

JAN 24 2018

S.B. NO. 2718

A BILL FOR AN ACT

RELATING TO CANNABIS FOR MEDICAL USE.

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

1 SECTION 1. The legislature finds that Act 241, Session
2 Laws of Hawaii 2015, codified as chapter 329D, Hawaii Revised
3 Statutes, established a license scheme for a statewide system of
4 medical cannabis dispensaries to ensure access to medical
5 cannabis for qualifying patients and was later amended by
6 Act 230, Session Laws of Hawaii 2016, and Acts 41 and 170,
7 Session Laws of Hawaii 2017.

8 The legislature further finds that additional amendments to
9 the law are necessary for various reasons: to clarify
10 legislative intent, to ensure smooth administration of the law,
11 to allow for adequate patient access based on discussions of the
12 working group established by Act 230, Session Laws of Hawaii
13 2016, identifying other states that have a reasonable medical
14 cannabis program, and the need to resolve issues that have
15 arisen under the current law.

16 The purpose of this Act is to:



S.B. NO. 2718

- 1 (1) Amend the reciprocity program, whereby qualifying
2 patients from other jurisdictions may purchase limited
3 quantities of cannabis for medical use, subject to
4 certain safeguards, reporting and transparency
5 requirements, and payment of a visiting patient
6 certifying fee;
- 7 (2) Extend the maximum period of validity of a qualifying
8 patient's written certification of a debilitating
9 medical condition;
- 10 (3) Allow a bona fide physician-patient or advanced
11 practice registered nurse-patient relationship to be
12 established via telehealth;
- 13 (4) Add certain devices that provide safe pulmonary
14 administration to the list of medical cannabis
15 products that may be manufactured and distributed;
- 16 (5) Increase the tetrahydrocannabinol limit per pack or
17 container of certain manufactured cannabis products;
- 18 (6) Exempt from the background check requirement employees
19 of a dispensary or subcontracted production center or
20 retail dispensing location without direct access,



1 contact, or exposure to any cannabis or manufactured
2 cannabis product; and

3 (7) Condition the department of health's mandatory
4 disclosure of information and documents of
5 dispensaries and production centers, for purposes of
6 verifying qualifying patient information, only upon
7 receipt of a legally authorized subpoena.

8 SECTION 2. Section 321-30.1, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The fund shall consist of all moneys derived from
11 fees collected pursuant to subsection (c) [~~and~~], section 329D-
12 4 [~~-~~], and section 329D-13(c). There is established within the
13 medical cannabis registry and regulation special fund:

14 (1) A medical cannabis registry program sub-account, into
15 which shall be deposited all fees collected pursuant
16 to subsection (c); and

17 (2) A medical cannabis dispensary program sub-account,
18 into which shall be deposited all fees collected
19 pursuant to section 329D-4 [~~-~~] and 329D-13(c)."



1 SECTION 3. Section 329-121, Hawaii Revised Statutes, is
2 amended by amending the definition of "written certification" to
3 read as follows:

4 "Written certification" means the qualifying patient's
5 medical records or a statement signed by a qualifying patient's
6 physician or advanced practice registered nurse, stating that in
7 the physician's or advanced practice registered nurse's
8 professional opinion, the qualifying patient has a debilitating
9 medical condition and the potential benefits of the medical use
10 of cannabis would likely outweigh the health risks for the
11 qualifying patient. The department of health may require,
12 through its rulemaking authority, that all written
13 certifications comply with a designated form. "Written
14 certifications" are valid for [~~only~~] one year from the time of
15 signing[~~-~~]; provided that the department may allow any
16 certification to be valid for up to three years when the
17 qualifying patient's physician or advanced practice registered
18 nurse states that the debilitating medical condition is chronic
19 in nature."

20 SECTION 4. Section 329-126, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§329-126 **Protections afforded to a treating physician or**
2 **advanced practice registered nurse.** (a) No physician or
3 advanced practice registered nurse shall be subject to arrest or
4 prosecution, penalized in any manner, or denied any right or
5 privilege for providing written certification for the medical
6 use of cannabis for a qualifying patient; provided that:

7 (1) The physician or advanced practice registered nurse
8 has diagnosed the patient as having a debilitating
9 medical condition, as defined in section 329-121;

10 (2) The physician or advanced practice registered nurse
11 has explained the potential risks and benefits of the
12 medical use of cannabis, as required under section
13 329-122;

14 (3) The written certification is based upon the
15 physician's or advanced practice registered nurse's
16 professional opinion after having completed a full
17 assessment of the patient's medical history and
18 current medical condition made in the course of a bona
19 fide physician-patient relationship or bona fide
20 advanced practice registered nurse-patient
21 relationship, as applicable; and



1 (4) The physician or advanced practice registered nurse
2 has complied with the registration requirements of
3 section 329-123.

4 (b) For purposes of this subsection, a bona fide
5 physician-patient relationship or bona fide advanced practice
6 registered nurse-patient relationship may be established via
7 telehealth, as defined in section 453-1.3(j)."

8 SECTION 5. Section 329D-10, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) The types of medical cannabis products that may be
11 manufactured and distributed pursuant to this chapter shall be
12 limited to:

- 13 (1) Capsules;
- 14 (2) Lozenges;
- 15 (3) Pills;
- 16 (4) Oils and oil extracts;
- 17 (5) Tinctures;
- 18 (6) Ointments and skin lotions;
- 19 (7) Transdermal patches;



1 (8) Pre-filled and sealed containers used to aerosolize
2 and deliver cannabis orally, such as with an inhaler
3 or nebulizer; ~~and~~

4 (9) Devices that provide safe pulmonary administration;
5 provided that the heating element of the device is
6 made of inert materials such as glass, ceramic, or
7 stainless steel, and not of plastic or rubber, and
8 there is a temperature control on the device to ensure
9 a sub-combustion temperature; and

10 ~~[(9)]~~ (10) Other products as specified by the department."

11 SECTION 6. Section 329D-11, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) Any capsule, lozenge, or pill containing cannabis or
14 its principal psychoactive constituent tetrahydrocannabinol
15 shall be packaged so that one dose, serving, or single wrapped
16 item contains no more than ten milligrams of
17 tetrahydrocannabinol; provided that no manufactured cannabis
18 product that is sold in a pack of multiple doses, servings, or
19 single wrapped items, nor any containers of oils, shall contain
20 more than a total of one ~~hundred~~ thousand milligrams of
21 tetrahydrocannabinol per pack or container."



1 SECTION 7. Section 329D-12, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) This section shall not apply to:

4 (1) Qualifying patients and their primary caregivers who
5 enter or remain on the premises of a retail dispensing
6 location for the purpose of a transaction conducted
7 pursuant to sections 329D-6 and 329D-13; [~~or~~]

8 (2) Employees of a medical cannabis dispensary or
9 employees of a subcontracted production center or
10 retail dispensing location when that person will have
11 no direct access, contact, or exposure to any cannabis
12 or manufactured cannabis product; provided that the
13 department may still require a background check for
14 any individual exempt under this paragraph prior to
15 access on the premises with written notification to
16 the dispensary;

17 (3) Any other person approved for access and entry by the
18 department; provided that the person will have no
19 direct access, contact, or exposure to any cannabis or
20 manufactured cannabis product, and shall be
21 accompanied at all times on the premises by an



1 authorized employee of the dispensary; provided
2 further that the department may still require a
3 background check for any individual exempt under this
4 paragraph prior to access on the premises with written
5 notification to the dispensary; or

6 ~~[-(2)]~~ (4) Government officials and employees acting in an
7 official capacity and employees of a certified
8 laboratory who enter or remain on the premises of a
9 retail dispensing location or production center for
10 any purpose authorized by this chapter."

11 SECTION 8. Section 329D-13, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) Beginning on January 1, 2018, this section may apply
14 to qualifying patients from other states, territories of the
15 United States, or the District of Columbia; ~~[provided that the~~
16 ~~patient is verified as a patient in their home state and~~
17 ~~registers with the department through a registration process~~
18 ~~established by the department.]~~ provided that:

19 (1) The patient may purchase no more than one ounce of
20 cannabis for medical use within a period of fifteen
21 consecutive days, or no more than two ounces of



1 cannabis within a period of thirty consecutive days;

2 and

3 (2) The patient presents and provides to a medical

4 cannabis dispensary:

5 (A) A government issued photo identification;

6 (B) An active United States state or territory issued

7 medical cannabis card from the patient's home

8 state, or the patient furnishes a written

9 certification from the patient's primary care

10 physician certifying that the patient has a

11 debilitating medical condition; and

12 (C) Payment of a visiting patient certifying fee of

13 \$ _____, which shall be valid for a period of

14 no more than six months and may be renewed prior

15 to expiration every six months for \$ _____."

16 A medical cannabis dispensary shall make reasonable good

17 faith efforts to verify that the patient's government issued

18 photo identification is valid, the patient's medical cannabis

19 card or written certification has not expired, and the

20 certifying physician's license is in good standing with the

21 applicable jurisdiction.



1 A medical cannabis dispensary shall make copies of all
2 documents presented and used in the verification of the
3 patient's eligibility for reciprocity and log all eligible
4 patients into the computer software tracking system established
5 pursuant to section 329D-6(j) to ensure compliance with
6 dispensing limits under this subsection.

7 A medical cannabis dispensary may opt to not serve any
8 patients from other jurisdictions."

9 SECTION 9. Section 329D-20, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§329D-20[+] **Law enforcement access to dispensary and**
12 **production center records.** Notwithstanding any other law, the
13 department may disclose information and documents of medical
14 cannabis dispensaries and production centers for the purpose of
15 verifying qualifying patient information, but shall disclose
16 information, documents, and other records regarding medical
17 cannabis dispensaries and production centers, only upon
18 ~~[request,]~~ receipt of a legally authorized subpoena, to any
19 state, federal, or county agency engaged in the criminal
20 investigation or prosecution of violations of applicable state,



S.B. NO. 2118

1 county, or federal laws or regulations related to the operations
2 or activities of a medical cannabis dispensary."

3 SECTION 10. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

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

8 SECTION 12. This Act shall take effect upon its approval.

9

INTRODUCED BY: *Randy H. Baker*
By Request



S.B. NO. 2718

Report Title:

Medical Cannabis; Telehealth; Background Checks; Packaging; Law Enforcement; Medical Cannabis Registry and Regulation Special Fund; Reciprocity; Written Certification; Manufactured Cannabis Products

Description:

Amends the reciprocity program, subject to certain safeguards, reporting and transparency requirements, and payment of a visiting patient certifying fee. Extends the maximum period of validity of a qualifying patient's written certification of a debilitating medical condition. Allows a bona fide physician-patient or advanced practice registered nurse-patient relationship to be established via telehealth. Adds certain devices that provide safe pulmonary administration to the list of medical cannabis products that may be manufactured and distributed. Increases the tetrahydrocannabinol limit per pack or container of certain manufactured cannabis products. Exempts from the background check requirement employees of a dispensary or subcontracted production center or retail dispensing location without direct access, contact, or exposure to any cannabis or manufactured cannabis product. Conditions the department of health's mandatory disclosure of information and documents of dispensaries and production centers, for purposes of verifying qualifying patient information, only upon receipt of a legally authorized subpoena.

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

