



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of SB 1139, SD2, HD1
RELATING TO THE OFFICE OF MEDICAL CANNABIS
CONTROL AND REGULATION**

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: Wednesday, April 7, 2021 Room Number: Video Conference

1 **Fiscal Implications:** This bill would move staffing and operating costs to special funds and
2 allow the Department of Health (DOH) to increase patient registration fees as necessary enabling
3 the Office of Medical Cannabis Control and Regulation (OMCCR) to be financially sustainable
4 and fully operational without general funds.

5 **Department Testimony:** Thank you for the opportunity to testify in **SUPPORT of S.B. 1139,**
6 **S.D. 2, H.D. 1 with an amendment to reinstate the original request for 3.0 FTE for critical**
7 **program operations; and a suggested amendment on task force participants .** The bill
8 proposes to: 1) change the means of financing for general-funded positions to the medical
9 cannabis registry and regulation special fund; 2) authorize DOH to adopt administrative rules to
10 establish patient registration fees beginning in FY 2022; 3) allow OMCCR to establish one new
11 permanent full-time position; and 4) require DOH to establish a taskforce to explore the issues
12 and development of a dual system program of legalization for cannabis, the impacts of
13 legalization on qualifying patients, including access to medical cannabis by qualifying patients.

14 **1) Changing the means of financing for general-funded position to the medical**
15 **cannabis registry and regulation special fund will allow OMCCR to fully operationalize.**

1 DOH **STRONGLY SUPPORTS** and appreciates the legislature changing the means of
2 financing for six critical, general-funded positions to the medical cannabis registry and
3 regulation special fund. These six critical positions (program manager, secretary, IT specialist,
4 epidemiologist, administrative officer, and office assistant) were unfunded under Act 9, SLH
5 2020 to mitigate budget shortfalls caused by COVID-19. Changing the means of financing will
6 provide continuity and improve program effectiveness and efficiency by enabling essential
7 administrative infrastructure and relieving dependence on departmental divisions that previously
8 supported the separate medical cannabis registry and dispensary programs.

9 **2) Authorizing DOH to establish patient registration fees through**
10 **administrative rules will allow OMCCR to remain financially self-sustaining.** DOH
11 **STRONGLY SUPPORTS** and appreciates the financial flexibility this will provide to ensure
12 that OMCCR maintains adequate personnel and operating costs needed to meet statutory
13 requirements and programmatic growth.

14 **3) Authorizing DOH to establish only one new position is not adequate to**
15 **support current program needs.** DOH **OPPOSES** the reduction from 3.0 FTE (public health
16 educator, investigator, and program specialist) proposed in the original measure to 1.0 FTE
17 proposed by the H.D. 2 and respectfully requests the legislature to re-instate the originally
18 proposed 3.0 FTE.

19 A public health educator is greatly needed for OMCCR to meet its mandate in section
20 329D-26, HRS, that DOH "shall conduct a continuing education and training program" and
21 "shall employ at least one full-time staff member whose qualifications and duties include the
22 provision of medical cannabis health education." Until now, education and training duties have

1 been distributed among the program’s surveyors and program specialists who are not trained
2 health educators and efforts have focused on regulatory requirements and enforcement activities.
3 Health education efforts need to expand into non-regulatory, health awareness topics for patients,
4 potential patients, physicians, and the medical community. This cannot be achieved without a
5 dedicated full-time health educator position.

6 The patient registry continues to grow at about 1.8% per month – from 19,858 patients at
7 the end of 2017 to 30,868 by the end of 2020. Registry staff currently process an average of
8 2,523 applications (2,390 Hawaii, 133 out-of-state) each month or about 115 each work day, and
9 as enrollment increases, additional work is added in other areas. The additional program
10 specialist position is needed to address the increases in the number of special cases that Registry
11 office assistants cannot resolve and are often time-consuming, including applications affected by
12 statutory changes and specific issues with the online application process. Statutory amendments
13 often require modifications to the online application system itself and the program specialist will
14 assist with contract specifications, roll-out of system enhancements, and unforeseen issues that
15 must be dealt with immediately and on a case-by-case basis.

16 Dispensary workload has likewise increased as new retail locations and production
17 centers are opened, new products are introduced, violations are issued, and complaints are
18 received, all of which require follow-up inspections. In 2017, there were a total of 10 facilities
19 (6 production, 4 retail) to inspect and a total of 57 on-site inspections were conducted. By the
20 end of 2020, there were were a total of 26 facilities (11 production, 15 retail) and 155 on-site
21 inspections were conducted. Two additional retail locations have already opened in 2021 and
22 another 3 retail and one production center are planned for this year. This is an almost 3-fold

1 increase in workload, however, inspection staffing has not increased beyond the original two
2 positions since the dispensary system was implemented in 2017. Similarly, the array of products
3 that the licensees produce has increased exponentially. Beginning with a modest array of flower
4 and tinctures in 2017, licensees now produce over 200 varieties of products from flower to
5 tinctures, concentrates, lotions, lozenges, pills, tablets, and inhalational cartridges. Licensees are
6 also eagerly awaiting revised administrative rules which will allow them to manufacture edible
7 products per Act 38 SLH 2020. At least one additional investigator position is urgently needed
8 to maintain adequate regulatory oversight to ensure patient, product, and public safety.

9 DOH respectfully urges the legislature to re-instate the originally proposed 3.0 FTE
10 (public health educator, investigator, and program specialist) positions as requested.

11 **4) Requiring the DOH to establish a taskforce to explore the issues and**
12 **development of a dual system program of legalization for cannabis, the impacts of**
13 **legalization on qualifying patients, including access to medical cannabis by qualifying**
14 **patients.**

15 DOH acknowledges the need for careful consideration of the potential impacts to patients
16 of legalized adult-use cannabis, however, the impact on patients is only one aspect of many that
17 need to be taken into account. For example, in November 2020, the state of Virginia published
18 “Impact on the Commonwealth of Legalizing the Sale and Personal Use of Marijuana” (see
19 [HD11 \(Published 2020\)](#)), which reports the findings of their work group convened to study the
20 impact of legalizing the sale and personal use of cannabis. Also in November 2020, the Ohio
21 State University, Moritz College of Law, Drug Enforcement and Policy Center, published “From
22 Medical to Recreational Marijuana: Lessons for States in Transition” (see [osu.edu](#))

1 documenting the lessons learned by Colorado, Michigan, Nevada, and Oregon, to provide
2 “actionable and concrete advice to states that are transitioning, or are planning for a transition,
3 from a medical marijuana regime to an adult-use or recreational framework...” These
4 assessments highlight the complexities and multiple competing viewpoints that need to be
5 carefully weighed in implementing legalized adult-use. Public health and patient medical use is
6 but one of these myriad considerations.

7 **To ensure the full engagement and participation by the executive branch and other**
8 **critical stakeholders, DOH recommends the following representatives to be included on the**
9 **taskforce and respectfully suggests the following alternate language for Section 4 (page 3,**
10 **lines 10-19).**

11 (a) The office of medical cannabis control and regulation shall convene a task force to explore
12 the development of a dual system program of the legalization for cannabis and the impacts
13 of legalization of cannabis on qualifying patients, including access to medical cannabis by
14 qualifying patients. The task force shall consist of the following:

- 15 (1) The program manager of the office of medical cannabis control and regulation,
16 who shall serve as the chair of the task force;
- 17 (2) A representative of the office of the Governor, to be selected by the Governor;
- 18 (3) A member of the senate who is selected by the president of the senate;
- 19 (4) A member of the house who is selected by the speaker of the house;
- 20 (5) A representative of the Office of the Attorney General, to be selected by the
21 Attorney General;

- 1 (6) A medical cannabis dispensary licensee, to be selected by the program manager of
2 the office of medical cannabis control and regulation;
- 3 (7) A current Hawaii certified cannabis testing laboratory;
- 4 (8) A current registered qualifying patient or representative of a patient advocacy
5 organization;
- 6 (9) A licensed physician or advanced practice registered nurse.
- 7 (10) Any other member selected by the members of the working group, subject to approval
8 by the chair
- 9 (b) The task force shall be officially convened at the pleasure of the chair of the task force, but
10 no later than August 1, 2021.
- 11 (c) The task force may request assistance and feedback from subject matter experts and other
12 stakeholders, as needed, to enable the working group to carry out its work.
- 13 (d) The office of medical cannabis control and regulation shall submit a report of task force
14 findings and recommendations, including any proposed legislation, to the legislature no
15 later than twenty days prior to the convening of the regular session of 2023.

16 **Thank you for the opportunity to testify on this measure.**



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LATE

TESTIMONY ON SENATE BILL 1139 SENATE DRAFT 2 HOUSE DRAFT 1
RELATING TO THE OFFICE OF MEDICAL CANNABIS CONTROL AND
REGULATION

By
Clifton Otto, MD

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Ty J.K. Cullen, Vice Chair

Wednesday, April 7, 2021; 1:30 PM
State Capitol, Videoconference

Thank you for the opportunity to provide testimony in **SUPPORT WITH CHANGES** on this measure.

The Office of Medical Cannabis Control and Regulation (OMCCR) does not currently have a cannabis medicine expert on staff. Hawaii is nothing like other states, which means that we cannot rely upon the guidance of other state regulators to determine what is best for Hawaii's Medical Cannabis Program and our patients.

A simple way to remedy this situation is to make the one full-time position in this bill be specifically for a Cannabinoid Medicine Specialist, to ensure fiscally effective regulation by this office:

Toward this end, please consider the following simple amendment:

"SECTION 5. There is appropriated out of the medical cannabis registry and regulation special fund, established pursuant to section 321-30.1, Hawaii Revised Statutes, the sum of \$ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for staff, operations, and administrative

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services, including the administration of the task force established by section 4 of this Act, of the office of medical cannabis control and regulation, including the establishment of one full-time equivalent (1.00 FTE) permanent position, which shall be for a Cannabinoid Medicine Specialist.”

Thank you for considering this written testimony.

Aloha.



LATE

To: Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice-Chair
Member of the Committee on Finance

Fr: Blake Oshiro, Esq. on behalf of the HICIA Hawai'i Cannabis Industry Association

Re: Testimony in **Support of Senate Bill (SB) 1139, Senate Draft (SD) 2, House Draft (HD) 1**

RELATING TO OFFICE OF MEDICAL CANNABIS CONTROL AND REGULATION

Authorizes the department of health to set patient registration fees by administrative rulemaking. Appropriates moneys from the medical cannabis registry and regulation special fund for positions and operations, including administrative services, of the office of medical cannabis control and regulation. Requires the office of medical cannabis control and regulation to convene a task force on the effect of legalization of cannabis on qualifying medical cannabis patients.

Dear Chair, Vice-Chair and Members of the Committee:

The Hawai'i Cannabis Industry Association, formerly known as the Hawai'i Educational Association for Therapeutic Health, represents all eight of the state's licensed medical cannabis dispensaries. HICIA **supports** SB1139, SD2, HD1 which would allow the Department of Health (DOH) to administratively set the fee for a medical cannabis card ("329 card"), change the means of financing from general to special funds, and authorize additional a full-time employee position. We also support the establishment of a task force to explore the issues and development of a dual system program of legalization for cannabis and the impacts of legalization on qualifying patients, including access to medical marijuana by qualifying patients.

We sincerely appreciate the hard-work, dedication, on-going communications with the Office of Medical Cannabis Control and Regulation (OMCCR), along with its leadership. While they take their regulatory role very seriously, they are also willing to engage and communicate about their positions and interpretations on issues, and their execution and implementation of the laws and regulations.

However, as a highly regulated and scrutinized industry, there is a high level of demand on skilled and knowledgeable OMCCR employees, willing to look at ongoing research and science, and evolving business and best-practices in an industry that is constantly changing, not just here, but world-wide.

Unfortunately, our experience is that the current OMCCR staff is stretched-thin and unable to keep up with the demands of the industry and its qualified patients. This is



not to fault the OMCCR employees, or even its leadership, but there is just simply a need for more resources to be invested into this agency.

As such, we support this bill as a modest means of finding the fiscal resources to fund the need for these additional services.

We also support the establishment of a task force to look at a dual use system. There have been several bills this year that looked at allowing recreational adult use. However, none of those proposals have adequately addressed the necessary balance needed to ensure that Hawaii's existing medical cannabis dispensary system remains viable and sustainable. None of those proposal have adequately provided for a system to ensure product safety and public safety, especially given the rigorous seed-to-sale tracking and laboratory safety testing for cannabis and cannabis products similar to the medical cannabis system.

Thank you for the opportunity to provide testimony.

LATE

TO: COMMITTEE ON FINANCE

FROM: Wendy Gibson-Viviani RN/BSN

RE: SB1139 (Comments)

HEARING: Wednesday, April 7, 2021 at 1:30 p.m. VIA VIDEOCONFERENCE Conference Room 308

Dear Rep. Sylvia Luke, Chair. Rep. Ty J.K. Cullen, Vice Chair and Members of the Committee

My name is Wendy Gibson-Viviani and I'm an RN. I have worked as a healthcare professional in Hawai'i for 30 years, acting as a medical cannabis patient advocate for 16 years. I lecture as a Cannabis Nurse Educator. I am an active member of the American Cannabis Nurses Association and Cannabis Nurses Network.

Thank you for this opportunity to provide COMMENTS on SB1139.

Please allow for 3 FTEs for the DOH. I was very disappointed when SB1139 was amended to reduce the requested 3 FTEs to just 1 FTE. I feel strongly that this position be filled by Cannabinoid Medicine Specialist.

It is clear to me that Hawaii's Department of Health medical cannabis program is understaffed and could use at least 3 more FTE positions, especially with the passage of HB477. Without enough inspectors for the new dispensary grow sites and manufacturing kitchens, the DOH will have to rely more on using law enforcement to conduct patient/caregiver grower compliance inspections. That is a move in the wrong direction and will place burdens on law enforcement's precious time.

This FTE needs to be a medical professional who has experience—and educational background, one who is aware of and will address the issues experienced by our medical cannabis patients. DOH medical cannabis program would benefit from having a certified specialist.

RE: A Task Force to study the impacts that legalization would have on the current medical program and implementation. I agree that this needs to be done, as legalization has had a negative impact on medical programs in other states---Initially. They were able to resolve those issues within a couple of years. I believe that the task force this bill creates could have their homework and report done within a few months, not an entire year and a half. I see this generous time allotment as a thinly veiled attempt to suppress legalization efforts.

Please require that at least one task force member come from the medical cannabis community, such as a certified patient, a health care professional who issues certifications and/or medical cannabis patient advocates from the community.

Thank you for this opportunity to provide testimony,
Wendy Gibson-Viviani RN/BSN
Kailua Resident