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**STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce, Consumer Protection, and Health
Friday, January 31, 2020
9:30 a.m.
State Capitol, Conference Room 229**

**On the following measure:
S.B. 2586, RELATING TO MEDICAL CANNABIS**

Chair Baker and Members of the Committee:

My name is Colin Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to permit qualifying patients to be reimbursed by health insurers, mutual benefit societies, and health maintenance organizations for amounts spent on medical cannabis and manufactured cannabis products and to limit the monthly amount of reimbursement.

Section 2 of the bill on page 2, line 18 to page 3, line 14, section 3 of the bill on page 4, line 8 to page 5, line 4, and section 4 of the bill on page 5, line 18 to page 6, line 14 require qualifying patients who acquire medical cannabis to be eligible for reimbursement. This may be interpreted as establishing a new benefit mandate. The addition of new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act (PPACA), which requires states to make

payments to defray the costs of any benefits, in addition to the essential health benefits of the State's qualified health plan under the PPACA. 45 Code of Federal Regulations section 155.170(a)(2) also provides that "[a] benefit **required by State action** taking place on or after January 1, 2012, other than for purposes of compliance with Federal requirements, is considered in addition to the essential health benefits." (emphasis added).

Furthermore, any proposed mandate providing coverage for care requires the passage of a concurrent resolution requesting the State Auditor to prepare and submit a report assessing the social and financial impacts of the proposed mandate, pursuant to Hawaii Revised Statutes (HRS) section 23-51.

Thank you for the opportunity to testify on this bill.

HAWAI'I CANNABIS INDUSTRY ASSOCIATION

January 31, 2020

To: Senator Rosalyn H. Baker, Chair
Senator Stanley Chung, Vice Chair
Members of the Senate Committee on Commerce, Consumer Protection, and Health

Fr: Teri Freitas Gorman, 2020 Chair, Hawai'i Cannabis Industry Association (HICIA)

Re: TESTIMONY IN SUPPORT OF SENATE BILL 2586

RELATING TO MEDICAL CANNABIS.

Permits qualifying patients to be reimbursed by health insurers, mutual benefit societies, and health maintenance organizations for amounts spent on medical cannabis and manufactured cannabis products. Limits the monthly amount of reimbursement.

The Hawai'i Cannabis Industry Association, formerly known as the Hawai'i Educational Association for Therapeutic Health (HEALTH), represents all eight of the state's licensed medical cannabis dispensaries plus associate members. We submit testimony today in support of SB2586, a bill that will improve patient access by permitting reimbursement for legal medical cannabis.

Through its legal medical cannabis program, the State of Hawaii and its constituents acknowledge the benefits of cannabis for use by registered patients for fifteen qualifying debilitating medical conditions and symptoms. There is strong evidence that the benefits of legal cannabis also include reduced public spending on prescription drugs, less deaths from prescription drug abuse, and better quality of life for patients. These are not just patient benefits, but public benefits. However, currently, patients and caregivers are responsible for 100% of the out-of-pocket costs. The State and its stakeholders have a responsibility to continue to explore insurance reimbursement for medical cannabis in conjunction with its wider public health goals.

Several states and local courts have already acknowledged the net benefit of medical cannabis for qualifying patients. New Mexico was the first state to pass laws and rules to allow for medical cannabis reimbursement under the Workers' Compensation Administration, a program that has been active now for four years. In 2019, New Hampshire's Supreme Court ruled that a medical cannabis patient should receive workers' comp reimbursement because cannabis was a "reasonable and necessary" medical treatment and reduced the claimant's dependence on opiates. To date, five other states have authorized reimbursement in workers' compensation cases on the grounds that medical cannabis was deemed a "reasonable and necessary" treatment for pain, and that federal law did not preclude the state's medical cannabis laws.

Mahalo for the opportunity to provide our testimony and for your consideration to move this bill forward on behalf of the state's 27,152 registered medical cannabis patients.

Hawai'i Cannabis Industry Association (HICIA)
220 S King St #1600, Honolulu, HI 96813
www.808hicia.com

PONO

LIFE MAUI

To: Senator Rosalyn H. Baker, Chair
Senator Stanley Chung, Vice Chair
Members of the Senate Committee on Commerce, Consumer Protection, and Health

From: Michael Takano
PONO LIFE MAUI

Thursday, January 30, 2020

Re: SUPPORT SB 2586 - Permits qualifying patients to be reimbursed by health insurers, mutual benefit societies, and health maintenance organizations for amounts spent on medical cannabis and manufactured cannabis products. Limits the monthly amount of reimbursement.

Dear Chair Baker, Vice Chair Chung, and Members of the Committee:

As CEO, and on behalf of, PONO LIFE MAUI, one of eight medical cannabis dispensaries licensed by the Department of Health to ensure safe, legal access to medical cannabis for qualified patients, we testify **in support of SB 2586**.

Having served as a member of the Act 161 (2018) Medical Cannabis Insurance Reimbursement (MCIR) Working Group, I am thankful for the opportunity to provide a testimony in favor of SB 2586.

Through its legal medical cannabis program, the State of Hawaii and its constituents acknowledge the benefits of cannabis for use by registered patients for eleven qualifying debilitating medical conditions and symptoms. There is strong evidence that the benefits of legal cannabis also include reduced public spending on prescription drugs, less deaths from opioid abuse, and better quality of life for patients. These are not just patient benefits, but public benefits. However, currently, patients and caregivers are responsible for 100% of the out-of-pocket costs. The State and its stakeholders have a responsibility to continue to explore insurance reimbursement for medical cannabis in conjunction with its wider public health goals.

Thousands of qualifying patients across the country and in Hawaii turn to medical cannabis to relieve a variety of debilitating conditions or symptoms, including, severe pain, muscle spasms, nausea, and PTSD. A *Health Affairs* article published in February 2019 examining state medical cannabis patient data found that 85.5% of registered patients have a condition or indication that

has substantial or conclusive evidence supporting the use of medical cannabis for that indication.¹ Recent research also suggests these patients are using medical cannabis as an alternative to prescription drugs. Through two back-to-back studies, researchers identified a link between legal medical cannabis and reductions in Medicare and Medicaid enrollee prescription drug spending.^{2 3}

There is also a trending reduction in opioid prescriptions in states with medical cannabis.⁴ Indeed, current research demonstrates notable indications for the medical use of cannabis to relieve severe and chronic pain.⁵ Coincidentally, research also demonstrates that states with legal medical cannabis use had substantial reductions in opioid use and opioid-related deaths.^{6 7 8}

In Hawaii, 85% of 329 card holders use medical cannabis for the treatment of severe pain⁹ More and more patients are pursuing medical cannabis as a safer pain management alternative, as it offers lower health risks compared to opioids. While patients do face moderate risk of developing cannabis use disorder, dependency has no potential for fatal overdose as with opioid alternatives.

Likewise, prolonged opioid use is associated with poorer outcomes, longer disability, and higher medical costs for injured workers. As an example, a 2012 study of more than 12,000 workers' comp claims processed by Lansing, Michigan-based, Accident Fund Holdings, found that when certain opioid painkillers were prescribed, claims were almost four times as likely to have a total cost of \$100,000 or more compared with claims without any prescriptions.¹⁰

For the many that we serve, their goal is to end reliance on opioids or other in pursuit of better quality of life and less risk. Patients with debilitating medical conditions rely on health insurance to pay for expenses incurred from illness or injury. We are familiar with several injured workers in Hawaii who have benefited from medical cannabis, but paid out-of-pocket (without insurance reimbursement). They are busy with their families and need to get back to work. They are afraid of repercussions. We need a better way.

¹ Kevin F. Boehnke, Saurav Gangopadhyay, Daniel J. Clauw, and Rebecca L. Haffajee (2019, February) Qualifying Conditions Of Medical Cannabis License Holders In The United States. Retrieved from <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2018.05266?journalCode=hlthaff&>

² Bradford AC, Bradford D, Abraham AJ. (2017, May), Medical Marijuana Laws May Be Associated with A Decline In The Number Of Prescriptions For Medicaid Enrollees. Retrieved from <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2016.1135>.

³ Bradford AC, Bradford D, Abraham AJ. (2016, July) Medical Marijuana Laws Reduce Prescription Medication Use In Medicare Part D. Retrieved from <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2015.1661>

⁴ Bradford AC, Bradford D, Abraham AJ. (2018, April) Association Between US State Medical Cannabis Laws and Opioid Prescribing in the Medicare Part D Population. *JAMA Intern Med*. doi:10.1001/jamainternmed.2018.0266

⁵ National Academies of Sciences, Engineering, and Medicine. (2017). The health effects of cannabis and cannabinoids: Current state of evidence and recommendations for research. Washington, DC: The National Academies Press.

⁶ Bachhuber, M. A., Saloner, B., Cunningham, C. O., & Barry, C. L. (2014). Medical Cannabis Laws and Opioid Analgesic Overdose Mortality in the United States, 1999-2010. *JAMA Internal Medicine*, 174(10). doi:10.1001/jamainternmed.2014.4005

⁷ Powell D, Pacula RL, Jacobson M. (2015). Do Medical Marijuana Laws Reduce Addiction and Deaths Related to Pain Killers? RAND Corporation; Retrieved from https://www.rand.org/pubs/external_publications/EP67480.html.

⁸ Kevin F. Boehnke, Evangelos Litinas, Daniel J. Clauw. (2016) Medical Cannabis Use Is Associated with Decreased Opiate Medication Use in a Retrospective Cross-Sectional Survey of Patients with Chronic Pain. *The Journal of Pain* Volume 17, Issue 6,

⁹ Medical Cannabis Registry Program: Program Statistics. (2018, December 31). Retrieved from <http://health.hawaii.gov/medicalcannabisregistry/submenu/program-statistics/>

¹⁰ White, J. A., Tao, X., Talreja, M., Tower, J., & Bernacki, E. (2012). The effect of opioid use on workers' compensation claim cost in the State of Michigan. *Journal of Occupational and Environmental Medicine*. Retrieved from <https://www.ncbi.nlm.nih.gov/pubmed/22821070>.

Testimony of PONO LIFE MAUI

Several states and local courts have already acknowledged the net benefit of medical cannabis for qualifying patients. New Mexico was the first state to pass laws and rules to allow for medical cannabis reimbursement under the Workers' Compensation Administration, a program that has been active now for three years.¹¹ In 2019, New Hampshire's Supreme Court ruled that a medical cannabis patient should receive workers' comp reimbursement because cannabis was a "reasonable and necessary" medical treatment and reduced the claimant's dependence on opiates.¹² To date, five other states have authorized reimbursement in workers' compensation cases on the grounds that medical cannabis was deemed a "reasonable and necessary" treatment for pain, and that federal law did not preclude the state's medical cannabis laws.¹³

In summary, PONO LIFE MAUI supports SB 2586 in its potential to permit safer, reimbursable treatment pathways for qualifying patients, and ultimately improve outcomes and lower costs.

PONO LIFE MAUI is committed to the enhancement of Hawaii's medical cannabis industry, public health, and well-being.

Thank you for the opportunity to testify.

¹¹ New Mexico Workers' Compensation Administration 2018 Annual Report (2018). Retrieved from https://workerscomp.nm.gov/sites/default/files/documents/publications/research/ar18/wca_annual2018.pdf

¹² NH Supreme Court rules worker should be reimbursed for medical marijuana (2019, March 7). Retrieved from <https://www.wmur.com/article/nh-supreme-court-rules-worker-should-be-reimbursed-for-medical-marijuana/26756490>

¹³ Connecticut, New York, New Jersey, New Mexico, and Minnesota



Akamai Cannabis Clinic

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TESTIMONY ON SENATE BILL 2586 RELATING TO MEDICAL CANNABIS

By
Clifton Otto, MD

Senate Committee on Commerce, Consumer Protection, and Health
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Friday, January 31, 2020; 9:30 AM
State Capitol, Conference Room 229

Thank you for the opportunity to provide testimony on this measure. Please consider the following comments related to this bill:

Any changes to our Medical Cannabis Program require that we also address the misconception that our program is violating federal law in order to eliminate the injuries that the current situation is causing our patients and dispensaries.

These injuries include **patients** not being able to obtain employment because of a positive cannabis screening drug test, being terminated from employment because of failing a cannabis urine drug test that does not test for impairment in the workplace, being evicted from federally subsidized housing, not being able to obtain life insurance, not being able to enjoy the protections of the Americans with Disabilities Act, being discriminated against in child custody hearings, not being able to travel to other islands with their medicine, not being able to obtain firearms for home protection and hunting. In addition, our **dispensaries** are suffering from not being able to carry on normal banking activity, having to conduct a majority of their transactions in cash, not being able to enjoy standard business expense deductions which is creating a 70%+ tax burden that only raises product costs for patients, and not being able to conduct medical research with the University of Hawaii System.

Our patients and dispensaries should not be required to operate under the false assumption that they are violating federal law in order to engage in the medical use of cannabis in Hawaii.

“An Accepted Medical Use Supporter”

The State of Hawaii created this situation when it lawfully decided that cannabis has medical use in Hawaii, which means that the State cannot simply wait for Congress to fix a situation that it created. We can no longer stand for the federal regulation that has the non-medical use of cannabis on the Schedule I list being unconstitutionally applied to our medical cannabis program.

There is a simple solution to this problem, which is presented in Senator Ruderman's federal exemption bill, [SB2462](#), which was recently introduced into the Senate.

In order to increase the chances that this important change will be made to our Medical Use of Cannabis Act this session, I ask that you please adopt the following language from SB2462 into the bill before you:

"329D-25 Coordination among state and federal agencies. The department shall initiate ongoing dialogue among relevant state and federal agencies to identify processes and policies that ensure the privacy of qualifying patients and qualifying out-of-state patients and the compliance of qualifying patients, primary caregivers, qualifying out-of-state patients, and caregivers of qualifying out-of-state patients and medical cannabis dispensaries with state laws and regulations related to medical cannabis. The department shall submit a written request, in accordance with title 21 C.F.R. section 1307.03, to the Office of Diversion Control, Drug Enforcement Administration by September 1, 2020, stating that part IX of chapter 329 and this chapter do not create any positive conflict with state or federal drug laws and regulations and are consistent with title 21 U.S.C. section 903, and requesting formal written acknowledgement that the listing of marijuana as a controlled substance in federal schedule I does not apply to the nonprescription use of cannabis under the medical cannabis registry and dispensary programs established pursuant to chapters 329 and 329D."

Thank you for considering this very necessary amendment.

Aloha.

"An Accepted Medical Use Supporter"

SB-2586

Submitted on: 1/30/2020 11:13:56 AM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Tai Cheng	Testifying for Aloha Green Holdings Inc.	Support	No

Comments:

SB-2586

Submitted on: 1/30/2020 7:27:52 AM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Miles W. Tuttle	Testifying for Kush Hawaii	Support	No

Comments:

SB-2586

Submitted on: 1/29/2020 4:32:37 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Wheelock	Individual	Support	No

Comments:

Honorable Senators Rosalyn Baker, Chair, and Stanley Chang, Vice Chair,

Please support SB 2586 relating to medical cannabis.

Thank you.

Anne Wheelock, R.Ph., M.S.

SB-2586

Submitted on: 1/29/2020 5:35:18 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Winternitz	Individual	Support	No

Comments:

As a senior citizen and lifelong Hawai'i resident-- and a medical cannabis user -- I support this bill.

SB-2586

Submitted on: 1/28/2020 9:36:12 AM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
John Gelert	Individual	Support	No

Comments:

SB-2586

Submitted on: 1/29/2020 5:25:13 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Koalani Lagareta	Individual	Support	No

Comments:

Aloha,

As an individual suffering from chronic pain, marijuana is the ONLY non-narcotic substance that has given me relief from the pain and insomnia related to my condition. Unfortunately, the cost to purchase or produce marijuana in Hawaii is prohibitive. Reimbursement by insurance companies would allow patients to acquire marijuana legally from dispensaries instead of turning to black market dealers without regulation or oversight. Please vote yes to allow qualifying patients such as myself to be reimbursed by health insurers, mutual benefit societies, and health maintenance organizations for amounts spent on medical cannabis and manufactured cannabis products.

Mahalo for your consideration!

SB-2586

Submitted on: 1/28/2020 4:15:04 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rodney Evans	Individual	Support	No

Comments:

Homeopathic medicines have been around thousands of years. We need to have the option of removing the pharmaceutical companies from our lives and save money and adverse reaction by using save medicines, such as cannabis, to treat ourselves without regulation or fines for doing so. Canada pays for medical cannabis prescriptions for its Veterans and saves a lot of money while lowering the amount of drugs required to treat them. We should do the same. Additionally, no housing should EVER be allowed to be put into jeopardy for using such homeopathic traditional medicines.

SB-2586

Submitted on: 1/29/2020 5:00:05 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Individual	Support	No

Comments:

Aloha Senators,

The State of Hawai'i has long recognized the medicinal benefits of cannabis for patients suffering from a wide-range of ailments. The fact that these patients have been unable to collect reimbursements for the prescriptions they receive is a testament to how outdated and misguided our current healthcare system can be. This is medicine. Just because it doesn't come in a soft gel capsule with a patent doesn't mean it doesn't help people. If we accept that cannabis is legitimate medicine, then we have an obligation to allow patients to collect health insurance reimbursements for its use.

Mahalo!

SB-2586

Submitted on: 1/29/2020 3:28:38 PM

Testimony for CPH on 1/31/2020 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Me	Individual	Support	No

Comments:

Strong support, this can help ease the financial burden of our patients