
- ~~(2) A qualifying patient on any island on which there is no medical cannabis dispensary licensed pursuant to chapter 329D.~~

(e) ~~(b)~~ A qualifying out-of-state patient and a caregiver of a qualifying out-of-state patient shall be authorized to obtain cannabis for medical use only from retail dispensing locations of dispensaries licensed pursuant to chapter 329D.”

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

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

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

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

“SECTION 14. For the purposes of effectuating this Act, the personnel hired and the contracts entered into by the department of health, pursuant to this Act, shall be exempt from chapter 76, Hawaii Revised Statutes, for a period beginning on July 1, 2015, and ending on June 30, ~~[2025;]~~ 2029; provided that:

- (1) All personnel actions taken pursuant to this Act by the department of health after June 30, ~~[2025;]~~ 2029, shall be subject to chapter 76, Hawaii Revised Statutes, as appropriate; and
- (2) Any employee hired by the department of health to effectuate this Act, who occupies a position exempt from civil service on July 1, ~~[2025;]~~ 2029, shall:
 - (A) Be appointed to a civil service position; and
 - (B) Not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges;

provided that the employee possesses the minimum qualifications and public employment requirements for the class or position to which appointed; provided further that subsequent changes in status shall be made pursuant to applicable civil service and compensation laws.”

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 8. This Act shall take effect upon its approval; provided that sections 3 and 4 shall take effect retroactive to January 1, 2025.

(Approved May 14, 2025.)

Notes

1. Prior to amendment, “this” appeared here.
2. Edited pursuant to HRS §23G-16.5.