



Akamai Cannabis Clinic
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TESTIMONY ON HOUSE RESOLUTION 112
REQUESTING DOH TO FILE FOR IMMEDIATE AND PERMANENT RELIEF

By
Clifton Otto, MD

House Committee on Health, Human Services, & Homelessness
Representative Ryan I. Yamane, Chair
Representative Adrian K. Tam, Vice Chair

Tuesday, March 23, 2021; 9:00 AM
State Capitol, Videoconference

Thank you for the opportunity to provide testimony in **STRONG SUPPORT** of this measure.

It has been nearly twenty-one years since Hawaii exercised its constitutional authority to decide how controlled substances are used within the state and created a state regulated medical cannabis program.

However, by doing so, a conflict was created between the federal regulation of marijuana and the state authorized use of cannabis for medical purposes in Hawaii. This conflict has created numerous unintended consequences that have negatively impacted our medical cannabis patients and dispensaries for years.

This resolution is a first step towards resolving this conflict and harmonizing the state and federal regulation of cannabis. Such harmonization is necessary to end the current discrimination against our patients and dispensaries and to reign in a disregard for the rule of law that is encouraging criminal activity across the State.

Please consider the following non-substantiative changes to this measure for clarity and consistency:

WHEREAS, Act 228, Session Laws of Hawaii 2000 (Act 228), was enacted, making Hawaii the first state via the legislative process to authorize the medical use of [~~medical marijuana to~~

~~treat~~] cannabis for debilitating medical conditions including cancer, glaucoma, human immunodeficiency virus, acquired immune deficiency syndrome, and other chronic or debilitating diseases; and

WHEREAS, at the time Act 228 was enacted there was ample evidence to show that medical [~~marijuana~~] cannabis helps to alleviate pain and has other benefits for severely ill patients; and

~~[WHEREAS, federal law expressly prohibits the use of marijuana, despite the evidence of the benefits of using medical cannabis, and]~~

WHEREAS, [~~this lack of clarity between state and federal marijuana laws~~] the current conflict between the state authorized use of cannabis for medical purposes in Hawaii and the federal regulation of marijuana has repercussions for medical cannabis patients and the State's medical cannabis dispensaries, including loss of employment and discrimination in child custody hearings, federally subsidized housing, and applications for federal firearms permits, life insurance, and disability insurance for patients who use medical cannabis in compliance with state law; and

WHEREAS, Title 21 Code of Federal Regulations section 1307.03 allows the Administrator of the Drug Enforcement Administration to grant exceptions to certain federal regulations; and

WHEREAS, obtaining an exception from the [~~federal Controlled Substances Act~~] Drug Enforcement Administration for the state-authorized use of [~~medical~~] cannabis would benefit the State's residents who use [~~medical~~] cannabis for medical purposes and the State's medical cannabis dispensaries; now, therefore,

BE IT RESOLVED by the House of Representatives of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2021, the Senate concurring, that the Department of Health is requested to submit [~~a request~~] an application to the Drug Enforcement Administration for an immediate exception to regulations and a petition to initiate proceedings for federal rulemaking to clarify that the state-authorized use of [~~medical~~] cannabis does not violate the federal Controlled Substances Act; and

BE IT FURTHER RESOLVED that when [~~making the request~~] submitting an application for an exception to regulations in accordance with Title 21 Code of Federal Regulations section 1307.03, the Department of Health is urged to argue that Hawaii's medical cannabis laws do not create any positive conflict with state or federal drug laws and to request a written acknowledgement from the Drug Enforcement Administration that the listing of marijuana as a controlled substance in Schedule I of the federal Controlled Substances Act does not apply to the [~~non-prescription~~] state authorized use of cannabis under Hawaii's medical cannabis registry and medical cannabis dispensary programs; and

BE IT FURTHER RESOLVED that when making a petition for federal rule making in accordance with Title 21 Code of Federal Regulations section 1308.43, the Department of Health is urged to offer the following proposed [~~language~~] rule: "\$1307. State Authorization. The listing of marijuana as a controlled substance in Schedule I does not apply to the state-authorized use of marijuana, and persons using marijuana in compliance with state law are exempt from registration."; and

Testimony on HR112
March 23, 2021
Page 4

BE IT FURTHER RESOLVED that a certified copy of this Concurrent Resolution be transmitted to the Director of Health, the Governor, The Lieutenant Governor, the Director of Public Safety, the Director of Transportation, and the Office of the Attorney General.

Thank you for considering these suggestions for changes.

Aloha.