A BILL FOR AN ACT

RELATING TO HEALTH.

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

PART I

SECTION 1. The legislature finds that one of the top recommendations of the "Medical Cannabis Working Group Report to the Hawaii State Legislature" in 2010 was the transfer of the administration of Hawaii's medical use of marijuana program from the department of public safety to the department of health. The status of the medical use of marijuana program as a public health program is more in line with the mission and expertise of the department of health. The department of health is experienced in working with patients and health programs, including important tasks such as public outreach and education, and safeguarding patient privacy.

The purpose of this Act is to transfer the State's medical use of marijuana program from the department of public safety to the department of health.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

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"§321- Medical marijuana transition advisory group; established. There is established the medical marijuana advisory group, comprised of:

(1) The director of health;
(2) The attorney general; and
(3) The deputy director of law enforcement.

The transition advisory group shall make the specific recommendations on the transfer of the medical marijuana program to the department of health, which recommendations shall be submitted to the legislature no later than December 31, 2013.

§321- Medical marijuana registry revolving fund; established. (a) There is established within the state treasury the medical marijuana registry revolving fund. The fund shall be expended at the discretion of the director of health:

(1) To offset the cost of the processing and issuance of a patient registry identification certificate;
(2) To fund positions authorized by the legislature;
(3) To establish and manage a secure and confidential database; and
(4) For any other expenditure necessary, as authorized by
the legislature, to implement a medical marijuana
registry program.

(b) The fund shall consist of all moneys derived from fees
collected pursuant to subsection (c). All fees collected
pursuant to subsection (c) shall be deposited into the medical
marijuana registry revolving fund.

(c) The department may charge a medical marijuana
registration fee of no more than $35."

SECTION 3. Section 329-59, Hawaii Revised Statutes, is
amended by amending subsection (b) to read as follows:

"(b) The fund shall consist of all moneys derived from
fees collected pursuant to sections 329-31[7] and 329-67[7] and
329-123(b) and legislative appropriations. All fees collected
pursuant to sections 329-31[7] and 329-67[7] and 329-123(b)
shall be deposited in the controlled substance registration
revolving fund."

SECTION 4. (a) No later than January 1, 2015, all rights,
powers, functions, and duties of the department of public safety
relating to the medical use of marijuana under part IX of
chapter 329, Hawaii Revised Statutes, shall be transferred to
the department of health; provided that such transfer is made
pursuant to the recommendations of the medical marijuana
transition advisory group; provided further that the transfer of
the medical marijuana program shall not take effect unless the
legislature passes legislation codifying in the Hawaii Revised
Statutes, the recommendations of the medical marijuana
transition advisory group by December 30, 2014.

(b) All employees who occupy civil service positions and
whose functions are transferred to the department of health by
this Act shall retain their civil service status, whether
permanent or temporary. Employees shall be transferred without
loss of salary, seniority (except as prescribed by applicable
collective bargaining agreement), retention points, prior
service credit, any vacation and sick leave credits previously
earned, and other rights, benefits, and privileges, in
accordance with state personnel laws and this Act; provided that
the employees possess the minimum qualifications and public
employment requirements for the class or position to which
transferred or appointed, as applicable; provided further that
subsequent changes in status may be made pursuant to applicable
civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil
service and is transferred as a consequence of this Act, may
continue to retain the employee's exempt status, but shall not
be appointed to a civil service position as a consequence of
this Act. An exempt employee who is transferred by this Act
shall not suffer any loss of prior service credit, vacation or
sick leave credits previously earned, or other employee benefits
or privileges as a consequence of this Act; provided that the
employees possess legal and public employment requirements for
the position to which transferred or appointed, as applicable;
provided further that subsequent changes in status may be made
pursuant to applicable employment and compensation laws. The
director of health may prescribe the duties and qualifications
of such employees and fix their salaries without regard to
chapter 76, Hawaii Revised Statutes.

SECTION 5. The department of public safety shall
facilitate the transfer of functions pursuant to this Act and
the recommendations of the medical marijuana transition advisory
group by collaborating with, cooperating with, and assisting the
department of health with assuming jurisdiction of and
responsibilities for the medical use of marijuana program.

In order to facilitate the transfer of functions pursuant
to this Act, until all relevant records are transferred to the
department of health, the duties of the department of public
safety shall include but not be limited to maintaining a
confirmation service of the registration and certification of
physicians, qualifying patients, and primary caregivers,
pursuant to section 329-123, Hawaii Revised Statutes, which
service shall operate twenty-four hours per day, seven days per
week, and shall be accessible to the department of health.

SECTION 6. All appropriations, fees, records, equipment,
machines, files, supplies, contracts, books, papers, documents,
maps, and other personal property heretofore made, used,
acquired, or held by the department of public safety relating to
the functions transferred to the department of health shall be
transferred with the functions to which they relate.

SECTION 7. All rules, policies, procedures, guidelines,
and other material adopted or developed by the department of
public safety that are reenacted or made applicable to the
department of health by this Act shall remain in full force and
effect until amended or repealed by the department of health
pursuant to chapter 91, Hawaii Revised Statutes. In the
interim, every reference to the department of public safety or
director of public safety in those rules, policies, procedures,
guidelines, and other material is amended to refer to the
department of health or director of health.
SECTION 8. All designated forms for written certifications issued by the department of public safety shall be valid under the department of health until the department of health issues new designated forms.

PART II

SECTION 9. The department of public safety and the department of health, based on the recommendations of the medical marijuana transition advisory group, shall develop a plan for transferring the medical use of marijuana program from the department of public safety to the department of health by January 1, 2015, pursuant to this Act. The plan shall include a timeline for the transfer.

SECTION 10. The department of public safety and the department of health shall submit a joint report on the transfer of the medical use of marijuana program, including the plan and timeline for the transfer, and the progress made, to the legislature no later than twenty days prior to the convening of the regular session of 2014.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 2050; provided that this Act shall be repealed on December 31, 2014,
if the recommendations of the medical marijuana advisory group are not codified in the Hawaii Revised Statutes by December 30, 2014.
Report Title:
Medical Marijuana Program; Transfer of Responsibilities

Description:
Establishes the medical marijuana transition advisory group to make binding recommendations on the transfer of the medical use of marijuana program. Transfers the medical use of marijuana program from the Department of Public Safety to the Department of Health by January 1, 2015. Requires report, with transfer plan and timeline, to the legislature prior to the 2014 regular session. Requires legislation codifying the recommendations of the medical marijuana advisory group to be adopted by December 30, 2014; otherwise, repeals this measure and prohibits transfer of the medical use of marijuana program. Effective 07/01/50. (SD2)

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