
A BILL FOR AN ACT

RELATING TO LICENSING INSPECTIONS.

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

1 SECTION 1. The legislature finds that the department of
2 health is responsible for licensing, certifying, and monitoring
3 several types of facilities, including care facilities and
4 medical marijuana dispensary facilities, to ensure a standard of
5 quality. To ensure that these facilities are providing a high
6 standard of quality on a day-to-day basis, inspections and
7 visits of these facilities should be unannounced to prevent a
8 prepared appearance that does not truly portray the regular
9 quality of operations that the facility provides on an ongoing
10 basis.

11 The purpose of this Act is to require the department of
12 health to conduct visits and relicensing or recertification
13 inspections without notice for state-licensed care facilities
14 and unannounced inspections for license renewals for medical
15 marijuana dispensaries.

16 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:



1 "§321- Inspections; visits; state-licensed or state-
2 certified care facilities. (a) The department of health shall
3 conduct unannounced visits and inspections, including
4 inspections for relicensing or recertification, for the
5 following state-licensed or state-certified care facilities on
6 an annual basis and at such intervals as determined by the
7 department to ensure the health, safety, and welfare of each
8 resident:

- 9 (1) Adult day health centers;
- 10 (2) Adult day care centers;
- 11 (3) Community care foster family homes;
- 12 (4) Developmental disabilities domiciliary homes;
- 13 (5) Adult foster homes;
- 14 (6) Long-term care facilities, including but not limited

15 to:

- 16 (A) Adult residential care homes;
- 17 (B) Expanded adult residential care homes;
- 18 (C) Assisted living facilities;
- 19 (D) Intermediate care facilities;
- 20 (E) Nursing facilities; and
- 21 (F) Skilled nursing facilities; and



1 (7) Special treatment facilities.

2 (b) Unannounced visits may be conducted during or outside
3 regular business hours. All inspections relating to follow-up
4 visits, visits to confirm correction of deficiencies, or visits
5 to investigate complaints or suspicion of abuse or neglect shall
6 be conducted unannounced during or outside regular business
7 hours. Annual inspections for relicensing or recertification
8 may be conducted during regular business hours or at intervals
9 determined by the department. Annual inspections for
10 relicensing or recertification shall be conducted without
11 notice.

12 (c) The department shall adopt rules pursuant to chapter
13 91 to effectuate the purposes of this section."

14 SECTION 3. Section 321-15.6, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) All adult residential care homes shall be licensed to
17 ensure the health, safety, and welfare of the individuals placed
18 therein. The department shall conduct [~~unannounced visits,~~
19 ~~other than the inspection for relicensing, to every licensed~~
20 ~~adult residential care home and expanded adult residential care~~
21 ~~home on an annual basis and at such intervals as determined by~~



1 ~~the department to ensure the health, safety, and welfare of each~~
 2 ~~resident. Unannounced visits may be conducted during or outside~~
 3 ~~regular business hours. All inspections relating to follow up~~
 4 ~~visits, visits to confirm correction of deficiencies, or visits~~
 5 ~~to investigate complaints or suspicion of abuse or neglect shall~~
 6 ~~be conducted unannounced during or outside regular business~~
 7 ~~hours. Annual inspections for relicensing may be conducted~~
 8 ~~during regular business hours or at intervals determined by the~~
 9 ~~department. Annual inspections for relicensing shall be~~
 10 ~~conducted with notice, unless otherwise determined by the~~
 11 ~~department.] visits and inspections pursuant to section 321- ."~~

12 SECTION 4. Section 321-15.62, Hawaii Revised Statutes, is
 13 amended by amending subsection (a) to read as follows:

14 "(a) All expanded adult residential care homes shall be
 15 licensed to ensure the health, safety, and welfare of the
 16 individuals placed therein. The department shall conduct visits
 17 and inspections pursuant to section 321- ."

18 SECTION 5. Section 329D-4, Hawaii Revised Statutes, is
 19 amended by amending subsection (n) to read as follows:

20 "(n) A dispensary license may be renewed annually by
 21 payment of an annual renewal fee of \$50,000 and subject to



1 verification by the department through an unannounced inspection
2 that the individual licensee and entity licensee continue to
3 meet all licensing requirements from the date the initial
4 licenses were issued."

5 SECTION 6. Section 329D-7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§329D-7[+] Medical marijuana dispensary rules. The
8 department shall establish standards with respect to:

- 9 (1) The number of medical marijuana dispensaries that
10 shall be permitted to operate in the State;
- 11 (2) A fee structure for the submission of applications and
12 renewals of licenses to dispensaries; provided that
13 the department shall consider the market conditions in
14 each county in determining the license renewal fee
15 amounts;
- 16 (3) Criteria and procedures for the consideration and
17 selection, based on merit, of applications for
18 licensure of dispensaries; provided that the criteria
19 shall include but not be limited to an applicant's:
20 (A) Ability to operate a business;



- 1 (B) Financial stability and access to financial
- 2 resources; provided that applicants for medical
- 3 marijuana dispensary licenses shall provide
- 4 documentation that demonstrates control of not
- 5 less than \$1,000,000 in the form of escrow
- 6 accounts, letters of credit, surety bonds, bank
- 7 statements, lines of credit or the equivalent to
- 8 begin operating the dispensary;
- 9 (C) Ability to comply with the security requirements
- 10 developed pursuant to paragraph (6);
- 11 (D) Capacity to meet the needs of qualifying
- 12 patients;
- 13 (E) Ability to comply with criminal background check
- 14 requirements developed pursuant to paragraph (8);
- 15 and
- 16 (F) Ability to comply with inventory controls
- 17 developed pursuant to paragraph (13);
- 18 (4) Specific requirements regarding annual audits and
- 19 reports required from each production center and
- 20 dispensary licensed pursuant to this chapter;



1 (5) Procedures for announced and unannounced inspections
2 by the department or its agents of production centers
3 and dispensaries licensed pursuant to this chapter;
4 provided that inspections for license renewals shall
5 be unannounced;

6 (6) Security requirements for the operation of production
7 centers and retail dispensing locations; provided
8 that, at a minimum, the following shall be required:

9 (A) For production centers:

10 (i) Video monitoring and recording of the
11 premises;

12 (ii) Fencing that surrounds the premises and that
13 is sufficient to reasonably deter intruders
14 and prevent anyone outside the premises from
15 viewing any marijuana in any form;

16 (iii) An alarm system; and

17 (iv) Other reasonable security measures to deter
18 or prevent intruders, as deemed necessary by
19 the department;

20 (B) For retail dispensing locations:



- 1 (i) Presentation of a valid government-issued
- 2 photo identification and a valid
- 3 identification as issued by the department
- 4 pursuant to section 329-123, by a qualifying
- 5 patient or caregiver, upon entering the
- 6 premises;
- 7 (ii) Video monitoring and recording of the
- 8 premises;
- 9 (iii) An alarm system;
- 10 (iv) Exterior lighting; and
- 11 (v) Other reasonable security measures as deemed
- 12 necessary by the department;
- 13 (7) Security requirements for the transportation of
- 14 marijuana and manufactured marijuana products between
- 15 production centers and retail dispensing locations;
- 16 (8) Standards and criminal background checks to ensure the
- 17 reputable and responsible character and fitness of all
- 18 license applicants, licensees, employees,
- 19 subcontractors and their employees, and prospective
- 20 employees of medical marijuana dispensaries to operate
- 21 a dispensary; provided that the standards, at a



1 minimum, shall exclude from licensure or employment
2 any person convicted of any felony;

3 (9) The training and certification of operators and
4 employees of production centers and dispensaries;

5 (10) The types of manufactured marijuana products that
6 dispensaries shall be authorized to manufacture and
7 sell pursuant to sections 329D-9 and 329D-10;

8 (11) Laboratory standards related to testing marijuana and
9 manufactured marijuana products for content,
10 contamination, and consistency;

11 (12) The quantities of marijuana and manufactured marijuana
12 products that a dispensary may sell or provide to a
13 qualifying patient or primary caregiver; provided that
14 no dispensary shall sell or provide to a qualifying
15 patient or primary caregiver any combination of
16 marijuana and manufactured products that:

17 (A) During a period of fifteen consecutive days,
18 exceeds the equivalent of four ounces of
19 marijuana; or



1 (B) During a period of thirty consecutive days,
2 exceeds the equivalent of eight ounces of
3 marijuana;

4 (13) Dispensary and production center inventory controls to
5 prevent the unauthorized diversion of marijuana or
6 manufactured marijuana products or the distribution of
7 marijuana or manufactured marijuana products to
8 qualifying patients or primary caregivers in
9 quantities that exceed limits established by this
10 chapter; provided that the controls, at a minimum,
11 shall include:

12 (A) A computer software tracking system as specified
13 in section 329D-6(j) and (k); and

14 (B) Product packaging standards sufficient to allow
15 law enforcement personnel to reasonably determine
16 the contents of an unopened package;

17 (14) Limitation to the size or format of signs placed
18 outside a retail dispensing location or production
19 center; provided that the signage limitations, at a
20 minimum, shall comply with section 329D-6(o)(2) and



1 shall not include the image of a cartoon character or
2 other design intended to appeal to children;

3 (15) The disposal or destruction of unwanted or unused
4 marijuana and manufactured marijuana products;

5 (16) The enforcement of the following prohibitions against:

6 (A) The sale or provision of marijuana or
7 manufactured marijuana products to unauthorized
8 persons;

9 (B) The sale or provision of marijuana or
10 manufactured marijuana products to qualifying
11 patients or primary caregivers in quantities that
12 exceed limits established by this chapter;

13 (C) Any use or consumption of marijuana or
14 manufactured marijuana products on the premises
15 of a retail dispensing location or production
16 center; and

17 (D) The distribution of marijuana or manufactured
18 marijuana products, for free, on the premises of
19 a retail dispensing location or production
20 center;



1 (17) The establishment of a range of penalties for
2 violations of this chapter or rule adopted thereto;
3 and

4 (18) A process to recognize and register patients who are
5 authorized to purchase, possess, and use medical
6 marijuana in another state, United States territory,
7 or the District of Columbia as qualifying patients in
8 this State; provided that this registration process
9 may commence no sooner than January 1, 2018."

10 SECTION 7. Section 329D-23, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Each medical marijuana production center and
13 dispensary licensed pursuant to this part shall:

14 (1) Be subject to an annual announced inspection and
15 unlimited unannounced inspections of its operations by
16 the department; provided that inspections for license
17 renewals shall be unannounced;

18 (2) Submit reports on at least a quarterly basis, or as
19 otherwise required, and in the format specified by the
20 department; and



1 (3) Annually cause an independent financial audit, at the
2 dispensary licensee's own expense, to be conducted of
3 the dispensary, its production center, and retail
4 dispensing locations and shall submit the audit's
5 findings to the department."

6 SECTION 8. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect on July 1, 2016.

9



Report Title:

Licensing; State-licensed Care Facilities; State-certified Care Facilities; Marijuana Dispensaries; Unannounced Inspections

Description:

Requires the department of health to conduct unannounced visits and relicensing or recertification inspections for state-licensed care facilities and unannounced inspections for license renewals for medical marijuana dispensaries. (SD1)

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

