

HB 1085

HD2, SD1

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
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KEITH M. KANESHIRO
PROSECUTING ATTORNEY



ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE DAVID Y. IGE, CHAIR
SENATE WAYS AND MEANS COMMITTEE
Twenty-sixth State Legislature
Regular Session of 2011
State of Hawai'i

April 1, 2011

RE: H.B. 1085, H.D. 2, S.D. 1; RELATING TO CONTROLLED SUBSTANCES.

Chair Ige, Vice Chair Kidani, and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney submits the following testimony in support of H.B. 1085, H.D. 2, S.D. 1.

The purpose of this bill is to amend Hawaii Revised Statutes (HRS) Chapter 329 to bring the Hawaii statutes on controlled substances to be consistent with the federal laws on controlled substances, change language regarding the dispensation and central repository of controlled substances under the Department of Public Safety's Electronic Prescription Accountability System, and increase the fee for the registration certificate for qualifying patients for medical marijuana.

By updating Hawaii's controlled substance schedules, we address or avoid a current or imminent danger to the health and safety of the public.

The amendment to section 329-101(b), HRS, gives flexibility to the designated agency in determining the way information relevant to the dispensation of a controlled substance is reported. The proposed language states, "No identified controlled substance may be dispensed unless information relevant to the dispensation of the substance is reported electronically or by means indicated by the designated agency."

Further, the changes to section 329-102(f), HRS, allows the Department of Public Safety to be more flexible in identifying and tracking the abuse of certain non-controlled substances.

Finally, the amendment to section 329-123(b), HRS, increases the fee for a Medical Use of Marijuana permit from \$25 to \$35 to help with costs to run the program.

For the following reasons, we support the passage of H.B. 1085, H.D. 2, S.D. 1. Thank you for this opportunity to testify.



the
**Drug Policy
Forum**
of hawai'i

April 1, 2011

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To: Senator David Ige, Chair
Senator Michelle Kidani, Vice Chair and
Members of the Committee on Ways and Means

From: Jeanne Y. Ohta, Executive Director

Re: HB 1085 HD2 SD1 Relating to Controlled Substances
Hearing: Friday, April 1, 2011, 9:00 a.m., Room 211

Position: Strong Opposition

The Drug Policy Forum of Hawai'i strongly opposes HB 1085 HD2 SD1 Relating to Controlled Substances.

This measure goes beyond conforming Hawaii's controlled substances list to the federal list and is not simply a "housekeeping" bill. The proposed additions to the schedule of controlled substances include drugs that the DEA has not formally scheduled.

We should be able to have a full and open discussion on the additions of substances such as mephedrone and spice and we should be able to discuss other options such as regulating sales to minors rather than the extreme action of adding substances to Schedule I, the most restrictive of all schedules.

Simply continuing to add substances to our controlled substances list does little to reduce the use of drugs in our community, but does increase the costs to the taxpayer for law enforcement efforts.

CHANGES TO THE MEDICAL MARIJUANA PROGRAM
Requiring Physician Signature on Patient Registration Card:

There is no need for the physician to sign the certificate which is issued by the department. They have already signed the application forms submitted to the department. The department should welcome this simplification as it claims it cannot afford to run the program on the current fees. Although the department claims this is not a change in policy, it legalizes a requirement that the department imposed without legal authority.

Increasing the Patient Fee:

We oppose the increase of the fee for the medical marijuana program from \$25 per year to \$35 per year (the original draft called for \$50). The department claims they need additional funds for a dedicated position. However, the department currently

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Email: info@dpfhi.org
Website: www.dpfhi.org

receives approximately \$200,000 per year to maintain a registry of patients which should be sufficient for that position. If they cannot manage the program within the current revenue, the department should streamline the process. The department designed the process, if it is too costly, they should make necessary changes. They have not made any effort to simplify the process and to cut their costs. Simply, patients should not be made to pay for their inefficiency.

For instance, the department could make forms available on their website, as is done in other states, but the department refuses to do so; when a physician needs a form, one must be faxed or mailed. Another example is the constant changes made to the registration forms that patients and doctors must submit. These constant changes add to the cost; the department is responsible for the changes; the patients should not pay for these incurred costs.

We have also been made aware of outrageous claims of over-time in the office. According to NED's own annual report, "NED was forced to utilize additional PSD clerical staff, after hours, and at overtime rates to assist in processing the increasing number of medical use of marijuana applications." Patients should not be forced to pay an increased fee because NED could not manage their personnel and because overtime pay was given to employees.

We hope the legislature will consider asking for an audit of the agency before increasing fees. We also believe that there should be an audit of the "Controlled Substance Registration Revolving Fund," the fund that the medical marijuana registration fees are deposited into. According to NED, there is no funding for positions, then what are the fees being used for? NED should be made to account for how the current fees are being used before they are allowed to increase the fees.

Many patients have serious and chronic illnesses, many are on disability and cannot afford an increase in fees. This request is unreasonable and unfair.

We hope the committee eliminates the portion of the bill which makes changes to the medical marijuana program. Thank you for this opportunity to testify.

From: Andrea Tischler [andreatischler@yahoo.com]
Sent: Thursday, March 31, 2011 12:24 PM
To: WAM Testimony
Subject: RE: HB 1085 HD2 SD1 Relating to Controlled Substances

To: Sen. David Ige, Chair
Sen. Michelle Kidani, Vice Chair and
Members of the Committee on Ways and Means

From: Andrea Tischler, Co-Chair Big Island Chapter Americans for Safe Access

RE: HB 1085 HD 2 SD1 Relating to Controlled Substances
Hearing: Friday, April 1, 2011, 9:00 a.m., Room 211

Position: Opposed

The Big Island Chapter of Americans for Safe Access are opposed to a proposed increase to a \$35 fee to register for a medical cannabis certificate.

For patients this is nothing more than a “slap in the face” as the Department of Narcotics Enforcement consistently practices delays (often more than four months) in issuing certificates. This has caused many patients to live daily without proof that they have fully complied to the state’s medical cannabis program thus increasing their stress level and fear that at any point they may be required to present their blue card to law enforcement.

In my particular situation it took NED six months to send my certificate. During that time I made numerous trips to Honolulu for doctor’s appointments placing me in an extremely vulnerable position.

Is it reasonable for patients to pay for NED’s mismanagement? They presently collect over \$200,000 on the backs of patients. An increase unfairly “taxes” sick people, many of whom are on disability.

Please do not pass HB1085 HD 2 SD1 with a fee increase in registering for the medical cannabis certificate.

From: Myron Berney [myberney@hotmail.com]
Sent: Thursday, March 31, 2011 12:18 PM
To: WAM Testimony
Subject: Amend HB1085 HD2 SD1

Medicine Buddhas and Bodhisattvas
Natural Cancer Wellness Foundation
Dr. Myron Berney, ND LAc
808-392-3366

Amend HB1085 HD2 SD1

The Senate has been very understanding and helpful for the Medical Marijuana Patients many of whom have the worst of diseases, pain and suffering for which there is absolutely no other medical relief.

HB1085 HD2 SD1 opens the door to Medical Marijuana reform since Medical Marijuana is in the bill itself.

It is imperative to get the Senate work product developed over the last many years into conference committee.

This is the only opportunity this year to move these necessary improvement forward.

May I suggest that SD2 be reported out of WAM, voting up, with the benefit of SB58 SD1, SB175 SD2, SB174 SD1 and SB1460 SD1 incorporated into the bill HB1085 as HB1085 SD2.

Amend Amend HB1085 HD2 SD1 as SD2 with the addition of language from SB58 SD1, SB175 SD2, SB174 SD1 and SB1460 SD1 incorporated into the bill HB1085 HD2 SD2.

This gives the Senate the long awaited opportunity to get the Medical Marijuana legislation to Conference Committee.

What this bill really tells us is that Marinol [the delta 9 isomer] doesn't work. That is what the medical marijuana patients have been saying for the last 50 years. Why add the delta 6 if the delta 9 is the only active isomer? Because delta 9 isn't the only active isomer; now we need to add delta 6, in a few years they will want to add more and more. The Legislature has been deceived for over 50 years and now they tell us the delta 6 is has activity and must be banned. Over 50% of voters want medical marijuana reform and marijuana more freely available without criminal penalties.

For the health and welfare of the State, MOST IMPORTANTLY PUT ND ON THE LIST OF PROVIDERS THAT CAN RECOMMEND MEDICAL MARIJUANA--WE ARE THE EXPERTS IN HERBAL MEDICINE. Furthermore, marijuana is not the only herb or the only therapy for many of these very ill patients. Just because Big Pharma isn't marketing a drug cure doesn't mean that God, Nature, Wellness doesn't have a natural path to good health. God, Nature, Wellness does have a natural path to good health even if the drug companies don't.

No body is prescribing dangerous drugs, doctors are recommending traditional herbal medicine that has been safe and effective for over 5000 years prior to 1939. After 1939 Marijuana although illegal still remains safe and effective. The greatest public harm come from the Marijuana Laws not from the Marijuana Medical Use.

Marijuana is safer than aspirin and less psychedelic than DM cough medicine. Aspirin use is associated with internal bleeding, heart attack and stroke. One bottle of DM cough medicine is hallucinogenic causing out of body experiences and prolonged intoxication.

Lets finally get these important medical issues to conference committee.

To: Sen. David Ige, Chair
Sen. Michelle Kidani, Vice Chair and
Members of the Committee on Ways and Means

From: Jennifer Ruggles

RE: HB 1085 HD 2 SD1 Relating to Controlled Substances
Hearing: Friday, April 1, 2011, 9:00 a.m., Room 211

Position: Opposed

I am testifying today in opposition to HB 1085 HD 1 Relating to Controlled Substances. I am opposed to raising the medical marijuana registration fee. The Narcotics Enforcement Division (NED) claims that the current fee does not cover their costs and that they need additional fees to fund a position within the department. With 8,000 patients, the office receives \$200,000 per year to operate the patient registry. If NED cannot cover expenses with the current fee, it is their responsibility to streamline the application process. They designed the process, they should make the necessary changes.

It is unreasonable to require that patients pay for NED's mismanagement. According to NED's own annual report, "NED was forced to utilize additional PSD clerical staff, after hours, and at overtime rates to assist in processing the increasing number of medical use of marijuana applications." Patients should not be forced to pay an increased fee because NED could not manage their personnel and because overtime pay was given to employees.

Patients should not pay increased fees when their current needs are not being met. They should not be forced to wait months to receive their cards.

Many patients are seriously ill, on disability, and cannot work. They cannot afford increased fees.

The changes in this measure are the only changes in the medical marijuana program that the Dept. of Public Safety has supported. The department has not supported changes that would help clarify certain provisions and protect patients from arrest. The department does not care about patients and should not profit from them.

Thank you for this opportunity to testify.

Sincerely,

Jennifer Ruggles

From: sara steiner [saralegal@live.com]
Sent: Thursday, March 31, 2011 2:21 PM
To: WAM Testimony
Subject: HB1085 HD2 SD1 Relating to Controlled Substances

To: Senator David Ige, Chair
Senator Michelle Kidani, Vice Chair and
Members of the Committee on Ways and Means

From: Sara Steiner
Po-Box 1965
Pahoa, HI 96778

Re: HB 1085 HD2 SD1 Relating to Controlled Substances
Hearing: Friday, April 1, 2011, 9:00 a.m., Room 211

Position: Opposed

Aloha from the Big Island of Hawaii,

I am a medical marijuana patient on the Big Island of Hawaii. I am opposed to any increase in price for a blue card. The NED already is making \$200,000 a year on this program, that is plenty of money for them to hire several people to administer this program. Why does it only takes 3 days to get a handicapped placard, and they have a thousand applications month? I feel that the NED can do the job with the \$25 each application, and they should not be holding cards for 3-5 months or more before sending them to the patient. If you care to research that fact, please do, you can go to the NED and you will see that patients from the NED's "pot doctor" list are being subjected to outrageous lengths of waiting time, whereas other "regular" doctors will get their patient's cards right away.

If the NED can take the time to send a letter acknowledging receipt of the application to the patient, they should just send the darn card at the same time. All this extra letter writing is wasting valuable time and money. The NED obviously does not want to help patients with any of the other items in this bill, they are only interested in making more money off of sick people.

Thank you for this opportunity to state my position,

Sara Steiner
808-936-9546

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 8:28 AM
To: WAM Testimony
Cc: mary@mauivortex.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Mary Overbay
Organization: Individual
Address:
Phone:
E-mail: mary@mauivortex.com
Submitted on: 3/31/2011

Comments:

Aloha honorable Legislators,

I oppose SB 1058 because the State of Hawaii's registration fee for medical cannabis patients is blatantly prejudicial, and a violation of patient's rights and privacy.

What is this fee really for? Is it for the right to not be arrested for taking medicine?

There is no government registration fee for morphine, hydrocodone, alcohol, tobacco or any other medication, or even recreational intoxicant. Therefore, the Hawaii Legislature must eliminate the blatantly prejudicial registration of medical cannabis patients.

This law personally affected me. My husband, Leon T. Overbay, was a disabled WWII veteran, who died of cancer in 2007. I had the honor of being his caregiver. My husband was an American hero, not a criminal. He was a medical cannabis patient. He paid the government fee but was not provided safe access to his medicine. While dying of cancer, he lived in fear of police surveillance and arrest because he was registered with the government.

The extra fee and registration with the government is costly and intimidating for many patients. Legitimate cannabis patients may be afraid to register or might not have the money. Seriously ill folks are often in financial distress.

While Hawaii's budget soars out of control, Hawaii's billion dollars a year recreational cannabis industry is not regulated, taxed, or charged extra fees. Instead of hitting-up sick folks for \$50 each, why doesn't the legislature consider some laws to regulate, tax and license the ubiquitous recreational marijuana industry. There is a fiscal emergency, but it is not legal or right to make sick folks pay the cost.

Respectfully submitted,
Mary Overbay, DAV widow

From: chris werner [christopherallenwerner@yahoo.com]
Sent: Thursday, March 31, 2011 7:58 AM
To: WAM Testimony
Subject: HB1085 and April 1, 2011, 9:00 am

To: Sen. David Ige, Chair
Sen. Michelle Kidani, Vice Chair and
Members of the Committee on Ways and Means

From: Chris Werner

RE: HB 1085 HD 2 SD1 Relating to Controlled Substances
Hearing: Friday, April 1, 2011, 9:00 a.m., Room 211

Position: Opposed

I am testifying today in opposition to HB 1085 HD 1 Relating to Controlled Substances. I am opposed to raising the medical marijuana registration fee.

The Narcotics Enforcement Division (NED) claims that the current fee does not cover their costs and that they need additional fees to fund a position within the department. With 8,000 patients, the office receives \$200,000 per year to operate the patient registry. If NED cannot cover expenses with the current fee, it is their responsibility to streamline the application process. They designed the process, they should make the necessary changes.

It is unreasonable to require that patients pay for NED's mismanagement. According to NED's own annual report, "NED was forced to utilize additional PSD clerical staff, after hours, and at overtime rates to assist in processing the increasing number of medical use of marijuana applications." Patients should not be forced to pay an increased fee because NED could not manage their personnel and because overtime pay was given to employees.

From: Ren Walker [renwalker@hawaii.rr.com]
Sent: Thursday, March 31, 2011 11:03 AM
To: WAM Testimony
Subject: oppose hb1084

To: Sen. David Ige, Chair
Sen. Michelle Kidani, Vice Chair and
Members of the Committee on Ways and Means

From: H.A. "Ren" Walker iii

RE: HB 1085 HD 2 SD1 Relating to Controlled Substances
Hearing: Friday, April 1, 2011, 9:00 a.m., Room 211

Position: Opposed

I am testifying today in opposition to HB 1085 HD 1 Relating to Controlled Substances. I am opposed to raising the medical marijuana registration fee.

the treatment of the budget czar of medical patients should be about helping the people who need it NOT GAFFING THEM BENT OVER, when no other alternatives exist for many of us the Px is expensive enough as it is, and when the dispensaries come, sure they will be taxed, but unlike private citizens, gov, when confronted with a new budget opportunity, seems to have the ability to operate outside the budget, and assumes we the public can too-well we are fixed income and cannot maybe.....

The Narcotics Enforcement Division (NED) claims that the current fee does not cover their costs and that they need additional fees to fund a position within the department. With 8,000 patients, the office receives \$200,000 per year to operate the patient registry. If NED cannot cover expenses with the current fee, it is their responsibility to streamline the application process. They designed the process, they should make the necessary changes.

as usual it seems the victim gets the shaft while the planners get off the hook please take fiscal responsibility, and learn to cut back, and not be the knee jerk reflex of most all governments, and exist for not much more than to keep expanding, in power, size, scope and costs

aloha

ren walker

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 10:31 AM
To: WAM Testimony
Cc: mumclinic@aol.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: MUM Clinic, Sandy Webb, RN
Organization:
Address:
Phone:
E-mail: mumclinic@aol.com
Submitted on: 3/31/2011

Comments:

The program is mismanaged. The burden of this poor management should not fall on the patient population or the certifying physicians office.
Look at the dollars already paid to the NED to manage the program and one can easily see the funds are not being utilized appropriately to the advantage of the patients.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 10:20 AM
To: WAM Testimony
Cc: buzzzed@msn.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Sandy Webb
Organization: Individual
Address:
Phone:
E-mail: buzzzed@msn.com
Submitted on: 3/31/2011

Comments:

The changes in this measure are the only changes in the medical marijuana program that the Dept. of Public Safety has supported. The department has not supported changes that would help clarify certain provisions and protect patients from arrest. The department does not care about patients and should not profit from them.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2011 5:36 PM
To: WAM Testimony
Cc: friendsforjustice@gmail.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: David and Wendy Tatum
Organization: Individual
Address:
Phone:
E-mail: friendsforjustice@gmail.com
Submitted on: 3/29/2011

Comments:

We are patients living on the Big Island.

We don't support raising the price for the medical marijuana certification.

Narcotics Enforcement Div takes 3 months to issue renewal cards...all they have to do is issue the card, no other work required. They did not plan well for growth and it is their own fault to be so backlogged. They don't deserve more money.

David and Wendy Tatum
Mt View, HI

sent by FFJ - we use internet

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2011 5:40 PM
To: WAM Testimony
Cc: peacesubhadra@gmail.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Subhadra Corcoran
Organization: Individual
Address:
Phone:
E-mail: peacesubhadra@gmail.com
Submitted on: 3/29/2011

Comments:

I am a senior citizen living on limited income. Cannabis helps me more than other drugs, yet it is not covered by insurance. The doctor visit, the medicine itself and the fee all come out of pocket. Please don't raise the fee to \$35 for the medical marijuana program. It's hard enough to make ends meet as it is.

Subhadra Corcoran
Kailua Kona, HI

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 10:55 AM
To: WAM Testimony
Cc: lilkat2981@hotmail.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: katy
Organization: Individual
Address:
Phone:
E-mail: lilkat2981@hotmail.com
Submitted on: 3/31/2011

Comments:

I am testifying today in opposition to HB 1085 HD 1 Relating to Controlled Substances. I am opposed to raising the medical marijuana registration fee.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2011 11:06 AM
To: WAM Testimony
Cc: friendsforjustice@gmail.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Mike Ruggles
Organization: Individual
Address:
Phone:
E-mail: friendsforjustice@gmail.com
Submitted on: 3/29/2011

Comments:

Narcotics Enforcement, which is running the medical marijuana program, published a one-sided flier which was designed to scare people away from medical marijuana. How inappropriate, and a waste of money. Don't raise the fee to \$35, as NED does not deserve more money. They can't use the \$200,000 they already receive efficiently.

Mike Ruggles
Mt View, HI

I don't have a computer, and asked Friends for Justice to submit this.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2011 7:49 AM
To: WAM Testimony
Cc: mattrifkin28@gmail.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Matthew Rifkin
Organization: Individual
Address:
Phone:
E-mail: mattrifkin28@gmail.com
Submitted on: 3/29/2011

Comments:

I do not feel the fee should be raised for the medical cannabis program. The NED has done a terrible job administering the program, and they don't deserve a raise.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 29, 2011 7:53 AM
To: WAM Testimony
Cc: friendsforjustice@gmail.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Kaipo Fernandez
Organization: Individual
Address:
Phone:
E-mail: friendsforjustice@gmail.com
Submitted on: 3/29/2011

Comments:

I am a medical cannabis patient on the Big Island.

many people in this community are on limited income or SSI...raising the fee for medical marijuana will be a financial hardship for many...don't raise the fee

Kaipo Fernandez
Volcano, HI

dictated to and submitted by Friends for Justice

From: Lee Eisenstein [lionel@cruzio.com]
Sent: Thursday, March 31, 2011 5:49 AM
To: WAM Testimony
Subject: HB1085 and April 1, 2011, 9:00 am

Aloha,

I'm writing to oppose raising the fee for medical marijuana patients.

Our states law is already inadequate. Don't add insult to injury by raising the fee for an already deficient law.

Yours,
Lee Eisenstein
Pahoa, HI.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 12:16 PM
To: WAM Testimony
Cc: stuart@IsseiProductions.com
Subject: Testimony for HB1085 on 4/1/2011 9:00:00 AM

Testimony for WAM 4/1/2011 9:00:00 AM HB1085

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Stuart Hirotsu
Organization: Individual
Address:
Phone:
E-mail: stuart@IsseiProductions.com
Submitted on: 3/31/2011

Comments:

Thank you for this opportunity to testify in opposition to HB1085.

HB1085 is an obvious but misguided and pathetic attempt to discourage certain medical patients from seeking relief. It is no different than any other form of bigotry - there is no place for such ignorance here in Hawaii.

Mahalo.