
A BILL FOR AN ACT

RELATING TO MEDICAL USE OF MARIJUANA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 329, Hawaii Revised Statutes, is
2 amended by adding a new section to part IX to be appropriately
3 designated and to read as follows:
4 "§329- Reports to the legislature; debilitating medical
5 conditions. Upon the convening of each regular session, the
6 department of health shall submit a report to the legislature on
7 recommendations for additions, deletions, or revisions to the list
8 of authorized debilitating medical conditions. Three months prior
9 to the convening of each regular session, the department of health
10 shall post public notice, at the state capitol and in the office
11 of the lieutenant governor for public inspection, of the
12 department's recommendations to the legislature regarding any
13 additions, deletions, or revisions to the list of authorized
14 debilitating medical conditions. The department of health shall
15 draft legislation to implement the recommended additions,
16 deletions, or revisions to the list of authorized debilitating
17 medical conditions."



1 SECTION 2. Section 329-32, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) A separate registration shall be required at each
4 principal place of business or professional practice where the
5 applicant manufactures, distributes, prescribes, or dispenses
6 controlled substances[7] or recommends the medical use of
7 marijuana, except an office used by a practitioner (who is
8 registered at another location) where controlled substances are
9 prescribed but neither administered nor otherwise dispensed as a
10 regular part of the professional practice of the practitioner at
11 such office, and where no supplies of controlled substances are
12 maintained."

13 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
14 amended by amending the definitions of "adequate supply",
15 "debilitating medical condition", "primary caregiver", and
16 "written certification" to read as follows:

17 "Adequate supply" means an amount of marijuana jointly
18 possessed between the qualifying patient and the primary
19 caregiver that is not more than is reasonably necessary to
20 assure the uninterrupted availability of marijuana for the
21 purpose of alleviating the symptoms or effects of a qualifying
22 patient's debilitating medical condition; provided that an



1 "adequate supply" shall not exceed [~~three mature marijuana~~
2 ~~plants, four immature~~] seven marijuana plants[~~7~~] and [~~one ounce~~]
3 three ounces of usable marijuana [~~per each mature plant~~]. No
4 address used by a qualifying patient or caregiver to grow that
5 patient's or caregiver's marijuana may exceed twenty-one plants
6 or nine ounces of usable marijuana, regardless of the number of
7 permits authorized for that location.

8 "Debilitating medical condition" means:

- 9 (1) Cancer, glaucoma, positive status for human
10 immunodeficiency virus, acquired immune deficiency
11 syndrome, or the treatment of [~~these~~] conditions[~~7~~
- 12 ~~(2) A chronic or debilitating disease or medical condition~~
13 ~~or its treatment~~] that [~~produces~~] produce one or more
14 of the following:
- 15 (A) Cachexia or wasting syndrome;
16 (B) Severe pain;
17 (C) Severe nausea; or
18 (D) Seizures[~~7~~, ~~including those characteristic of~~
19 ~~epilepsy; or~~
- 20 ~~(E) Severe and persistent muscle spasms, including~~
21 ~~those characteristic of multiple sclerosis or~~
22 ~~Crohn's disease; or];~~



- 1 (2) Seizures characteristic of epilepsy;
2 (3) Severe and persistent muscle spasms, including those
3 characteristic of multiple sclerosis or Crohn's
4 disease; or
5 ~~[-]~~ (4) Any other medical condition approved by the
6 department of health pursuant to administrative rules
7 in response to a request from a physician or
8 potentially qualifying patient~~[-]~~ that has been
9 authorized by the legislature.

10 "Primary caregiver" means a person, other than the
11 qualifying patient and the qualifying patient's physician, who
12 is eighteen years of age or older who does not have a felony
13 conviction and has agreed to undertake responsibility for
14 managing the well-being of the qualifying patient with respect
15 to the medical use of marijuana. In the case of a minor or an
16 adult lacking legal capacity, the primary caregiver shall be a
17 parent, guardian, or person having legal custody.

18 "Written certification" means the ~~[qualifying patient's~~
19 ~~medical records or]~~ medical use of marijuana application form
20 and permit issued by the department that includes a statement
21 signed by a qualifying patient's physician, stating that in the
22 physician's professional opinion, the qualifying patient has a



1 debilitating medical condition and the potential benefits of the
2 medical use of marijuana would likely outweigh the health risks
3 for the qualifying patient. The department [~~of public safety~~]
4 may require, through its rulemaking authority, that all written
5 certifications comply with a designated form. "Written
6 certifications" are valid for only one year from the time of
7 signing[-] of the permit issued by the department."

8 SECTION 4. Section 329-122, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§329-122 Medical use of marijuana; conditions of use.**

11 (a) Notwithstanding any law to the contrary, the medical use of
12 marijuana by a qualifying patient shall be permitted only if:

- 13 (1) The qualifying patient has been diagnosed by a
14 physician as having a debilitating medical condition;
- 15 (2) The qualifying patient's physician has certified in
16 writing that, in the physician's professional opinion,
17 the potential benefits of the medical use of marijuana
18 would likely outweigh the health risks for the
19 particular qualifying patient; and
- 20 (3) The amount of marijuana does not exceed an adequate
21 supply.



1 (b) Subsection (a) shall not apply to a qualifying patient
2 under the age of eighteen years, unless:

3 (1) The qualifying patient's physician has explained the
4 potential risks and benefits of the medical use of
5 marijuana to the qualifying patient and to a parent,
6 guardian, or person having legal custody of the
7 qualifying patient; and

8 (2) A parent, guardian, or person having legal custody
9 consents in writing to:

10 (A) Allow the qualifying patient's medical use of
11 marijuana;

12 (B) Serve as the qualifying patient's primary
13 caregiver; and

14 (C) Control the acquisition of the marijuana, the
15 dosage, and the frequency of the medical use of
16 marijuana by the qualifying patient.

17 (c) The authorization for the medical use of marijuana in
18 this section shall not apply to:

19 (1) The medical use of marijuana that endangers the health
20 or well-being of another person;

21 (2) The medical use of marijuana:



- 1 (A) In a school bus, public bus, or any moving
- 2 vehicle;
- 3 (B) In the workplace of one's employment;
- 4 (C) On any school grounds;
- 5 (D) At any public park, public beach, public
- 6 recreation center, recreation or youth center; or
- 7 (E) Other place open to the public; and
- 8 (3) The use of marijuana by a qualifying patient, parent,
- 9 or primary caregiver for purposes other than medical
- 10 use permitted by this part.

11 (d) Any person who violates any section under this part
12 may be suspended from participating in the program by the
13 administrator for a period of up to three years."

14 SECTION 5. Section 329-125, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~§~~329-125~~§~~ **Protections afforded to a qualifying**
17 **patient or primary caregiver.** (a) A qualifying patient or the
18 primary caregiver may assert the medical use of marijuana as an
19 affirmative defense to any prosecution involving marijuana under
20 this ~~part~~ or chapter 712; provided that the qualifying
21 patient or the primary caregiver strictly complied with the
22 requirements of this part.



1 (b) Any qualifying patient or primary caregiver not
2 complying with the permitted scope of the medical use of
3 marijuana shall not be afforded the protections against searches
4 and seizures pertaining to the misapplication of the medical use
5 of marijuana.

6 (c) Any qualifying patient or primary caregiver who
7 possesses more than an adequate supply at any given time shall
8 be in violation of the medical use of marijuana program and
9 shall not be afforded any protection against arrest or the
10 seizure of any marijuana recovered.

11 [~~e~~] (d) No person shall be subject to arrest or
12 prosecution for simply being in the presence or vicinity of the
13 medical use of marijuana as permitted under this part."

14 SECTION 6. Section 329-128, Hawaii Revised Statutes, is
15 amended to read as follows:

16 " ~~[§]~~ **§329-128** ~~[§]~~ **Fraudulent misrepresentation; penalty.**

17 (a) Notwithstanding any law to the contrary, fraudulent
18 misrepresentation in the medical use of marijuana application
19 form issued by the department or in statements made to a law
20 enforcement official of any fact or circumstance relating to the
21 medical use of marijuana to avoid arrest or prosecution under



1 this part or chapter 712 shall be a [~~petty misdemeanor~~ and
2 ~~subject to a fine of \$500.~~] class C felony.

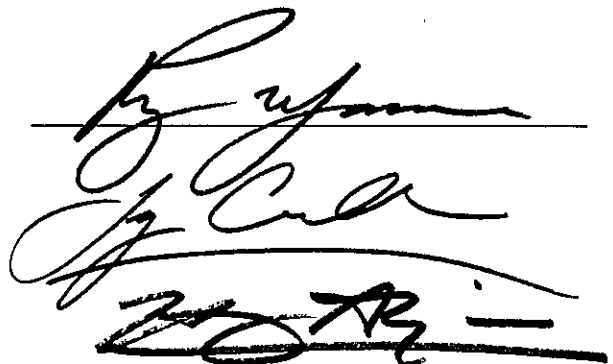
3 (b) Notwithstanding any law to the contrary, fraudulent
4 misrepresentation in the medical use of marijuana application
5 form issued by the department or in statements made to a law
6 enforcement official of any fact or circumstance relating to the
7 issuance of a written certificate by a physician not covered
8 under section 329-126 for the medical use of marijuana shall be
9 a [~~misdemeanor~~] class C felony. This penalty shall be in
10 addition to any other penalties that may apply for the non-
11 medical use of marijuana. Nothing in this section is intended
12 to preclude the conviction of any person under section 710-1060
13 or for any other offense under part V of chapter 710."

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

16 SECTION 8. This Act shall take effect upon its approval.

17

INTRODUCED BY:



JAN 17 2012



Report Title:

Medical Use of Marijuana

Description:

Updates the law relating to the medical use of marijuana by: (1) requiring physicians who recommend medical marijuana to register a place of business or professional practice with the department of public safety; (2) clarifying definitions with respect to medical use of marijuana; (3) establishing a revocation period for those violating the medical marijuana program conditions; (4) limiting the amount of marijuana that can be grown or possessed at a location; (5) requiring patients and caregivers to have their registration identification certificates with them when they are in possession or control of marijuana; and (6) increasing the penalties for fraudulent misrepresentations about the medical use of marijuana.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

