

Honolulu, Hawaii

FEB 13 2018

RE: S.B. No. 2718
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committees on Commerce, Consumer Protection, and Health and Public Safety, Intergovernmental, and Military Affairs, to which was referred S.B. No. 2718 entitled:

"A BILL FOR AN ACT RELATING TO CANNABIS FOR MEDICAL USE,"

beg leave to report as follows:

The purpose and intent of this measure is to improve administration of the State's cannabis dispensary program by:

- (1) Amending the out-of-state reciprocity program;
- (2) Extending the maximum period of validity of a written certification of a debilitating medical condition;
- (3) Allowing for the creation of a bona fide physician-patient or advanced practice registered nurse-patient relationship via telehealth;
- (4) Adding devices that provide safe pulmonary administration to the list of permitted manufactured cannabis products;
- (5) Increasing the maximum dosage amount of tetrahydrocannabinol per pack or container of certain manufactured cannabis products;



- (6) Exempting employees without direct access to cannabis from background check requirements; and
- (7) Requiring the use of a subpoena to obtain certain records regarding dispensaries and production centers from the Department of Health.

Your Committees received testimony in support of this measure from the Drug Policy Forum of Hawaii; Hawaii Educational Association; Aloha Green Holdings, Inc.; Noa Botanicals; Maui Grown Therapies; Hawaii Advocates for Consumer Rights; Hawaiian Ethos; Lau Ola, LLC; and four individuals. Your Committees received testimony in opposition to this measure from Malie Cannabis Clinic. Your Committees received comments on this measure from the Department of Health and Department of the Attorney General.

Your Committees find that amendments to the medical cannabis dispensary law are necessary to clarify legislative intent, ensure smooth administration of the law, and allow for adequate patient access based on discussions of the Act 230 Medical Cannabis Legislative Oversight Working Group (Working Group). Your Committees also find that the portions of this measure allowing the establishment of bona fide physician-patient and advanced practice registered nurse-patient relationships via telehealth and allowing safe pulmonary administration of cannabis are appropriate, provided that language from the Working Group is added to clarify which devices are permissible. Your Committees also find that an increase in tetrahydrocannabinol per pack or container is appropriate; provided that dispensaries do not violate established limits. However, other elements of this measure would present challenges to dispensaries and qualifying patients.

Specifically, your Committees have heard concerns with respect to the proposed reciprocity program, which may affect the supply of cannabis for qualifying patients in Hawaii and be overly burdensome for dispensaries. Your Committees find that an extension of the maximum period of validity for a qualifying patient's written certification goes against current medical practice, which is to review any long-term prescription every year. Your Committees also find that requiring background checks for all employees offers better protection for consumers than



limiting the requirement to only those employees with direct access to cannabis, as it is difficult to know in advance which employees will have direct access to cannabis and those who will not. Lastly, your Committees find that requiring the Department of Health to obtain a subpoena before disclosing records regarding dispensaries and production centers will likely impede the work of the Department of Health and law enforcement agencies, especially in exigent circumstances. Amendments to this measure are therefore necessary.

Accordingly, your Committees have amended this measure by:

- (1) Deleting the provisions relating to the reciprocity program, extension of the maximum duration of a qualifying patient's written certification, exemption from the background check requirement for certain employees without direct contact with cannabis, and addition of a subpoena requirement for the Department of Health to access certain dispensary and production center records;
- (2) Incorporating language from the Working Group and Department of Health into the description of devices that provide safe pulmonary administration to clarify that a device that provides safe pulmonary administration is used to aerosolize and deliver cannabis orally, such as a medical-grade inhaler or nebulizer, and uses single-use, disposable, pre-filled, tamper-resistant, sealed containers;
- (3) Clarifying that increased dosage per pack or container limits do not exempt dispensaries from adhering to existing dispensing limits;
- (4) Inserting an amendment to section 453-1.3, Hawaii Revised Statutes, to conform to the provision allowing a bona fide physician-patient relationship to be established via telehealth; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the records of votes of the members of your Committees on Commerce, Consumer Protection, and Health and Public Safety, Intergovernmental, and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2718, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2718, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Commerce,
Consumer Protection, and Health
and Public Safety,
Intergovernmental, and Military
Affairs,

Clarence K. Nishihara

CLARENCE K. NISHIHARA, Chair


Rosalyn H. Baker

ROSALYN H. BAKER, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

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|---|---|---------------------------------------|---------------------|---------|
| Bill / Resolution No.:* | Committee Referral: | Date: | | |
| SB 2718 | CPH/PSM, JDC/ WAM | 2/6/18 | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: | | | | |
| <input type="checkbox"/> Pass, unamended 2312 | <input checked="" type="checkbox"/> Pass, with amendments 2311 | <input type="checkbox"/> Hold 2310 | | |
| <input type="checkbox"/> Recommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| BAKER, Rosalyn H. (C) | ✓ | | | |
| TOKUDA, Jill N. (VC) | | | | ✓ |
| CHANG, Stanley | ✓ | | | |
| ESPERO, Will | ✓ | | | |
| IHARA, Jr., Les | ✓ | | | |
| NISHIHARA, Clarence K. | ✓ | | | |
| RUDERMAN, Russell E. | ✓ | | | |
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| TOTAL | 6 | | | 1 |
| Recommendation: | | | | |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: | | | | |
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| Distribution: | | | | |
| Original | Yellow | Pink | Goldenrod | |
| File with Committee Report | Clerk's Office | Drafting Agency | Committee File Copy | |

*Only one measure per Record of Votes

The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental, and Military Affairs
PSM

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|---|--|------------------------|
| Bill / Resolution No.:* SB 2718 | Committee Referral: CPH/PSM, JDC/WAM | Date: 2/6/18 |
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

| Members | Aye | Aye (WR) | Nay | Excused |
|----------------------------|----------|----------|----------|----------|
| NISHIHARA, Clarence K. (C) | ✓ | | | |
| WAKAI, Glenn (VC) | ✓ | | | |
| BAKER, Rosalyn H. | ✓ | | | |
| IHARA, Jr., Les | ✓ | | | |
| THIELEN, Laura H. | ✓ | | | |
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Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:

Distribution: Original Yellow Pink Goldenrod
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