A BILL FOR AN ACT

RELATING TO HEALTH.

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

SECTION 1. The legislature finds that although the State has taken many important steps to make medical cannabis available, further action is needed to ensure access. One way is to expand the scope of professionals who may provide written certification for qualifying patients to use medical cannabis. The legislature further finds that, as determined by the state board of naturopathic medicine, it is within the scope of naturopathic practice that medical cannabis can be prescribed by naturopathic physicians.

Accordingly, the purpose of this Act is to improve patient access to medical cannabis by authorizing naturopathic physicians to provide written certification for medical cannabis use to qualifying patients.

SECTION 2. Chapter 329, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:
§329- Registration of naturopathic physicians; medical cannabis; restrictions. (a) A naturopathic physician may register pursuant to this part to provide written certifications under part IX for the medical use of cannabis.

(b) All provisions of this part relating to practitioners who prescribe controlled substances shall be applied to naturopathic physicians providing written certifications under part IX for the medical use of cannabis; provided that this section shall not be construed to authorize any naturopathic physician to manufacture, distribute, prescribe, dispense, or conduct reverse distribution with any controlled substance within this State."

SECTION 3. Chapter 455, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

§455- Medical use of cannabis; authorization. Subject to any requirements imposed by the department of public safety and the federal Drug Enforcement Administration, a naturopathic physician may register with the department of public safety pursuant to part III of chapter 329 and may obtain any federal Drug Enforcement Administration registration necessary to
provide written certifications under part IX of chapter 329 for the medical use of cannabis."

SECTION 4. Section 329-121, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Naturopathic physician" means a person who holds a current license issued under chapter 455 to practice naturopathic medicine and is registered pursuant to part III to provide written certifications under this part for the medical use of cannabis."

2. By amending the definition of "debilitating medical condition" to read:

"Debilitating medical condition" means:

(1) Cancer, glaucoma, lupus, epilepsy, multiple sclerosis, rheumatoid arthritis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;

(2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:
(A) Cachexia or wasting syndrome;
(B) Severe pain;
(C) Severe nausea;
(D) Seizures, including those characteristic of epilepsy;
(E) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease; or
(F) Post-traumatic stress disorder; or
(3) Any other medical condition approved by the department of health pursuant to administrative rules in response to a request from a physician, naturopathic physician, or advanced practice registered nurse or potentially qualifying patient."

3. By amending the definition of "primary caregiver" to read:

"Primary caregiver" means a person eighteen years of age or older, other than the qualifying patient and the qualifying patient's physician, naturopathic physician, or advanced practice registered nurse, who has agreed to undertake responsibility for managing the well-being of the qualifying
patient with respect to the medical use of cannabis. In the case of a minor or an adult lacking legal capacity, the primary caregiver shall be a parent, guardian, or person having legal custody."

4. By amending the definition of "qualifying patient" to read:

""Qualifying patient" means a person who has been diagnosed by a physician, naturopathic physician, or advanced practice registered nurse as having a debilitating medical condition."

5. By amending the definition of "written certification" to read:

""Written certification" means the qualifying patient's medical records or a statement signed by a qualifying patient's physician, naturopathic physician, or advanced practice registered nurse, stating that in the physician's, naturopathic physician's, or advanced practice registered nurse's professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of cannabis would likely outweigh the health risks for the qualifying patient. The department of health may require, through its rulemaking authority, that all written
certifications comply with a designated form. "Written
certifications" are valid for one year from the time of signing;
provided that the department of health may allow for the
validity of any written certification for up to three years if
the qualifying patient's physician, naturopathic physician, or
advanced practice registered nurse states that the patient's
debilitating medical condition is chronic in nature."

SECTION 5. Section 329-122, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

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

(1) The qualifying patient has been diagnosed by a
physician, naturopathic physician, or advanced
practice registered nurse as having a debilitating
medical condition;

(2) The qualifying patient's physician, naturopathic
physician, or advanced practice registered nurse has
certified in writing that, in the physician's,
naturopathic physician's, or advanced practice
registered nurse's professional opinion, the potential
benefits of the medical use of cannabis would likely outweigh the health risks for the particular qualifying patient; and

(3) The amount of cannabis possessed by the qualifying patient does not exceed an adequate supply."

SECTION 6. Section 329-123, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Physicians, naturopathic physicians, or advanced practice registered nurses who issue written certifications shall provide, in each written certification, the name, address, patient identification number, and other identifying information of the qualifying patient. The department of health shall require, in rules adopted pursuant to chapter 91, that all written certifications comply with a designated form completed by or on behalf of a qualifying patient. The form shall require information from [the]:

(1) The applicant;

(2) The primary caregiver; and

(3) The physician, naturopathic physician, or advanced practice registered nurse, as specifically required or permitted by this chapter."
The form shall require the address of the location where the cannabis is grown and shall appear on the registry card issued by the department of health. The certifying physician, naturopathic physician, or advanced practice registered nurse shall be required to have a bona fide physician-patient relationship, bona fide naturopathic physician-patient relationship, or bona fide advanced practice registered nurse-patient relationship, as applicable, with the qualifying patient. All current active medical cannabis permits shall be honored through their expiration date.

(b) Qualifying patients shall register with the department of health. The registration shall be effective until the expiration of the certificate issued by the department of health and signed by the physician, naturopathic physician, or advanced practice registered nurse. Every qualifying patient shall provide sufficient identifying information to establish the personal identities of the qualifying patient and the primary caregiver. Qualifying patients shall report changes in information within ten working days. Every qualifying patient shall have only one primary caregiver at any given time. The
department of health shall issue to the qualifying patient a registration certificate, and shall charge $35 per year."

SECTION 7. Section 329-126, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

"§329-126 Protections afforded to a treating physician, naturopathic physician, or advanced practice registered nurse.

(a) No physician, naturopathic physician, or advanced practice registered nurse shall be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for providing written certification for the medical use of cannabis for a qualifying patient; provided that:

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

(2) The physician, naturopathic physician, or advanced practice registered nurse has explained the potential risks and benefits of the medical use of cannabis, as required under section 329-122;
The written certification is based upon the physician's, naturopathic physician's, or advanced practice registered nurse's professional opinion after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, bona fide naturopathic physician-patient relationship, or bona fide advanced practice registered nurse-patient relationship, as applicable; and

(4) The physician, naturopathic physician, or advanced practice registered nurse has complied with the registration requirements of section 329-123."

SECTION 8. Section 329-128, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Notwithstanding any law to the contrary, fraudulent misrepresentation to a law enforcement official of any fact or circumstance relating to the issuance of a written certificate by a physician, naturopathic physician, or advanced practice registered nurse not covered under section 329-126 for the medical use of cannabis shall be a misdemeanor. This penalty
shall be in addition to any other penalties that may apply for
the non-medical use of cannabis."

SECTION 9. Section 455-1, Hawaii Revised Statutes, is
amended as follows:

1. By adding two definitions to be appropriately inserted
and to read:

"Cannabis" shall have the same meaning as in section
329-121.

"Medical use" with respect to cannabis shall have the same
meaning as in section 329-121."

2. By amending the definition of "naturopathic formulary"
to read:

"Naturopathic formulary" means vitamins, minerals, dietary
supplements, botanical medicines, homeopathic medicines,
hormones, [and] those legend drugs consistent with naturopathic
medical practice[→], and cannabis for medical use; provided that
the naturopathic formulary shall not include any narcotic drugs
or other controlled substances, as defined in section 329-1."
"(a) In addition to any other actions authorized by law, the board shall have the power to deny, revoke, suspend, or refuse to renew any license to practice naturopathic medicine applied for or issued by the board in accordance with this chapter, and to fine or otherwise discipline a licensee for any cause authorized by law, including but not limited to the following:

(1) Failing to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license;

(2) Procuring, or aiding or abetting in procuring, a criminal abortion;

(3) Employing any person to solicit patients;

(4) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;

(5) Betraying a patient's confidence;

(6) Making any untruthful and improbable statement in advertising one's naturopathic practice or business;

(7) False, fraudulent, or deceptive advertising;

(8) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an
habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;

(9) Practicing naturopathic medicine while the ability to practice is impaired by alcohol, drug, physical disability, or mental instability;

(10) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;

(11) Professional misconduct or gross carelessness or manifest incapacity in the practice of naturopathic medicine;

(12) Conduct or practice contrary to recognized standard of ethics of the naturopathic profession;

(13) Using medical service or treatment which is inappropriate or unnecessary;

(14) Submitting to or filing with the board any notice, statement, or other document required under this chapter [which] is false or untrue or contains any material misstatement of fact, including any false certification of compliance with the continuing education requirement specified under section 455-8;
(15) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;

(16) Using the title "physician" without clearly identifying oneself as being a naturopathic physician;

(17) Prescribing, administering, and dispensing naturopathic formulary that are not included in the formulary established by the board under section 455-6; [and]

(18) Except as otherwise authorized under section 329-122, violation of chapter 329, the uniform controlled substances act, or any rule adopted thereunder; and

[(18)] (19) Violation of any provision of this chapter or rules adopted under this chapter."

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 2050.
Report Title:
Medical Cannabis; Naturopathic Physicians; Written Certification

Description:
Authorizes naturopathic physicians to provide written certification to qualifying patients for medical cannabis use. Effective 7/1/2050. (HD2)

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