



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 5, 2018

GOV. MSG. NO. 1217

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 5, 2018, the following bill was signed into law:

HB2729 HD2 SD2 CD1

**RELATING TO CANNABIS FOR MEDICAL USE
ACT 116 (18)**

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor
on JUL 05 2018

**ORIGINAL
ACT 116**

**HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII**

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A BILL FOR AN ACT

RELATING TO CANNABIS FOR MEDICAL USE.

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

1 PART II

2 SECTION 1. The legislature also finds that certain
3 amendments to the State's existing laws on cannabis for medical
4 use and medical cannabis dispensaries are necessary to ensure
5 the fair administration of the State's interjurisdictional
6 reciprocity program, maintain appropriate safeguards and
7 protections for qualifying patients and primary caregivers, ease
8 unnecessary administrative burdens on qualifying patients with
9 chronic conditions, and provide medical cannabis dispensaries
10 with a mechanism to retest batches of cannabis or manufactured
11 cannabis products when appropriate.

12 The legislature finds that any reciprocity process for out-
13 of-state medical cannabis patients must meet specific criteria
14 that uphold the integrity and rigor of the State's medical
15 cannabis program. A reciprocity program in Hawaii must not
16 significantly diminish the safety and security aspects of
17 Hawaii's approach to medical cannabis; must be implemented in a
18 way that is fair and equitable to Hawaii medical cannabis

1 patients and does not confer greater access to out-of-state
2 medical cannabis patients than to Hawaii patients; must provide
3 a timely process for qualifying out-of-state patients who visit
4 Hawaii to legally obtain medical cannabis from Hawaii-licensed
5 medical cannabis dispensaries; and must provide protection from
6 state law enforcement for registered qualifying out-of-state
7 patients who possess medical cannabis in Hawaii.

8 The legislature further finds that under existing law, a
9 qualifying patient's written certification for the medical use
10 of cannabis is valid for only one year from the time of signing.
11 However, many of the debilitating medical conditions that
12 qualify a patient for a written certification are chronic in
13 nature, and there is some concern that annual renewal
14 requirements may result in a lapse in treatment for some
15 qualifying patients.

16 Accordingly, the purpose of this part is to:

17 (1) Establish a criteria and requirements for a
18 reciprocity process for medical cannabis patients,
19 which requires the department of health to register
20 qualifying out-of-state patients and caregivers of
21 qualifying out-of-state patients;



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- 1 (2) Clarify law enforcement safeguards for qualifying out-
- 2 of-state patients and caregivers of qualifying out-of-
- 3 state patients who possess medical cannabis within the
- 4 State;
- 5 (3) Authorize the department of health to extend the
- 6 maximum period of validity of a written certification
- 7 to three years for qualifying patients with
- 8 debilitating medical conditions that are chronic; and
- 9 (4) Clarify a dispensary licensee's ability to retest, at
- 10 its own expense, a batch of cannabis or manufactured
- 11 cannabis products that do not meet the department of
- 12 health's standards for patient safety according to
- 13 initial test results.

14 SECTION 2. Chapter 329, Hawaii Revised Statutes, is
15 amended by adding a new section to part IX to be appropriately
16 designated and to read as follows:

- 17 "§329- Registration requirements; qualifying out-of-
18 state patient; caregiver of a qualifying out-of-state patient.
- 19 (a) Notwithstanding section 329-123, a qualifying out-of-state
20 patient and a caregiver of a qualifying out-of-state patient
21 shall register with the department of health as established by



1 rule. The registration shall be effective for no more than
2 sixty days and may be renewed for no more than one additional
3 sixty-day period that begins no later than twelve months after
4 the preceding registration date; provided that the department
5 shall not register any qualifying out-of-state patient for a
6 period that exceeds the term of validity of the qualifying out-
7 of-state patient's authority to use medical cannabis in the
8 qualifying out-of-state patient's home jurisdiction.

9 (b) A qualifying out-of-state patient aged eighteen or
10 older, at a minimum, shall meet the following criteria for
11 registration:

- 12 (1) Provide a valid government-issued medical cannabis
13 card issued to the qualifying out-of-state patient by
14 another state, United States territory, or the
15 District of Columbia; provided that the medical
16 cannabis card has an expiration date and has not
17 expired;
- 18 (2) Provide a valid photographic identification card or
19 driver's license issued by the same jurisdiction that
20 issued the medical cannabis card; and



1 (3) Have a debilitating medical condition, as defined in
2 section 329-121.

3 (c) A qualifying out-of-state patient under eighteen years
4 of age may be registered pursuant to this section only if the
5 qualifying patient has a debilitating medical condition as
6 defined in section 329-121 and the caregiver of the qualifying
7 out-of-state patient, at a minimum, meets the requirements of
8 paragraphs (1) and (2) of subsection (b) and consents in writing
9 to:

10 (1) Allow the qualifying out-of-state patient's medical
11 use of cannabis;

12 (2) Undertake the responsibility for managing the well-
13 being of the qualifying out-of-state patient who is
14 under eighteen years of age, with respect to the
15 medical use of cannabis; and

16 (3) Control the acquisition of the cannabis, the dosage,
17 and the frequency of the medical use of cannabis by
18 the qualifying out-of-state patient who is under
19 eighteen years of age.

20 (d) In the case of any qualifying out-of-state patient who
21 is under eighteen years of age, the department of health shall



1 register the qualifying out-of-state patient and the caregiver
2 of the qualifying out-of-state patient; provided that the
3 department may register two caregivers for a qualifying out-of-
4 state patient if each caregiver is the parent, guardian, or
5 person having legal custody of the qualifying out-of-state
6 patient who is under eighteen years of age.

7 (e) Each qualifying out-of-state patient shall pay a fee
8 of \$45 for each registration and renewal.

9 (f) Upon inquiry by a law enforcement agency, the
10 department of health shall immediately verify whether the
11 subject of the inquiry has registered with the department of
12 health and may provide reasonable access to the registry
13 information for official law enforcement purposes. An inquiry
14 and verification under this subsection may be made twenty-four
15 hours a day, seven days a week.

16 (g) The department of health may temporarily suspend the
17 registration of a qualifying out-of-state patient or a
18 registered caregiver of a qualifying out-of-state patient for a
19 period of up to thirty days if the department of health
20 determines that the registration process for qualifying patients
21 or primary caregivers is being adversely affected or the supply



1 of cannabis for medical use available in licensed dispensaries
2 is insufficient to serve qualifying patients and qualifying out-
3 of-state patients. A temporary suspension may be extended by
4 thirty-day periods until the department of health determines
5 that:

- 6 (1) Adequate capacity exists to register qualifying out-
7 of-state patients and caregivers of qualifying out-of-
8 state patients in addition to qualifying patients and
9 primary caregivers; and
10 (2) The licensed dispensaries are able to meet the demands
11 of qualifying patients."

12 SECTION 3. Section 321-30.1, Hawaii Revised Statutes, is
13 amended by amending subsection (c) to read as follows:

14 "(c) The department, upon completion of the transfer of
15 the medical use of cannabis program, shall charge a medical
16 cannabis registration fee to each qualifying [patients] patient,
17 other than a qualifying out-of-state patient, of no more than
18 \$35[–] per year."

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



1 1. By adding three new definitions to be appropriately
2 inserted and to read:

3 "Adequate supply for a qualifying out-of-state patient"
4 means an amount of cannabis individually possessed by a
5 qualifying out-of-state patient or jointly possessed by a
6 qualifying out-of-state patient who is under eighteen years old
7 and the caregiver of the qualifying out-of-state patient that is
8 not more than is reasonably necessary to ensure the
9 uninterrupted availability of cannabis for the purpose of
10 alleviating the symptoms or effects of the qualifying out-of-
11 state patient's debilitating medical condition; provided that an
12 "adequate supply for a qualifying out-of-state patient" shall
13 not exceed four ounces of usable cannabis at any given time and
14 shall not include live plants. The four ounces of usable
15 cannabis shall include any combination of usable cannabis and
16 manufactured cannabis products, as provided in chapter 329D;
17 provided that the usable cannabis in the manufactured products
18 shall be calculated using information provided pursuant to
19 section 329D-9(c).



1 "Caregiver of a qualifying out-of-state patient" means a
2 parent, guardian, or person having legal custody of a qualifying
3 out-of-state patient who is under the age of eighteen years.

4 "Qualifying out-of-state patient" or "registered qualifying
5 out-of-state patient" means a person who is registered for the
6 medical use of cannabis in another state, a United States
7 territory, or the District of Columbia."

8 2. By amending the definition of "medical use" to read:

9 "Medical use" means the acquisition, possession,
10 cultivation, use, distribution, or transportation of cannabis or
11 paraphernalia relating to the administration of cannabis to
12 alleviate the symptoms or effects of a qualifying patient's
13 debilitating medical condition[–]; provided that "medical use"
14 does not include the cultivation or distribution of cannabis or
15 paraphernalia by a qualifying out-of-state patient or the
16 caregiver of a qualifying out-of-state patient. For the
17 purposes of "medical use", the term [distribution]
18 "distribution" is limited to the transfer of cannabis and
19 paraphernalia."

20 3. By amending the definition of "written certification"
21 to read:



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

17 SECTION 5. Section 329-122, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§329-122 Medical use of cannabis; conditions of use. (a)**
20 Notwithstanding any law to the contrary, the medical use of
21 cannabis by a qualifying patient shall be permitted only if:



- 1 (1) The qualifying patient has been diagnosed by a
2 physician or advanced practice registered nurse as
3 having a debilitating medical condition;
- 4 (2) The qualifying patient's physician or advanced
5 practice registered nurse has certified in writing
6 that, in the physician's or advanced practice
7 registered nurse's professional opinion, the potential
8 benefits of the medical use of cannabis would likely
9 outweigh the health risks for the particular
10 qualifying patient; and
- 11 (3) The amount of cannabis possessed by the qualifying
12 patient does not exceed an adequate supply.
- 13 (b) Subsection (a) shall not apply to a qualifying patient
14 under the age of eighteen years, unless:
- 15 (1) The qualifying patient's physician or advanced
16 practice registered nurse has explained the potential
17 risks and benefits of the medical use of cannabis to
18 the qualifying patient and to a parent, guardian, or
19 person having legal custody of the qualifying patient;
20 and



- 1 (2) A parent, guardian, or person having legal custody
2 consents in writing to:
3 (A) Allow the qualifying patient's medical use of
4 cannabis;
5 (B) Serve as the qualifying patient's primary
6 caregiver; and
7 (C) Control the acquisition of the cannabis, the
8 dosage, and the frequency of the medical use of
9 cannabis by the qualifying patient.
- 10 (c) Notwithstanding any law to the contrary, the medical
11 use of cannabis within the State by a qualifying out-of-state
12 patient aged eighteen years or older legally authorized to use
13 cannabis for medical purposes in another state, a United States
14 territory, or the District of Columbia shall be permitted only
15 if the qualifying out-of-state patient:
- 16 (1) Provides to the department of health a valid medical
17 use of cannabis card with an explicit expiration date
18 that has not yet passed from the issuing jurisdiction
19 and a valid photographic identification card or
20 driver's license issued by the same jurisdiction;



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- 1 (2) Attests under penalty of law pursuant to section
2 710-1063 that the condition for which the qualifying
3 out-of-state patient is legally authorized to use
4 cannabis for medical purposes is a debilitating
5 medical condition as defined in section 329-121;
6 (3) Provides consent for the department of health to
7 obtain information from the qualifying out-of-state
8 patient's certifying medical provider and from the
9 entity that issued the medical cannabis card for the
10 purpose of allowing the department of health to verify
11 the information provided in the registration process;
12 (4) Pays the required fee for out-of-state registration to
13 use cannabis for medical purposes;
14 (5) Registers with the department of health pursuant to
15 section 329- to use cannabis for medical purposes;
16 (6) Receives a medical cannabis registry card from the
17 department of health; and
18 (7) Abides by all laws relating to the medical use of
19 cannabis, including not possessing an amount of
20 cannabis that exceeds an adequate supply.



1 (d) Notwithstanding any law to the contrary, the medical
2 use of cannabis by a qualifying out-of-state patient under
3 eighteen years of age shall only be permitted if:

4 (1) The caregiver of the qualifying out-of-state patient
5 provides the information required pursuant to
6 subsection (c); and

7 (2) The caregiver of the qualifying out-of-state patient
8 consents in writing to:

9 (A) Allow the qualifying out-of-state patient's
10 medical use of cannabis;
11 (B) Undertake the responsibility for managing the
12 well-being of the qualifying out-of-state patient
13 who is under eighteen years of age with respect
14 to the medical use of cannabis; and
15 (C) Control the acquisition of the cannabis, the
16 dosage, and the frequency of the medical use of
17 cannabis by the qualifying out-of-state patient
18 who is under eighteen years of age.

19 [+e] (e) The authorization for the medical use of
20 cannabis in this section shall not apply to:



- 1 (1) The medical use of cannabis that endangers the health
- 2 or well-being of another person;
- 3 (2) The medical use of cannabis:
 - 4 (A) In a school bus, public bus, or any moving
 - 5 vehicle;
 - 6 (B) In the workplace of one's employment;
 - 7 (C) On any school grounds;
 - 8 (D) At any public park, public beach, public
 - 9 recreation center, recreation or youth center; or
 - 10 (E) At any other place open to the public; provided
 - 11 that a qualifying patient, primary caregiver,
 - 12 qualifying out-of-state patient, caregiver of a
 - 13 qualifying out-of-state patient, or an owner or
 - 14 employee of a medical cannabis dispensary
 - 15 licensed under chapter 329D shall not be
 - 16 prohibited from transporting cannabis or any
 - 17 manufactured cannabis product, as that term is
 - 18 defined in section 329D-1, in any public place;
 - 19 provided further that the cannabis or
 - 20 manufactured cannabis product shall be
 - 21 transported in a sealed container, not be visible



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1 to the public, and shall not be removed from its
2 sealed container or consumed or used in any way
3 while it is in the public place; and

4 (3) The use of cannabis by a qualifying patient, parent,
5 [er], primary caregiver, qualifying out-of-state
6 patient, or caregiver of a qualifying out-of-state
7 patient, for purposes other than medical use permitted
8 by this part.

9 [(d)] (f) For the purposes of this section, "transport"
10 means the transportation of cannabis, usable cannabis, or any
11 manufactured cannabis product between:

12 (1) A qualifying patient and the qualifying patient's
13 primary caregiver;
14 (2) A qualifying out-of-state patient under eighteen years
15 of age and the caregiver of a qualifying out-of-state
16 patient;

17 [(2)] (3) The production centers and the retail dispensing
18 locations under a dispensary licensee's license; or

19 [(3)] (4) A production center, retail dispensing location,
20 qualifying patient, [er] primary caregiver, qualifying
21 out-of-state patient, or caregiver of a qualifying



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1 out-of-state patient and a certified laboratory for
2 the purpose of laboratory testing; provided that a
3 qualifying patient [ex], primary caregiver, qualifying
4 out-of-state patient, or caregiver of a qualifying
5 out-of-state patient may only transport up to one gram
6 of cannabis per test to a certified laboratory for
7 laboratory testing and may only transport the product
8 if the qualifying patient [ex], primary caregiver[+],
9 qualifying out-of-state patient, or caregiver of a
10 qualifying out-of-state patient:

- 11 (A) Secures an appointment for testing at a certified
12 laboratory;
- 13 (B) Obtains confirmation, which may be electronic,
14 that includes the specific time and date of the
15 appointment and a detailed description of the
16 product and amount to be transported to the
17 certified laboratory for the appointment; and
- 18 (C) Has the confirmation, which may be electronic,
19 available during transport.

20 For purposes of interisland transportation, "transport" of
21 cannabis, usable cannabis, or any manufactured cannabis product,



1 by any means is allowable only between a production center or
2 retail dispensing location and a certified laboratory for the
3 sole purpose of laboratory testing pursuant to section 329D-8,
4 as permitted under section 329D-6(m) and subject to section
5 329D-6(j), and with the understanding that state law and its
6 protections do not apply outside of the jurisdictional limits of
7 the State. Allowable transport pursuant to this section does
8 not include interisland transportation by any means or for any
9 purpose between a qualified patient [ex], primary caregiver,
10 qualifying out-of-state patient, or caregiver of a qualifying
11 out-of-state patient and any other entity or individual,
12 including an individual who is a qualified patient [ex], primary
13 caregiver[-], qualifying out-of-state patient, or caregiver of a
14 qualifying out-of-state patient."

15 SECTION 6. Section 329-123, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§329-123 Registration requirements[-]; qualifying
18 patients; primary caregivers. (a) Physicians or advanced
19 practice registered nurses who issue written certifications
20 shall provide, in each written certification, the name, address,
21 patient identification number, and other identifying information



1 of the qualifying patient. The department of health shall
2 require, in rules adopted pursuant to chapter 91, that all
3 written certifications comply with a designated form completed
4 by or on behalf of a qualifying patient. The form shall require
5 information from the applicant, primary caregiver, and physician
6 or advanced practice registered nurse as specifically required
7 or permitted by this chapter. The form shall require the
8 address of the location where the cannabis is grown and shall
9 appear on the registry card issued by the department of health.
10 The certifying physician or advanced practice registered nurse
11 shall be required to have a bona fide physician-patient
12 relationship or bona fide advanced practice registered nurse-
13 patient relationship, as applicable, with the qualifying
14 patient. All current active medical cannabis permits shall be
15 honored through their expiration date.

16 (b) Qualifying patients shall register with the department
17 of health. The registration shall be effective until the
18 expiration of the certificate issued by the department of health
19 and signed by the physician or advanced practice registered
20 nurse. Every qualifying patient shall provide sufficient
21 identifying information to establish the personal identities of



1 the qualifying patient and the primary caregiver. Qualifying
2 patients shall report changes in information within ten working
3 days. Every qualifying patient shall have only one primary
4 caregiver at any given time. The department of health shall
5 issue to the qualifying patient a registration certificate, and
6 shall charge \$35 per year.

7 (c) Primary caregivers shall register with the department
8 of health. Every primary caregiver shall be responsible for the
9 care of only one qualifying patient at any given time[-], unless
10 the primary caregiver is the parent, guardian, or person having
11 legal custody of more than one minor qualifying patient, in
12 which case the primary caregiver may be responsible for the care
13 of more than one minor qualifying patient at any given time;
14 provided that the primary caregiver is the parent, guardian, or
15 person having legal custody of all of the primary caregiver's
16 qualifying patients. The department of health may permit
17 registration of up two primary caregivers for a minor qualifying
18 patient; provided that both primary caregivers are the parent,
19 guardian, or person having legal custody of the minor qualifying
20 patient.



1 (d) Upon inquiry by a law enforcement agency, which
2 inquiry may be made twenty-four hours a day, seven days a week,
3 the department of health shall immediately verify whether the
4 subject of the inquiry has registered with the department of
5 health and may provide reasonable access to the registry
6 information for official law enforcement purposes.

7 (e) This section shall not apply to registration of a
8 qualifying out-of-state patient or a caregiver of a qualifying
9 out-of-state patient."

10 SECTION 7. Section 329-125, Hawaii Revised Statutes, is
11 amended by amending its title and subsections (a) and (b) to
12 read as follows:

13 **"§329-125 Protections afforded to a qualifying patient**
14 [or], primary caregiver[.], qualifying out-of-state patient, or
15 caregiver of a qualifying out-of-state patient. (a) A
16 qualifying patient [or the], primary caregiver, qualifying out-
17 of-state patient, or caregiver of a qualifying out-of-state
18 patient may assert the medical use of cannabis authorized under
19 this part as an affirmative defense to any prosecution involving
20 [f]cannabis or marijuana[+] under this part or part IV; or part
21 IV of chapter 712; provided that the qualifying patient [or



1 the], primary caregiver, qualifying out-of-state patient, or
2 caregiver of a qualifying out-of-state patient strictly complied
3 with the requirements of this part.

4 (b) Any qualifying patient [ex], primary caregiver,
5 qualifying out-of-state patient, or caregiver of a qualifying
6 out-of-state patient not complying with the permitted scope of
7 the medical use of cannabis shall not be afforded the
8 protections against searches and seizures pertaining to the
9 misapplication of the medical use of cannabis."

10 SECTION 8. Section 329-125.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**[§] 329-125.5[§] Medical cannabis patient and caregiver**
13 **protections.** (a) No school shall refuse to enroll or otherwise
14 penalize, and no landlord shall refuse to lease property to or
15 otherwise penalize, a person solely for the person's status as a
16 qualifying patient or primary caregiver in the medical cannabis
17 program under this part, unless failing to do so would cause the
18 school or landlord to lose a monetary or licensing-related
19 benefit under federal law or regulation; provided that the
20 qualifying patient or primary caregiver strictly complied with
21 the requirements of this part; provided further that the



1 qualifying patient or primary caregiver shall present a medical
2 cannabis registry card or certificate and photo identification,
3 to ensure that the qualifying patient or primary caregiver is
4 validly registered with the department of health pursuant to
5 section 329-123.

6 (b) For the purposes of medical care, including organ
7 transplants, a registered qualifying patient's use of cannabis
8 in compliance with this part shall be considered the equivalent
9 of the use of any other medication under the direction of a
10 physician and shall not constitute the use of an illicit
11 substance or otherwise disqualify a registered qualifying
12 patient from medical care.

13 (c) No qualifying patient or primary caregiver under this
14 part shall be denied custody of, visitation with, or parenting
15 time with a minor, and there shall be no presumption of neglect
16 or child endangerment, for conduct allowed under this part;
17 provided that this subsection shall not apply if the qualifying
18 patient's or primary caregiver's conduct created a danger to the
19 safety of the minor, as established by a preponderance of the
20 evidence.



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1 (d) This section shall apply to qualifying patients,
2 primary caregivers, qualifying out-of-state patients, and
3 caregivers of qualifying out-of-state patients who are validly
4 registered with the department of health pursuant to this part
5 and the administrative rules of the department of health."

6 SECTION 9. Section 329-127, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[t]§329-127[]~~ **Protection of cannabis and other seized**
9 **property.** (a) Cannabis, paraphernalia, or other property
10 seized from a qualifying patient or primary caregiver in
11 connection with a claimed medical use of cannabis under this
12 part shall be returned immediately upon the determination by a
13 court that the qualifying patient or primary caregiver is
14 entitled to the protections of this part, as evidenced by a
15 decision not to prosecute, dismissal of charges, or an
16 acquittal; provided that law enforcement agencies seizing live
17 plants as evidence shall not be responsible for the care and
18 maintenance of such plants.

19 (b) This section shall also apply to qualifying out-of-
20 state patients and caregivers of qualifying out-of-state
21 patients who are validly registered with the department of



1 health pursuant to this part and the administrative rules of the
2 department of health; provided that notwithstanding subsection
3 (a) to the contrary, under no circumstances shall cannabis,
4 paraphernalia, or other property be returned to any location
5 outside of the island from which it was seized."

6 SECTION 10. Section 329-128, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§329-128 Fraudulent misrepresentation; penalty.** (a)
9 Notwithstanding any law to the contrary, fraudulent
10 misrepresentation to a law enforcement official of any fact or
11 circumstance relating to the medical use of cannabis to avoid
12 arrest or prosecution under this part or chapter 712 shall be a
13 petty misdemeanor and subject to a fine of \$500.

14 (b) Notwithstanding any law to the contrary, fraudulent
15 misrepresentation to a law enforcement official of any fact or
16 circumstance relating to the issuance of a written certificate
17 by a physician or advanced practice registered nurse not covered
18 under section 329-126 for the medical use of cannabis shall be a
19 misdemeanor. This penalty shall be in addition to any other
20 penalties that may apply for the non-medical use of cannabis.
21 [Nothing in this section is intended to preclude the conviction



1 ~~of any person under section 710-1060 or for any other offense~~
2 ~~under part V of chapter 710.]~~

3 (c) Notwithstanding any law to the contrary, fraudulent
4 misrepresentation to the department of an entitlement to use
5 cannabis for medical purposes in another state, a United States
6 territory, or the District of Columbia for the purpose of
7 registering as a qualifying out-of-state patient or caregiver of
8 a qualifying out-of-state patient shall be a misdemeanor. This
9 penalty shall be in addition to any other penalties that may
10 apply for the non-medical use of cannabis.

11 (d) Nothing in this section is intended to preclude the
12 conviction of any person under section 710-1060 or for any other
13 offense under part V of chapter 710 or any other offense."

14 SECTION 11. Section 329-129, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) No qualifying patient [~~or~~], primary caregiver,
17 qualifying out-of-state patient, or caregiver of a qualifying
18 out-of-state patient shall use butane to extract
19 tetrahydrocannabinol from cannabis plants."

20 SECTION 12. Section 329-130, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§329-130 Authorized sources of medical cannabis. (a)

2 After December 31, 2023, a qualifying patient shall obtain
3 medical cannabis or manufactured cannabis products only:
4 (1) From a dispensary licensed pursuant to chapter 329D;
5 provided that the cannabis shall be purchased and paid
6 for at the time of purchase; or
7 (2) By cultivating cannabis in an amount that does not
8 exceed an adequate supply for the qualifying patient,
9 pursuant to section 329-122; provided that each
10 location used to cultivate cannabis shall be used by
11 no more than five qualifying patients.

12 After December 31, 2023, no primary caregiver shall be
13 authorized to cultivate cannabis for any qualifying patient.

14 (b) This section shall not apply to:

15 (1) A qualifying patient who is a minor or an adult
16 lacking legal capacity and the primary caregiver is
17 the parent, guardian, or person having legal custody
18 of a qualifying patient described in this paragraph;
19 or



1 (2) A qualifying patient on any island on which there is
2 no medical cannabis dispensary licensed pursuant to
3 chapter 329D.

4 (c) A qualifying out-of-state patient and a caregiver of a
5 qualifying out-of-state patient shall be authorized to obtain
6 cannabis for medical use only from retail dispensing locations
7 of dispensaries licensed pursuant to chapter 329D."

8 SECTION 13. Section 329D-1, Hawaii Revised Statutes, is
9 amended as follows:

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

12 "Caregiver of a qualifying out-of-state patient" shall
13 have the same meaning as in section 329-121.

14 "Qualifying out-of-state patient" and "registered
15 qualifying out-of-state patient" shall have the same meaning as
16 in section 329-121."

17 2. By amending the definition of "dispense" or
18 "dispensing" to read:

19 ""Dispense" or "dispensing" means the act of a licensed
20 dispensary providing cannabis or manufactured cannabis products
21 to a qualifying patient [er-a], primary caregiver, qualifying



1 out-of-state patient, or caregiver of a qualifying out-of-state
2 patient for a fee."

3 3. By amending the definition of "manufacture" to read:
4 " "Manufacture" means the preparation, propagation,
5 compounding, conversion, or processing of a substance containing
6 cannabis or its principal psychoactive constituent
7 tetrahydrocannabinol, either directly or indirectly, by a person
8 other than a qualifying patient [~~or~~], primary caregiver,
9 qualifying out-of-state patient, or caregiver of a qualifying
10 out-of-state patient for the qualifying patient's or qualifying
11 out of state patient's use, by extraction from substances of
12 natural origin, or independently by means of chemical synthesis,
13 or by a combination of extraction and chemical synthesis, and
14 includes any packaging or repackaging of the substance or
15 labeling or relabeling of its container."

16 4. By amending the definition of "retail dispensing
17 location" to read:

18 " "Retail dispensing location" means an establishment owned,
19 operated, or subcontracted by a medical cannabis dispensary
20 where cannabis and manufactured cannabis are made available for
21 retail sale to a qualifying [patients or] patient, primary



1 [earegivers.] caregiver, qualifying out-of-state patient, or
2 caregiver of a qualifying out-of-state patient."

3 SECTION 14. Section 329D-6, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (g) to read:

6 " (g) In all dispensary facilities, only the licensee, if
7 an individual, registered employees of the dispensary licensee,
8 registered employees of a subcontracted production center or
9 retail dispensing location, employees of a certified laboratory
10 for testing purposes, state employees authorized by the director
11 of health, and law enforcement and other government officials
12 acting in their official capacity shall be permitted to touch or
13 handle any cannabis or manufactured cannabis products, except
14 that a qualifying patient [~~or the~~], primary caregiver [~~of a~~
15 ~~qualifying patient~~], qualifying out-of-state patient, or
16 caregiver of a qualifying out-of-state patient may receive
17 manufactured cannabis products at a retail dispensing location
18 following completion of a sale."

19 2. By amending subsections (j) and (k) to read:



1 "(j) The department shall establish, maintain, and control
2 a computer software tracking system that shall have real time,
3 twenty-four-hour access to the data of all dispensaries.

4 (1) The computer software tracking system shall collect
5 data relating to:

6 (A) The total amount of cannabis in possession of all
7 dispensaries from either seed or immature plant
8 state, including all plants that are derived from
9 cuttings or cloning, until the cannabis, cannabis
10 plants, or manufactured cannabis product is sold
11 or destroyed pursuant to section 329D-7;

12 (B) The total amount of manufactured cannabis product
13 inventory, including the equivalent physical
14 weight of cannabis that is used to manufacture
15 manufactured cannabis products, purchased by a
16 qualifying patient [and], primary caregiver,
17 qualifying out-of-state patient, and caregiver of
18 a qualifying out-of-state patient from all retail
19 dispensing locations in the State in any fifteen-
20 day period;





1 licensed dispensary to commence sales of cannabis or
2 manufactured cannabis products, if the department's
3 computer software tracking system is inoperable or is
4 not functioning properly, as an alternative to
5 requiring dispensaries to temporarily cease
6 operations, the department may implement an alternate
7 tracking system that will enable a qualifying
8 [patients] patient, primary caregiver, qualifying out-
9 of-state patient, and caregiver of a qualifying out-
10 of-state patient to purchase cannabis or manufactured
11 cannabis products from a licensed dispensary on a
12 temporary basis. The department shall seek input
13 regarding the alternate tracking system from medical
14 cannabis licensees. The alternate tracking system may
15 operate as follows:

- 16 (A) The department may immediately notify all
17 licensed dispensaries that the computer software
18 tracking system is inoperable; and
19 (B) Once the computer software tracking system is
20 operational and functioning to meet the
21 requirements of this subsection, the department



1 may notify all licensed dispensaries, and the
2 alternate tracking system in this subsection
3 shall be discontinued.

4 (k) A dispensary licensed pursuant to this chapter shall
5 purchase, operate, and maintain a computer software tracking
6 system that shall:

7 (1) Interface with the department's computer software
8 tracking system established pursuant to subsection
9 (j);

10 (2) Allow each licensed dispensary's production center to
11 submit to the department in real time, by automatic
12 identification and data capture, all cannabis,
13 cannabis plants, and manufactured cannabis product
14 inventory in possession of that dispensary from either
15 seed or immature plant state, including all plants
16 that are derived from cuttings or cloning, until the
17 cannabis or manufactured cannabis product is sold or
18 destroyed pursuant to section 329D-7;

19 (3) Allow the licensed dispensary's retail dispensing
20 location to submit to the department in real time for
21 the total amount of cannabis and manufactured cannabis



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1 product purchased by a qualifying patient [and],
2 primary caregiver, qualifying out-of-state patient,
3 and caregiver of a qualifying out-of-state patient
4 from the dispensary's retail dispensing locations in
5 the State in any fifteen day period; provided that the
6 software tracking system shall impose an automatic
7 stopper in real time, which cannot be overridden, on
8 any further purchases of cannabis or manufactured
9 cannabis products, if the maximum allowable amount of
10 cannabis has already been purchased for the applicable
11 fifteen day period; provided further that additional
12 purchases shall not be permitted until the next
13 applicable period; and

14 (4) Allow the licensed dispensary to submit all data
15 required by this subsection to the department and
16 permit the department to access the data if the
17 department's computer software tracking system is not
18 functioning properly and sales are made pursuant to
19 the alternate tracking system under subsection (j)."

20 3. By amending subsection (n) to read:



1 "(n) A dispensary shall be prohibited from off-premises
2 delivery of cannabis or manufactured cannabis products to a
3 qualifying [patients or to] patient, primary [caregivers of
4 qualifying patients.] caregiver, qualifying out-of-state
5 patient, or caregiver of a qualifying out-of-state patient."

6 SECTION 15. Section 329D-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**\$329D-7 Medical cannabis dispensary rules.** The
9 department shall establish standards with respect to:

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



- 1 (B) Financial stability and access to financial
2 resources; provided that applicants for medical
3 cannabis 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[+] and qualifying out-of-state 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; provided that recordings shall be
12 retained for fifty days;
- 13 (ii) Fencing that surrounds the premises and that
14 is sufficient to reasonably deter intruders
15 and prevent anyone outside the premises from
16 viewing any cannabis in any form;
- 17 (iii) An alarm system; and
- 18 (iv) Other reasonable security measures to deter
19 or prevent intruders, as deemed necessary by
20 the department;
- 21 (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[7] by a
5 qualifying patient or caregiver, or section
6 329- by a qualifying out-of-state patient
7 or caregiver of a qualifying out-of-state
8 patient, upon entering the premises;
9 (ii) Video monitoring and recording of the
10 premises; provided that recordings shall be
11 retained for fifty days;
12 (iii) An alarm system;
13 (iv) Exterior lighting; and
14 (v) Other reasonable security measures as deemed
15 necessary by the department;
- 16 (7) Security requirements for the transportation of
17 cannabis and manufactured cannabis products between
18 production centers and retail dispensing locations and
19 between a production center, retail dispensing
20 location, qualifying patient, [~~or~~] primary caregiver,
21 qualifying out-of-state patient, or caregiver of a



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- 1 qualifying out-of-state patient and a certified
2 laboratory, pursuant to section [329-122(d);]
3 329-122(f);
- 4 (8) Standards and criminal background checks to ensure the
5 reputable and responsible character and fitness of all
6 license applicants, licensees, employees,
7 subcontractors and their employees, and prospective
8 employees of medical cannabis dispensaries to operate
9 a dispensary; provided that the standards, at a
10 minimum, shall exclude from licensure or employment
11 any person convicted of any felony;
- 12 (9) The training and certification of operators and
13 employees of production centers and dispensaries;
- 14 (10) The types of manufactured cannabis products that
15 dispensaries shall be authorized to manufacture and
16 sell pursuant to sections 329D-9 and 329D-10;
- 17 (11) Laboratory standards related to testing cannabis and
18 manufactured cannabis products for content,
19 contamination, and consistency;
- 20 (12) The quantities of cannabis and manufactured cannabis
21 products that a dispensary may sell or provide to a



1 qualifying patient [or], primary caregiver[+],
2 qualifying out-of-state patient, or caregiver of a
3 qualifying out-of-state patient; provided that no
4 dispensary shall sell or provide to a qualifying
5 patient [or], primary caregiver, qualifying out-of-
6 state patient, or caregiver of a qualifying out-of-
7 state patient any combination of cannabis and
8 manufactured products that:

- 9 (A) During a period of fifteen consecutive days,
10 exceeds the equivalent of four ounces of
11 cannabis; or
12 (B) During a period of thirty consecutive days,
13 exceeds the equivalent of eight ounces of
14 cannabis;
15 (13) Dispensary and production center inventory controls to
16 prevent the unauthorized diversion of cannabis or
17 manufactured cannabis products or the distribution of
18 cannabis or manufactured cannabis products to a
19 qualifying [patients or] patient, primary [caregivers]
20 caregiver, qualifying out-of-state patient, or
21 caregiver of a qualifying out-of-state patient in



1 quantities that exceed limits established by this
2 chapter; provided that the controls, at a minimum,
3 shall include:

- 4 (A) A computer software tracking system as specified
5 in section 329D-6(j) and (k); and
6 (B) Product packaging standards sufficient to allow
7 law enforcement personnel to reasonably determine
8 the contents of an unopened package;
- 9 (14) Limitation to the size or format of signs placed
10 outside a retail dispensing location or production
11 center; provided that the signage limitations, at a
12 minimum, shall comply with section 329D-6(o)(2) and
13 shall not include the image of a cartoon character or
14 other design intended to appeal to children;
- 15 (15) The disposal or destruction of unwanted or unused
16 cannabis and manufactured cannabis products;
- 17 (16) The enforcement of the following prohibitions against:
18 (A) The sale or provision of cannabis or manufactured
19 cannabis products to unauthorized persons;
20 (B) The sale or provision of cannabis or manufactured
21 cannabis products to a qualifying [patients or]



1 patient, primary [caregivers] caregiver,
2 qualifying out-of-state patient, or caregiver of
3 a qualifying out-of-state patient in quantities
4 that exceed limits established by this chapter;
5 (C) Any use or consumption of cannabis or
6 manufactured cannabis products on the premises of
7 a retail dispensing location or production
8 center; and
9 (D) The distribution of cannabis or manufactured
10 cannabis products, for free, on the premises of a
11 retail dispensing location or production center;
12 (17) The establishment of a range of penalties for
13 violations of this chapter or rule adopted thereto;
14 and
15 (18) A process to recognize and register patients who are
16 authorized to purchase, possess, and use medical
17 cannabis in another state, a United States territory,
18 or the District of Columbia as qualifying out-of-state
19 patients [~~in this State~~]; provided that this
20 registration process may commence no sooner than
21 January 1, 2018."



1 SECTION 16. Section 329D-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§329D-8 Laboratory standards and testing; laboratory**
4 **certification.** (a) The department shall establish and enforce
5 standards for laboratory-based testing of cannabis and
6 manufactured cannabis products for content, contamination, and
7 consistency; provided that in establishing these standards, the
8 department shall:

- 9 (1) Review and take guidance from the testing programs and
10 standards utilized in other jurisdictions;
- 11 (2) Consider the impact of the standards on the retail
12 cost of the product to the qualifying patient;
- 13 (3) Review and take guidance from the testing programs and
14 standards for pesticides under the regulations of the
15 United States Environmental Protection Agency;
- 16 (4) For the testing for microbiological impurities,
17 consider the benefits of organically grown cannabis
18 that features the use of bacteria in lieu of
19 pesticides; and
- 20 (5) Include permission for qualifying patients and primary
21 caregivers to obtain testing services directly from



1 certified laboratories on the island where the
2 qualifying patient and primary caregiver reside.
3 (b) The department may certify laboratories that can test
4 cannabis and manufactured cannabis products prior to the sale of
5 cannabis and manufactured cannabis products.
6 (c) If a dispensary licensee obtains a laboratory result
7 indicating that a sample of a batch of its cannabis or
8 manufactured cannabis products does not meet the department's
9 standards for patient safety, the dispensary licensee, at its
10 own expense, may have the same sample or a different sample from
11 the same batch retested by the same laboratory or a different
12 laboratory. If a retest at a different laboratory yields a
13 different result, the department shall determine which result
14 controls whether the batch may be approved for sale or whether
15 further testing shall be required."

16 SECTION 17. Section 329D-12, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) This section shall not apply to:
19 (1) [Qualifying patients and their] A qualifying patient,
20 primary [caregivers] caregiver, qualifying out-of-
21 state patient, or caregiver of a qualifying out-of-

1 state patient who [~~enter~~] enters or [~~remain~~] remains
2 on the premises of a retail dispensing location for
3 the purpose of a transaction conducted pursuant to
4 sections 329D-6 and 329D-13; or

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

10 SECTION 18. Section 329D-13, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[t]§329D-13[.] Qualifying patients and primary caregivers,~~
13 ~~dispensing]~~ Dispensing limits~~[, other states]~~. (a) A
14 qualifying patient ~~[or a]~~, primary caregiver ~~[on behalf of a~~
15 ~~qualifying patient]~~, qualifying out-of-state patient, or
16 caregiver of a qualifying out-of-state patient shall be allowed
17 to purchase no more than four ounces of cannabis within a
18 consecutive period of fifteen days, or no more than eight ounces
19 of cannabis within a consecutive period of thirty days.

20 (b) A qualifying patient ~~[or a]~~, primary caregiver ~~[on~~
21 ~~behalf of a qualifying patient]~~, qualifying out-of-state



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1 patient, or caregiver of a qualifying out-of-state patient may
2 purchase cannabis from any dispensary location in the State,
3 subject to the limits set forth in subsection (a).

4 (c) Beginning on January 1, 2018, this section may apply
5 to qualifying out-of-state patients from other states,
6 territories of the United States, or the District of Columbia;
7 provided that the patient [is verified as a patient in their
8 ~~home state and registers with the department through a~~
9 ~~registration process established by the department.] meets the~~
10 registration requirements of section 329- ."

11 SECTION 19. Section 329D-15, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) No person shall intentionally or knowingly enter or
14 remain upon the premises of a medical cannabis retail dispensing
15 location unless the individual is:
16 (1) An individual licensee or registered employee of the
17 dispensary;
18 (2) A qualifying patient [~~or~~], primary caregiver [~~of a~~
19 ~~qualifying patient;~~], qualifying out-of-state patient,
20 or caregiver of a qualifying out-of-state patient;



- 1 (3) A government employee or official acting in the
2 person's official capacity; or
3 (4) Previously included on a current department-approved
4 list provided to the department by the licensee of
5 those persons who are allowed into that dispensary's
6 facilities for a specific purpose for that dispensary,
7 including but not limited to construction,
8 maintenance, repairs, legal counsel, providers of
9 paratransit or other assistive services required by a
10 qualifying patient to access a retail dispensary
11 location, or investors; provided that:
12 (A) The person has been individually approved by the
13 department to be included on the list;
14 (B) The person is at least twenty-one years of age,
15 as verified by a valid government issued
16 identification card;
17 (C) The department has confirmed that the person has
18 no felony convictions;
19 (D) The person is escorted by an individual licensee
20 or registered employee of the dispensary at all
21 times while in the dispensary facility;



- 1 (E) The person is only permitted within those
2 portions of the dispensary facility as necessary
3 to fulfill the person's purpose for entering;
4 (F) The person is only permitted within the
5 dispensary facility during the times and for the
6 duration necessary to fulfill the person's
7 purpose for entering;
8 (G) The dispensary shall keep an accurate record of
9 each person's first and last name, date and times
10 upon entering and exiting the dispensary
11 facility, purpose for entering, and the identity
12 of the escort; and
13 (H) The approved list shall be effective for one year
14 from the date of the department approval."

15 SECTION 20. Section 329D-17, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) A person commits the offense of promoting medical
18 cannabis or medical cannabis products to a minor if the person
19 intentionally or knowingly distributes any amount of cannabis or
20 manufactured cannabis products that came from a dispensary or
21 production center to a minor who is not a registered qualifying



1 patient[–] or a registered qualifying out-of-state patient under
2 eighteen years of age."

3 SECTION 21. Section 329D-24, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§329D-24[+] Cultivation of medical cannabis by
6 qualifying patients and primary caregivers. Nothing in this
7 chapter shall be construed as prohibiting a qualifying patient
8 or primary caregiver from cultivating or possessing an adequate
9 supply of medical cannabis pursuant to part IX of chapter 329.

10 A qualifying out-of-state patient or a caregiver of a
11 qualifying out-of-state patient shall not be authorized to
12 cultivate cannabis."

13 SECTION 22. Section 329D-25, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§329D-25[+] Coordination among state and federal
16 agencies. The department shall initiate ongoing dialogue among
17 relevant state and federal agencies to identify processes and
18 policies that ensure the privacy of qualifying patients and
19 qualifying out-of-state patients and the compliance of
20 qualifying patients, primary caregivers, qualifying out-of-state
21 patients, and caregivers of qualifying out-of-state patients and



1 medical cannabis dispensaries with state laws and regulations
2 related to medical cannabis."

3 PART II

4 SECTION 23. The legislature finds that Act 241, Session
5 Laws of Hawaii 2015, codified as chapter 329D, Hawaii Revised
6 Statutes, established a license scheme for a statewide system of
7 medical cannabis dispensaries to ensure access to medical
8 cannabis for qualifying patients and was later amended by
9 Act 230, Session Laws of Hawaii 2016, and Acts 41 and 170,
10 Session Laws of Hawaii 2017.

11 The legislature further finds that additional amendments to
12 the law are necessary to allow for adequate patient access based
13 on discussions of the working group established by Act 230,
14 Session Laws of Hawaii 2016.

15 The purpose of this part is to allow a bona fide physician-
16 patient or advanced practice registered nurse-patient
17 relationship to be established via telehealth.

18 SECTION 24. Section 329-126, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§329-126 Protections afforded to a treating physician or
21 advanced practice registered nurse. (a) No physician or



1 advanced practice registered nurse shall be subject to arrest or
2 prosecution, penalized in any manner, or denied any right or
3 privilege for providing written certification for the medical
4 use of cannabis for a qualifying patient; provided that:
5 (1) The physician or advanced practice registered nurse
6 has diagnosed the patient as having a debilitating
7 medical condition, as defined in section 329-121;
8 (2) The physician or advanced practice registered nurse
9 has explained the potential risks and benefits of the
10 medical use of cannabis, as required under section
11 329-122;
12 (3) The written certification is based upon the
13 physician's or advanced practice registered nurse's
14 professional opinion after having completed a full
15 assessment of the patient's medical history and
16 current medical condition made in the course of a bona
17 fide physician-patient relationship or bona fide
18 advanced practice registered nurse-patient
19 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 section, a bona fide physician-
5 patient relationship may be established via telehealth, as
6 defined in section 453-1.3(j), and a bona fide advanced practice
7 registered nurse-patient relationship may be established via
8 telehealth, as defined in section 457-2; provided that treatment
9 recommendations that include certifying a patient for the
10 medical use of cannabis via telehealth shall be allowed only
11 after an initial in-person consultation between the certifying
12 physician or advanced practice registered nurse and the
13 patient."

14 SECTION 25. Section 453-1.3, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) Treatment recommendations made via telehealth,
17 including issuing a prescription via electronic means, shall be
18 held to the same standards of appropriate practice as those in
19 traditional physician-patient settings that do not include a
20 face-to-face visit but in which prescribing is appropriate,
21 including on-call telephone encounters and encounters for which



1 a follow-up visit is arranged. Issuing a prescription based
2 solely on an online questionnaire is not treatment for the
3 purposes of this section and does not constitute an acceptable
4 standard of care. For the purposes of prescribing opiates or
5 certifying a patient for the medical use of cannabis, a
6 physician-patient relationship shall only be established after
7 an in-person consultation between the prescribing physician and
8 the patient."

PART III

10 SECTION 26. The legislature finds that medical cannabis
11 products that provide safe pulmonary administration can allow
12 for more precise dosage administration and can be more effective
13 for certain patients. The legislature also finds that, as with
14 all packaged products, smaller sizes are always more expensive
15 for consumers than larger products. Under existing law, the
16 tetrahydrocannabinol limit per pack or container of certain
17 manufactured cannabis products may impact certain patients, many
18 of whom may have conditions and symptoms that require larger
19 doses of tetrahydrocannabinol for relief.

20 Accordingly, the purpose of this part is to:



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- 1 (1) Add certain devices that provide safe pulmonary
- 2 administration to the list of medical cannabis
- 3 products that may be manufactured and distributed; and
- 4 (2) Increase the tetrahydrocannabinol limit per pack or
- 5 container of certain manufactured cannabis products.

6 SECTION 27. Section 329D-10, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

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

- 11 (1) Capsules;
- 12 (2) Lozenges;
- 13 (3) Pills;
- 14 (4) Oils and oil extracts;
- 15 (5) Tinctures;
- 16 (6) Ointments and skin lotions;
- 17 (7) Transdermal patches;
- 18 (8) Pre-filled and sealed containers used to aerosolize
19 and deliver cannabis orally, such as with an inhaler
20 or nebulizer; [and] provided that containers need not
21 be manufactured by the licensed dispensary but shall



1 be filled with cannabis, cannabis oils, or cannabis
2 extracts manufactured by the licensed dispensary;
3 shall not contain nicotine, tobacco-related products,
4 or any other non-cannabis derived products; and shall
5 be designed to be used with devices used to provide
6 safe pulmonary administration of manufactured cannabis
7 products;

8 (9) Devices that provide safe pulmonary administration;
9 provided that:

10 (A) The heating element of the device, if any, is
11 made of inert materials such as glass, ceramic,
12 or stainless steel, and not of plastic or rubber;

13 (B) The device is distributed solely for use with
14 single-use, pre-filled, tamper-resistant, sealed
15 containers that do not contain nicotine or other
16 tobacco products;

17 (C) The device is used to aerosolize and deliver
18 cannabis by inhalation, such as an inhaler,
19 medical-grade nebulizer, or other similar medical
20 grade volitization device;



1 (D) There is a temperature control on the device that
2 is regulated to prevent the combustion of
3 cannabis oil; and

4 (E) The device need not be manufactured by the
5 licensed dispensary; and

6 [+9] (10) Other products as specified by the department."

7 SECTION 28. Section 329D-11, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[+]~~§329D-11~~[+]~~ **Advertising and packaging.** (a) The
10 department shall establish standards regarding the advertising
11 and packaging of cannabis and manufactured cannabis products;
12 provided that the standards, at a minimum, shall require the use
13 of packaging that:

- 14 (1) Is child-resistant and opaque so that the product
15 cannot be seen from outside the packaging;
- 16 (2) Uses only black lettering on a white background with
17 no pictures or graphics;
- 18 (3) Is clearly labeled with the phrase "For medical use
19 only";
- 20 (4) Is clearly labeled with the phrase "Not for resale or
21 transfer to another person";



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- 1 (5) Includes instructions for use and "use by date";
- 2 (6) Contains information about the contents and potency of
3 the product;
- 4 (7) Includes the name of the production center where
5 cannabis in the product was produced, including the
6 batch number and date of packaging;
- 7 (8) Includes a barcode generated by tracking software; and
- 8 (9) In the case of a manufactured cannabis product, [a
9 listing] includes a:
 - 10 (A) Listing of the equivalent physical weight of the
11 cannabis used to manufacture the amount of the
12 product that is within the packaging, pursuant to
13 section 329D-9(c) [.];
 - 14 (B) Clearly labeled warning stating that the product:
 - 15 (i) Is a medication that contains cannabis, and
16 is not a food; and
 - 17 (ii) Should be kept away from children; and
 - 18 (C) Date of manufacture.
- 19 (b) Any capsule, lozenge, or pill containing cannabis or
20 its principal psychoactive constituent tetrahydrocannabinol
21 shall be packaged so that one dose, serving, or single wrapped



1 item contains no more than ten milligrams of
2 tetrahydrocannabinol; provided that no manufactured cannabis
3 product that is sold in a pack of multiple doses, servings, or
4 single wrapped items, nor any containers of oils, shall contain
5 more than a total of one [hundred] thousand milligrams of
6 tetrahydrocannabinol per pack or container[-]; provided further
7 that no dispensary shall exceed the dispensing limits imposed by
8 section 329D-7.

9 (c) All manufactured cannabis products shall be
10 individually wrapped at the original point of manufacture."

PART IV

12 SECTION 29. The legislature finds that section 329D-6(d),
13 Hawaii Revised Statutes, restricts Hawaii medical cannabis
14 dispensaries from employing an individual if the person was
15 convicted of a felony. This appears unduly restrictive, as
16 other states that have legalized medical cannabis dispensaries
17 allow the employment of felons unless convicted for a limited
18 set of offenses. Section 329D-6(d), Hawaii Revised Statutes,
19 does not provide the opportunity for any exceptions based on the
20 nature of the individual's felony record.



1 The purpose of this part is to specify certain felonies and
2 conditions that will preclude employment, and other felonies
3 that may preclude employment, at medical cannabis dispensaries,
4 rather than make ineligible for employment all individuals who
5 have been convicted of any felony at any time.

6 SECTION 30. Section 329D-6, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) Notwithstanding any other law to the contrary,
9 including but not limited to sections 378-2 and 378-2.5, [no
10 dispensary shall employ a person convicted of a felony.]

11 dispensaries:

12 (1) Shall deny employment to any individual who has been:

13 (A) Convicted of murder in any degree;

14 (B) Convicted of a class A or class B felony; or

15 (C) Convicted of a class C felony involving

16 trafficking, distributing, or promoting a

17 schedule I or II controlled substance other than

18 cannabis within the last ten years; and

19 (2) May deny employment to any individual who has been

20 convicted of a class C felony involving:



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- 1 (A) Fraud, deceit, misrepresentation, embezzlement,
2 or theft; or
3 (B) Endangering the welfare of a minor.

4 Employment under this chapter shall be exempt from section
5 378-2(a)(1), as it relates to arrest and court record
6 discrimination, and section 378-2.5."

7 PART V

8 SECTION 31. (a) The office of medical cannabis control
9 and regulation, established pursuant to H.B. 2742, HD1, SD1,
10 CD1, and enacted as Act , Session Laws of Hawaii 2018, shall
11 establish a medical use of cannabis outstanding issues working
12 group to consider and make recommendations regarding:

- 13 (1) Employment issues involving an employee who is a
14 registered qualifying patient for whom the medical use
15 of cannabis is permitted pursuant to sections 329-122
16 and 329-123, Hawaii Revised Statutes; and
17 (2) Authorization and regulation of the manufacture and
18 dispensing of edible cannabis products by a licensed
19 medical cannabis dispensary.



1 (b) The working group shall consider the following issues
2 related to the employment of a qualifying patient registered
3 according to section 329-123, Hawaii Revised Statutes:

- 4 (1) Actions taken in other states regarding employment of
5 qualifying medical cannabis patients, particularly in
6 regard to substance abuse on-site screening tests
7 administered by an employer;
- 8 (2) Protections available in other states against
9 employment discrimination and suspension or discharge
10 from employment based on an individual's status as a
11 qualifying medical cannabis patient;
- 12 (3) Allowable substance abuse screening tests for
13 employees whose job requires the employee to not be
14 under the influence of substances, such as employees
15 in positions that require operation of a vehicle or
16 heavy machinery, employees in inherently dangerous
17 positions such as construction workers, or other
18 employees subject to generally-applicable safety
19 requirements;
- 20 (4) The requirements applicable to both employees and
21 employers contained in controlling federal law that



- 1 requires employees to submit to substance abuse
2 screening tests, including regulations of the Federal
3 Aviation Administration, United States Department of
4 Transportation, United States Department of Defense,
5 United States Coast Guard, Department of Labor, and
6 any other federal agency;
- 7 (5) Applicable requirements for privacy of medical
8 information and prohibitions on discrimination based
9 on health or disability status contained in state and
10 federal law; and
- 11 (6) Any other issues related to employment of registered
12 qualifying patients for whom the medical use of
13 cannabis is permitted, at the discretion of the
14 working group.
- 15 (c) The working group shall consider the following issues
16 related to the manufacture and dispensing of edible cannabis
17 products by licensed medical cannabis dispensaries:
- 18 (1) Actions taken and regulatory systems established by
19 other states;
- 20 (2) Standards for testing and labeling of edible cannabis
21 products for product content, potency, and dosage;



- 1 (3) Requirements and limitations for the types of
- 2 allowable edible cannabis products, including
- 3 restrictions on products such as gummies, brightly
- 4 colored candies, or other products with a design
- 5 likely to appeal to children or designed to resemble
- 6 commercially available products marketed to children
- 7 or adolescents;
- 8 (4) Requirements and limitations applicable to liquid
- 9 products;
- 10 (5) Health and safety standards applicable to the
- 11 manufacture of edible cannabis products, including
- 12 standards for the protection of both consumers of the
- 13 products and employees who manufacture the products;
- 14 and
- 15 (6) Any other issues related to the manufacture and
- 16 dispensing of edible cannabis products, at the
- 17 discretion of the working group.
- 18 (d) The working group shall consist of the following:
- 19 (1) The program manager of the office of medical cannabis
- 20 control, who shall serve as the chair of the working
- 21 group;



- (2) The chairs of the senate committee on commerce, consumer protection, and health and house committee on consumer protection and commerce, or their designees;
 - (3) The chair of the house committee on health and human services, or the chair's designee;
 - (4) A member of the senate who is selected by the president of the senate to serve on the working group;
 - (5) A representative of the department of health's food safety consultative and education program, to be selected by the director of health;
 - (6) A representative of the department of health's sanitation branch, to be selected by the director of health;
 - (7) Two participants in Hawaii's medical cannabis program, one of whom is a qualifying patient eighteen years of age or older, and one of whom is a parent or legal guardian of a qualifying patient who is under the age of ten;
 - (8) A medical cannabis dispensary licensee, to be selected by the program manager of the office of medical cannabis control and regulation; and





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1

PART VI

2 SECTION 32. This Act does not affect rights and duties
3 that matured, penalties that were incurred, and proceedings that
4 were begun before its effective date.

5 SECTION 33. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 34. This Act shall take effect on July 1, 2018.

APPROVED this 05 day of JUL , 2018


GOVERNOR OF THE STATE OF HAWAII



HB No. 2729, HD 2, SD 2, CD 1

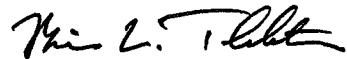
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

H.B. No. 2729, H.D. 2, S.D. 2, C.D. 1

THE SENATE OF THE STATE OF HAWAI‘I

Date: May 1, 2018
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-ninth Legislature of the State of Hawai‘i, Regular Session of 2018.



President of the Senate



Clerk of the Senate



GOV. MSG. NO. 1350

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 14, 2015

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 14, 2015, the following bill was signed into law:

HB321 HD1 SD2 CD1

RELATING TO MEDICAL MARIJUANA.
ACT 241 (15)

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".
DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor
on JUL 14 2015
HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

ORIGINAL

ACT 241
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A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1

PART I

2 SECTION 1. The legislature finds that Hawaii's medical use
3 of marijuana law was enacted on June 14, 2000, as Act 28,
4 Session Laws of Hawaii 2000, to provide medical relief for
5 seriously ill individuals in the State. While the current law
6 recognizes the beneficial use of marijuana in treating or
7 alleviating pain or other symptoms associated with certain
8 debilitating illnesses, it is silent on how patients can obtain
9 medical marijuana if they or their caregivers are unable to grow
10 their own supply of medical marijuana. The legislature further
11 finds that many of the State's nearly thirteen thousand
12 qualifying patients lack the ability to grow their own supply of
13 medical marijuana due to a number of factors, including
14 disability and limited space to grow medical marijuana. As a
15 result, a regulated statewide dispensary system for medical
16 marijuana is urgently needed by qualifying patients in the
17 State.



1 Accordingly, the purpose of this Act is to establish a
2 regulated statewide dispensary system for medical marijuana to
3 ensure safe and legal access to medical marijuana for qualifying
4 patients.

PART II

6 SECTION 2. The Hawaii Revised Statutes is amended by
7 adding a new chapter to be appropriately designated and to read
8 as follows:

"CHAPTER

10 MEDICAL MARIJUANA DISPENSARY SYSTEM

11 § -1 Definitions. As used in this chapter:

12 "Department" means the department of health.

13 "Dispense" or "dispensing" means the act of a licensed
14 dispensary providing marijuana or manufactured marijuana
15 products to a qualifying patient or a primary caregiver for a
16 fee.

17 "Manufacture" means the preparation, propagation,
18 compounding, conversion, or processing of a substance containing
19 marijuana or its principal psychoactive constituent
20 tetrahydrocannabinol, either directly or indirectly, by a person
21 other than a qualifying patient or primary caregiver for the



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1 qualifying patient's use, by extraction from substances of
2 natural origin, or independently by means of chemical synthesis,
3 or by a combination of extraction and chemical synthesis, and
4 includes any packaging or repackaging of the substance or
5 labeling or relabeling of its container.

6 "Manufactured marijuana product" means any capsule,
7 lozenge, oil or oil extract, tincture, ointment or skin lotion,
8 or pill that has been manufactured using marijuana.

9 "Marijuana" shall have the same meaning as in section 329-
10 121.

11 "Medical marijuana dispensary" or "dispensary" means a
12 person licensed by the State pursuant to this chapter to own,
13 operate, or subcontract up to two production centers and up to
14 two retail dispensing locations.

15 "Medical marijuana production center" or "production
16 center" means a farm or facility wholly owned, operated, or
17 subcontracted by a person licensed by the State pursuant to this
18 chapter as a medical marijuana dispensary that produces
19 marijuana and manufactured marijuana products solely to supply
20 marijuana and manufactured marijuana products to one or more of

1 the retail dispensing locations of the licensed medical
2 marijuana dispensary.

3 "Person" means an individual, firm, corporation,
4 partnership, association, or any form of business or legal
5 entity.

6 "Primary caregiver" shall have the same meaning as in
7 section 329-121.

8 "Production" or "produce" means the planting, cultivating,
9 growing, or harvesting of marijuana. "Production" includes the
10 manufacture of medical marijuana products pursuant to this
11 chapter.

12 "Qualifying patient" shall have the same meaning as in
13 section 329-121.

14 "Retail dispensing location" means an establishment owned,
15 operated, or subcontracted by a medical marijuana dispensary
16 where marijuana and manufactured marijuana are made available
17 for retail sale to qualifying patients or primary caregivers.

18 **S -2 Medical marijuana dispensaries; authorized;**
19 **licensure.** (a) No person shall operate a medical marijuana
20 dispensary unless the person has a license issued by the
21 department pursuant to this chapter.



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1 (b) The director of health shall grant medical marijuana
2 dispensary licenses to allow dispensaries to produce,
3 manufacture, and dispense marijuana and manufactured marijuana
4 products pursuant to this chapter.

5 (c) Each medical marijuana dispensary license shall allow
6 production, manufacture, and dispensing of marijuana and
7 manufactured marijuana products only in the county for which the
8 license is granted.

9 (d) The department shall issue eight dispensary licenses
10 statewide; provided that three dispensary licenses shall be
11 issued for the city and county of Honolulu, two dispensary
12 licenses each shall be issued for the county of Hawaii and the
13 county of Maui, and one dispensary license shall be issued for
14 the county of Kauai; provided further that no dispensary license
15 shall be issued for the county of Kalawao.

16 (e) No person may be granted a dispensary license in more
17 than one county.

18 (f) Up to two production centers shall be allowed under
19 each dispensary license, provided that each production center
20 shall be limited to no more than three thousand marijuana
21 plants.



1 (g) A dispensary licensee may establish up to two retail
2 dispensing locations under the licensee's dispensary license:

3 (h) Each dispensary licensee may commence dispensing
4 medical marijuana and manufactured marijuana products to
5 qualifying patients or primary caregivers no sooner than July
6 15, 2016, with approval by the department, in accordance with
7 this chapter.

8 (i) Retail dispensing locations shall not be at the same
9 location as the dispensary licensee's production centers.

10 (j) Notwithstanding subsection (d), the department shall
11 determine whether, based on the qualifying patient need,
12 additional dispensary licenses shall be offered to qualified
13 applicants in the State after October 1, 2017; provided that the
14 department shall make available not more than one license per
15 five hundred qualifying patients residing in any single county.

16 (k) Notwithstanding any other law to the contrary, a
17 dispensary shall not be subject to the prescription requirement
18 of section 329-38 or to the board of pharmacy licensure or
19 regulatory requirements under chapter 461.



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- 1 § -3 Qualifications for licensure. (a) Each
- 2 application for a dispensary license shall include both an
- 3 individual applicant and an applying entity.
- 4 (b) The application shall be submitted to the department
- 5 and shall include supporting documentation to establish the
- 6 following:
- 7 (1) That the individual applicant:
- 8 (A) Has been a legal resident of the State for not
- 9 less than five years preceding the date of
- 10 application;
- 11 (B) Is not less than twenty-one years of age; and
- 12 (C) Has had no felony convictions;
- 13 (2) That the applying entity:
- 14 (A) Has been organized under the laws of the State;
- 15 (B) Has a Hawaii tax identification number;
- 16 (C) Has a department of commerce and consumer affairs
- 17 business registration division number and suffix;
- 18 (D) Has a federal employer identification number;
- 19 (E) Is not less than fifty-one per cent held by
- 20 Hawaii legal residents or entities wholly
- 21 controlled by Hawaii legal residents who have



1 been Hawaii legal residents for not less than
2 five years immediately preceding the date the
3 application was submitted;

4 (F) Has financial resources under its control of not
5 less than \$1,000,000 for each license applied
6 for, plus not less than \$100,000 for each retail
7 dispensing location allowed under the license
8 applied for, in the form of bank statements or
9 escrow accounts, and that the financial resources
10 have been under the control of the applying
11 entity for not less than ninety days immediately
12 preceding the date the application was submitted;

13 and

14 (G) Is composed of principals or members, each of
15 whom has no felony convictions.

16 (c) A dispensary license shall not be sold or otherwise
17 transferred from one person to another person.

18 S -4 Medical marijuana dispensaries; license application
19 procedure and verification; fees. (a) The department shall
20 make a medical marijuana dispensary license application form

1 available to the public on January 11, 2016, commencing at 8:00
2 a.m., Hawaii-Aleutian Standard Time.

3 (b) The department shall establish an open application
4 period for each available license, the first of which shall be
5 no later than 8:00 a.m., Hawaii-Aleutian Standard Time, on
6 January 12, 2016, during which an application may be submitted.
7 This submittal period shall be closed on January 29, 2016, at
8 4:30 p.m. The department shall publish notice of the open
9 application period no less than thirty days prior to the start
10 of the open application period.

11 (c) A non-refundable application fee of \$5,000 for each
12 license application shall be submitted to the department by
13 certified or cashier's check. Within seven days of approval, a
14 dispensary license fee of \$75,000 for each license approved
15 shall be submitted to the department by certified or cashier's
16 check or the department shall issue a license to the next
17 qualified applicant.

18 (d) All fees collected pursuant to this section shall be
19 deposited in the medical marijuána registry and regulation
20 special fund pursuant to section 321-30.1.



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1 (e) Immediately upon receipt of each completed application
2 form, the department shall issue a receipt to each applicant
3 that includes the date and time of receipt.

4 (f) If an applicant submits an application form in which
5 all required information is not complete and valid, the
6 application shall not be accepted by the department and the non-
7 refundable application fee shall be deposited in the medical
8 marijuana registry and regulation special fund established
9 pursuant to section 321-30.1.

10 (g) The medical marijuana dispensary application form
11 shall request information necessary to verify that applicants
12 meet the required qualifications pursuant to section -3.
13 Applicants shall provide a minimum of the following information:

14 (1) Legal name and date of birth of individual applicant;
15 (2) Last four digits of individual applicant's social
16 security number;
17 (3) Validation code from an eCrim report for the
18 individual applicant generated by the Hawaii criminal
19 justice data center no earlier than December 12, 2015,
20 at 8:00 a.m., Hawaii-Aleutian Standard Time;



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- 1 (4) Street address, telephone number, fax number, and
2 email address of the individual applicant;
- 3 (5) A tax clearance certificate issued by the department
4 of taxation dated not more than thirty days prior to
5 the date of the application;
- 6 (6) Name of the applying entity and any other name under
7 which the applying entity does business, if
8 applicable;
- 9 (7) Street address, telephone number, fax number, and
10 email address of the applying entity;
- 11 (8) Date the applying entity was organized under the laws
12 of Hawaii;
- 13 (9) A certified copy of the organizing documents of the
14 applying entity;
- 15 (10) A copy of the applying entity's bylaws;
- 16 (11) Federal employer identification number of the applying
17 entity;
- 18 (12) Hawaii tax identification number of applying entity;
- 19 (13) Department of commerce and consumer affairs business
20 registration number and suffix of the applying entity;

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- 1 (14) Name(s) of all owners of the applying entity, in whole
2 or in part, and their percentage of ownership;
- 3 (15) Date when continuous legal residence in Hawaii began
4 for each Hawaii legal resident that owns a percentage
5 of the applying entity;
- 6 (16) Total percentage of the applying entity that is owned
7 by Hawaii legal residents;
- 8 (17) Designation of the county for which the dispensary
9 license applied for and proof that the required
10 minimum financial resources of \$1,200,000 are met;
- 11 (18) Total dollar amount of financial resources under
12 control of the applying entity in the form of bank
13 statements or escrow accounts;
- 14 (19) Date from when financial resources have been
15 continuously controlled by the applying entity; and
- 16 (20) Copies of the entity's bank statements for the twelve
17 months prior to the date of the application.
- 18 (h) The department shall maintain a record of the time and
19 date that all completed application forms were submitted.



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1 (i) The department shall process and deposit the
2 application fee within four business days of receipt of the
3 completed application form.

4 (j) If, for any reason, the application fee is not
5 available for deposit, the application shall be deemed void and
6 the department shall inform the applicant in writing that its
7 application has been rejected.

8 (k) The department shall review and verify the information
9 and documentation materials only of applicants whose non-
10 refundable application fee has been processed and deposited.

11 (l) The department shall verify that the information
12 submitted in the application is true and valid and meets the
13 requirements established in section -3(b).

14 (m) Upon verification of the minimum requirements, the
15 department shall place the verified application into the pool of
16 applicants for further review and selection based on merit by
17 the department.

18 (n) A dispensary license may be renewed annually by
19 payment of an annual renewal fee of \$50,000 and subject to
20 verification by the department that the individual licensee and



1 entity licensee continue to meet all licensing requirements from
2 the date the initial licenses were issued.

3 **S -5 Medical marijuana dispensaries; selection.** (a) By
4 January 4, 2016, the department shall provide for a selection
5 process and criteria based on merit for verified applicants for
6 medical marijuana dispensary licenses; provided that the
7 selection process, at minimum, includes the criteria of section
8 -7(3).

9 (b) This selection process shall be utilized by the
10 department to grant medical marijuana dispensary licenses.
11 Licensees selected will be announced by April 15, 2016. A
12 dispensary licensed pursuant to this chapter may begin
13 dispensing not sooner than July 15, 2016, with the approval of
14 the department.

15 **S -6 Dispensary operations.** (a) No person shall
16 operate a dispensary, nor engage in the production, manufacture,
17 or sale of marijuana or manufactured marijuana products, unless
18 the person has obtained a license from the department pursuant
19 to this chapter.

20 (b) No dispensary licensee, its officers, employees, or
21 agents shall provide written certification for the use of



1 medical marijuana or manufactured marijuana products for any
2 person.

3 (c) No person under the age of twenty-one shall be
4 employed by a dispensary licensee.

5 (d) Notwithstanding any other law to the contrary,
6 including but not limited to sections 378-2 and 378-2.5, no
7 dispensary shall employ a person convicted of a felony.
8 Employment under this chapter shall be exempt from section 378-
9 2(a)(1), as it relates to arrest and court record
10 discrimination, and section 378-2.5.

11 (e) Retail dispensing locations shall not be open for
12 retail sales before 8:00 a.m. or after 8:00 p.m., Hawaii-
13 Aleutian Standard Time, Monday through Saturday. Retail
14 dispensing locations shall be closed on Sundays and official
15 state and federal holidays.

16 (f) All dispensary facilities, including but not limited
17 to production centers and retail dispensing locations, shall be
18 enclosed indoor facilities and shall maintain twenty-four hour
19 security measures, including but not limited to an alarm system,
20 video monitoring and recording on the premises, and exterior
21 lighting. Production centers shall remain locked at all times.



1 Retail dispensing locations shall remain locked at all times,
2 other than business hours as authorized by subsection (e), and
3 shall only be opened for authorized persons.

4 (g) In all dispensary facilities, only the licensee, if an
5 individual, the registered employees of the dispensary licensee,
6 and the registered employees of the subcontracted production
7 center or retail dispensing locations shall be permitted to
8 touch or handle any marijuana or manufactured marijuana
9 products, except that a qualifying patient or the primary
10 caregiver of a qualifying patient may receive manufactured
11 marijuana products at a retail dispensing location following
12 completion of a sale.

13 (h) A dispensary shall provide the department with the
14 address, tax map key number, and a copy of the premises lease,
15 if applicable, of the proposed location of a production center
16 allowed under a license for a county not later than thirty days
17 prior to any medical marijuana or manufactured marijuana
18 products being produced or manufactured at that production
19 center.

20 (i) A dispensary shall provide the department with the
21 address, tax map key number, and a copy of the premises lease,



1 if applicable, of the proposed location of each retail
2 dispensing location allowed under a license not less than sixty
3 days prior to opening for business.

4 (j) The department shall establish, maintain, and control
5 a computer software tracking system that shall have real time,
6 twenty-four hour access to the data of all dispensaries relating
7 to:

8 (1) The total amount of marijuana in possession of all
9 dispensaries from either seed or immature plant state,
10 including all plants that are derived from cuttings or
11 cloning, until the marijuana, marijuana plants, or
12 manufactured marijuana product is sold or destroyed
13 pursuant to section -7;

14 (2) The total amount of manufactured marijuana product
15 inventory, including the equivalent physical weight of
16 marijuana that is used to manufacture manufactured
17 marijuana products, purchased by a qualifying patient
18 and primary caregiver from all retail dispensing
19 locations in the State in any fifteen day period;

20 (3) The amount of waste produced by each plant at harvest;
21 and



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1 (4) The transport of marijuana and manufactured marijuana
2 products between production centers and retail
3 dispensing locations, including tracking
4 identification issued by the tracking system, the
5 identity of the person transporting the marijuana or
6 manufactured marijuana products, and the make, model,
7 and license number of the vehicle being used for the
8 transport.

9 The procurement of the computer software tracking system
10 established pursuant to this subsection shall be exempt from
11 chapter 103D; provided that: the department shall publicly
12 solicit at least three proposals for the computer software
13 tracking system; and the selection of the computer software
14 tracking system shall be approved by the director of the
15 department and the chief information officer.

16 (k) A dispensary licensed pursuant to this chapter shall
17 purchase, operate, and maintain a computer software tracking
18 system that shall:

19 (1) Interface with the department's computer software
20 tracking system established pursuant to subsection
21 (j);



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- 1 (2) Allow each licensed dispensary's production center to
2 submit to the department in real time, by automatic
3 identification and data capture, all marijuana,
4 marijuana plants, and manufactured marijuana product
5 inventory in possession of that dispensary from either
6 seed or immature plant state, including all plants
7 that are derived from cuttings or cloning, until the
8 marijuana or manufactured marijuana product is sold or
9 destroyed pursuant to section -7; and
- 10 (3) Allow the licensed dispensary's retail dispensing
11 location to submit to the department in real time for
12 the total amount of marijuana and manufactured
13 marijuana product purchased by a qualifying patient
14 and primary caregiver from the dispensary's retail
15 dispensing locations in the State in any fifteen day
16 period; provided that the software tracking system
17 shall impose an automatic stopper in real time, which
18 cannot be overridden, on any further purchases of
19 marijuana or manufactured marijuana products, if the
20 maximum allowable amount of marijuana has already been
21 purchased for the applicable fifteen day period;



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1 provided further that additional purchases shall not
2 be permitted until the next applicable period.

3 (1) No free samples of marijuana or manufactured marijuana
4 products shall be provided at any time, and no consumption of
5 marijuana or manufactured marijuana products shall be permitted
6 on any dispensary premises.

7 (m) A dispensary shall not transport marijuana or
8 manufactured marijuana products to another county or another
9 island.

10 (n) A dispensary shall be prohibited from off-premises
11 delivery of marijuana or manufactured marijuana products to
12 qualifying patients or to primary caregivers of qualifying
13 patients.

14 (o) A dispensary shall not:

15 (1) Display marijuana or manufactured marijuana products
16 in windows or in public view; or
17 (2) Post any signage other than a single sign no greater
18 than one thousand six hundred square inches bearing
19 only the business or trade name in text without any
20 pictures or illustrations; provided that if any
21 applicable law or ordinance restricting outdoor



1 signage is more restrictive, that law or ordinance
2 shall govern.

3 (p) No marijuana or manufactured marijuana products shall
4 be transported to, from, or within any federal fort or arsenal,
5 national park or forest, any other federal enclave, or any other
6 property possessed or occupied by the federal government.

7 (q) A dispensary licensed pursuant to this chapter shall
8 be prohibited from providing written certification pursuant to
9 section 329-122 for the use of medical marijuana for any person.

10 **S -7 Medical marijuana dispensary rules.** The department
11 shall establish standards with respect to:

12 (1) The number of medical marijuana dispensaries that
13 shall be permitted to operate in the State;
14 (2) A fee structure for the submission of applications and
15 renewals of licenses to dispensaries; provided that
16 the department shall consider the market conditions in
17 each county in determining the license renewal fee
18 amounts;

19 (3) Criteria and procedures for the consideration and
20 selection, based on merit, of applications for



1 licensure of dispensaries; provided that the criteria
2 shall include but not be limited to an applicant's:
3 (A) Ability to operate a business;
4 (B) Financial stability and access to financial
5 resources; provided that applicants for medical
6 marijuana dispensary licenses shall provide
7 documentation that demonstrates control of not
8 less than \$1,000,000 in the form of escrow
9 accounts, letters of credit, surety bonds, bank
10 statements, lines of credit or the equivalent to
11 begin operating the dispensary;
12 (C) Ability to comply with the security requirements
13 developed pursuant to paragraph (6);
14 (D) Capacity to meet the needs of qualifying
15 patients;
16 (E) Ability to comply with criminal background check
17 requirements developed pursuant to paragraph (8);
18 and
19 (F) Ability to comply with inventory controls
20 developed pursuant to paragraph (13);



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- 1 (4) Specific requirements regarding annual audits and
- 2 reports required from each production center and
- 3 dispensary licensed pursuant to this chapter;
- 4 (5) Procedures for announced and unannounced inspections
- 5 by the department or its agents of production centers
- 6 and dispensaries licensed pursuant to this chapter;
- 7 (6) Security requirements for the operation of production
- 8 centers and retail dispensing locations; provided
- 9 that, at a minimum, the following shall be required:
- 10 (A) For production centers:
 - 11 (i) Video monitoring and recording of the
 - 12 premises;
 - 13 (ii) Fencing that surrounds the premises and that
 - 14 is sufficient to reasonably deter intruders
 - 15 and prevent anyone outside the premises from
 - 16 viewing any marijuana in any form;
 - 17 (iii) An alarm system; and
 - 18 (iv) Other reasonable security measures to deter
 - 19 or prevent intruders, as deemed necessary by
 - 20 the department;
- 21 (B) For retail dispensing locations:

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- 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



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- 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 -9 and -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



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- 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;



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- 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 **§ -8 Laboratory standards and testing; laboratory**
11 **certification.** (a) The department shall establish and enforce
12 standards for laboratory-based testing of marijuana and
13 manufactured marijuana products for content, contamination, and
14 consistency.

15 (b) The department may certify laboratories that can test
16 marijuana and manufactured marijuana products prior to the sale
17 of marijuana and manufactured marijuana products.

18 **§ -9 Manufacturing of medical marijuana products.** (a)
19 Any medical marijuana dispensary licensed by the department
20 pursuant to this chapter shall be permitted to manufacture
21 marijuana products; provided that the dispensary shall also



1 obtain any other state or county permits or licenses that may be
2 necessary for a particular manufacturing activity.

3 (b) The department shall establish health, safety, and
4 sanitation standards regarding the manufacture of manufactured
5 marijuana products.

6 (c) A manufacturer of a manufactured marijuana product
7 shall calculate the equivalent physical weight of the marijuana
8 that is used to manufacture the product and shall make the
9 equivalency calculations available to the department and to a
10 consumer of the manufactured marijuana product.

11 **S -10 Types of manufactured marijuana products.** (a)
12 The types of medical marijuana products that may be manufactured
13 and distributed pursuant to this chapter shall be limited to:

14 (1) Capsules;

15 (2) Lozenges;

16 (3) Pills;

17 (4) Oils and oil extracts;

18 (5) Tinctures;

19 (6) Ointments and skin lotions; and

20 (7) Other products as specified by the department.



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1 (b) As used in this section, "lozenge" means a small
2 tablet manufactured in a manner to allow for the dissolving of
3 its medicinal or therapeutic component slowly in the mouth.

4 § -11 Advertising and packaging. (a) The department
5 shall establish standards regarding the advertising and
6 packaging of marijuana and manufactured marijuana products;
7 provided that the standards, at a minimum, shall require the use
8 of packaging that:

- 9 (1) Is child-resistant and opaque so that the product
10 cannot be seen from outside the packaging;
- 11 (2) Uses only black lettering on a white background with
12 no pictures or graphics;
- 13 (3) Is clearly labeled with the phrase "For medical use
14 only";
- 15 (4) Is clearly labeled with the phrase "Not for resale or
16 transfer to another person";
- 17 (5) Includes instructions for use and "use by date";
- 18 (6) Contains information about the contents and potency of
19 the product;

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- 1 (7) Includes the name of the production center where
2 marijuana in the product was produced, including the
3 batch number and date of packaging;
4 (8) Includes a barcode generated by tracking software; and
5 (9) In the case of a manufactured marijuana product, a
6 listing of the equivalent physical weight of the
7 marijuana used to manufacture the amount of the
8 product that is within the packaging, pursuant to
9 section -9(c).
10 (b) Any capsule, lozenge, or pill containing marijuana or
11 its principal psychoactive constituent tetrahydrocannabinol
12 shall be packaged so that one dose, serving, or single wrapped
13 item contains no more than ten milligrams of
14 tetrahydrocannabinol; provided that no manufactured marijuana
15 product that is sold in a pack of multiple doses, servings, or
16 single wrapped items, nor any containers of oils, shall contain
17 more than a total of one hundred milligrams of
18 tetrahydrocannabinol per pack or container.
19 § -12 Background checks. Each applicant and licensee
20 for a medical marijuana dispensary license, including the
21 individual applicant and all officers, directors, shareholders



1 with at least twenty-five per cent ownership interest or more,
2 members, and managers of an entity applicant; each employee of a
3 medical marijuana dispensary; each subcontracted production
4 center and retail dispensing location employee; all officers,
5 directors, shareholders with at least twenty-five per cent
6 ownership interest or more in a subcontracted production center
7 or retail dispensing location; and any person permitted to enter
8 and remain in dispensary facilities pursuant to
9 section -15(a)(4) or -16(a)(3), shall be subject to
10 background checks conducted by the department or its designee,
11 including but not limited to criminal history record checks in
12 accordance with section 846-2.7. The person undergoing the
13 background check shall provide written consent and all
14 applicable processing fees to the department or its designee to
15 conduct the background checks.

16 **S -13 Qualifying patients and primary caregivers;**
17 **dispensing limits; other states.** (a) A qualifying patient or a
18 primary caregiver on behalf of a qualifying patient shall be
19 allowed to purchase no more than four ounces of marijuana within
20 a consecutive period of fifteen days, or no more than eight
21 ounces of marijuana within a consecutive period of thirty days.



1 (b) A qualifying patient or a primary caregiver on behalf
2 of a qualifying patient may purchase marijuana from any
3 dispensary location in the State, subject to the limits set
4 forth in subsection (a).

5 (c) Beginning on January 1, 2018, this section may apply
6 to qualifying patients from other states, territories of the
7 United States, or the District of Columbia; provided that the
8 patient is verified as a patient in their home state and
9 registers with the department through a registration process
10 established by the department.

11 § -14 Prohibited acts related to exceeding limits;
12 fraud; penalties. (a) It shall be unlawful for any person to
13 obtain or attempt to procure any medical marijuana or medical
14 marijuana product by:

- 15 (1) Fraud, deceit, misrepresentation, embezzlement, or
16 theft;
- 17 (2) The forgery or alteration of a medical marijuana
18 permit;
- 19 (3) Furnishing fraudulent medical information or the
20 concealment of a material fact;

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- 1 (4) The use of a false name or patient identification
2 number, or the giving of a false address; or
3 (5) The alteration of a state issued medical use of
4 marijuana permit card.
5 (b) Any person who violates subsection (a) shall be guilty
6 of a class C felony.
7 § -15 Criminal offense; unauthorized access to retail
8 dispensing location. (a) No person shall intentionally or
9 knowingly enter or remain upon the premises of a medical
10 marijuana retail dispensing location unless the individual is:
11 (1) An individual licensee or registered employee of the
12 dispensary;
13 (2) A qualifying patient or primary caregiver of a
14 qualifying patient;
15 (3) A government employee or official acting in the
16 person's official capacity; or
17 (4) Previously included on a current department-approved
18 list provided to the department by the licensee of
19 those persons who are allowed into that dispensary's
20 facilities for a specific purpose for that dispensary,
21 including but not limited to construction,



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- 1 maintenance, repairs, legal counsel, or investors;
- 2 provided that:
- 3 (A) The person has been individually approved by the
- 4 department to be included on the list;
- 5 (B) The person is at least twenty-one years of age,
- 6 as verified by a valid government issued
- 7 identification card;
- 8 (C) The department has confirmed that the person has
- 9 no felony convictions;
- 10 (D) The person is escorted by an individual licensee
- 11 or registered employee of the dispensary at all
- 12 times while in the dispensary facility;
- 13 (E) The person is only permitted within those
- 14 portions of the dispensary facility as necessary
- 15 to fulfill the person's purpose for entering;
- 16 (F) The person is only permitted within the
- 17 dispensary facility during the times and for the
- 18 duration necessary to fulfill the person's
- 19 purpose for entering;
- 20 (G) The dispensary shall keep an accurate record of
- 21 each person's first and last name, date and times



1 upon entering and exiting the dispensary
2 facility, purpose for entering, and the identity
3 of the escort; and

4 (H) The approved list shall be effective for one year
5 from the date of the department approval.

6 (b) No individual licensee or registered employee of a
7 medical marijuana dispensary with control over or responsibility
8 for a retail dispensing location shall intentionally or
9 knowingly allow another to enter or remain upon the premises of
10 the retail dispensing location, unless the other is permitted to
11 enter and remain as specified in subsection (a).

12 (c) Unauthorized access to a retail dispensing location is
13 a class C felony.

14 **S -16 Criminal offense; unauthorized access to**
15 **production centers.** (a) No person shall intentionally or
16 knowingly enter or remain upon the premises of a medical
17 marijuana production center unless the person is:

18 (1) An individual licensee or registered employee of the
19 production center;
20 (2) A government employee or official acting in the
21 person's official capacity; or



- 1 (3) Previously included on a current department-approved
2 list provided to the department by the licensee of
3 those persons who are allowed into that dispensary's
4 facilities for a specific purpose for that dispensary,
5 including but not limited to construction,
6 maintenance, repairs, legal counsel, or investors;
7 provided that:
8 (A) The person has been individually approved by the
9 department to be included on the list;
10 (B) The person is at least twenty-one years of age,
11 as verified by a valid government issued
12 identification card;
13 (C) The department has confirmed that the person has
14 no felony convictions;
15 (D) The person is escorted by an individual licensee
16 or registered employee of the dispensary at all
17 times while in the dispensary facility;
18 (E) The person is only permitted within those
19 portions of the dispensary facility as necessary
20 to fulfill the person's purpose for entering;

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1 person commits the offense of promoting medical marijuana or
2 medical marijuana products to a minor if the person
3 intentionally or knowingly distributes any amount of marijuana
4 or manufactured marijuana products that came from a dispensary
5 or production center to a minor who is not a registered
6 qualifying patient.

7 (b) Any person who violates this section shall be guilty
8 of a class B felony.

9 § -18 Diversion from dispensary or production center;
10 penalties. (a) A person commits diversion from a dispensary or
11 production center if the person is a licensee, operator, or
12 employee of a dispensary or production center and intentionally
13 or knowingly diverts to the person's own use or other
14 unauthorized or illegal use, or takes, makes away with, or
15 secretes, with intent to divert to the person's own use or other
16 unauthorized or illegal use, any medical marijuana, manufactured
17 marijuana product, or marijuana concentrate under the person's
18 possession, care, or custody as a licensee, operator, or
19 employee of a medical marijuana dispensary or production center
20 licensed by the department.



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1 (b) Any person who violates this section shall be guilty
2 of a class C felony.

3 § -19 Criminal offense; alteration or falsification of
4 medical marijuana dispensary records. (a) A person commits the
5 offense of alteration or falsification of medical marijuana
6 dispensary records if the person intentionally or knowingly:

7 (1) Makes or causes a false entry in medical marijuana
8 dispensary records;
9 (2) Alters, erases, obliterates, deletes, removes, or
10 destroys a true entry in medical marijuana dispensary
11 records;
12 (3) Omits to make a true entry in medical marijuana
13 dispensary records in violation of a duty that the
14 person knows to be imposed upon the person by law or
15 by the nature of the person's position; or
16 (4) Prevents the making of a true entry or causes the
17 omission thereof in medical marijuana dispensary
18 records.

19 (b) Alteration or falsification of medical marijuana
20 dispensary records is a class C felony.

21 (c) For the purposes of this section:



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1 "Electronic" means relating to technology having
2 electrical, digital, magnetic, wireless, optical,
3 electromagnetic, or other similar capabilities.
4 "Information" includes data, text, images, sounds, codes,
5 computer programs, software, or databases.

6 "Medical marijuana dispensary records" means any inventory
7 tracking records and other records maintained by a licensed
8 medical marijuana dispensary, including the records of its
9 retail dispensing locations and production centers, that are
10 required by law to be created and retained or provided to the
11 department.

12 "Record" means information that is written or printed or
13 that is stored in an electronic or other medium and is
14 retrievable in a perceivable form.

15 **S -20 Law enforcement access to dispensary and**
16 **production center records.** Notwithstanding any other law, the
17 department shall disclose information, documents, and other
18 records regarding medical marijuana dispensaries and production
19 centers, upon request, to any state, federal, or county agency
20 engaged in the criminal investigation or prosecution of
21 violations of applicable state, county, or federal laws or



1 regulations related to the operations or activities of a medical
2 marijuana dispensary.

3 **S -21 Revocation and suspension of licenses.** (a) In
4 addition to any other actions authorized by law, the department
5 may deny, revoke, or suspend any license applied for or issued
6 by the department, in accordance with this chapter, and to fine
7 or otherwise discipline a licensee for any cause authorized by
8 law, including but not limited to the following:

- 9 (1) Procuring a license through fraud, misrepresentation,
10 or deceit;
- 11 (2) Professional misconduct, gross carelessness, or
12 manifest incapacity;
- 13 (3) Violation of any of the provisions of this chapter or
14 the rules adopted thereto;
- 15 (4) False, fraudulent, or deceptive advertising;
- 16 (5) Any other conduct constituting fraudulent or dishonest
17 dealings;
- 18 (6) Failure to comply with a department order; and
- 19 (7) Making a false statement on any document submitted or
20 required to be filed by this chapter, including



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1 furnishing false or fraudulent material information in
2 any application.

3 (b) Any person who violates any of the provisions of this
4 chapter or the rules adopted pursuant thereto shall be fined not
5 less than \$100 nor more than \$1,000 for each violation.

6 (c) If the department revokes or suspends a license under
7 this section, the licensee shall not:

8 (1) Dispense, sell, transfer, or otherwise dispose of any
9 marijuana or manufactured marijuana products owned by
10 or in the possession of the licensee; or
11 (2) Manufacture marijuana products.

12 Upon a revocation order becoming final, all marijuana and
13 manufactured marijuana products may be forfeited to the State.

14 (d) All proceedings for denial, suspension, fine, or
15 revocation of a license on any ground specified in subsection
16 (a) shall be conducted pursuant to chapter 91, including the
17 right to judicial review.

18 § -22 Medical marijuana zoning. (a) Medical marijuana
19 production centers and dispensaries shall comply with all county
20 zoning ordinances, rules, or regulations; provided that:



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1 (1) A medical marijuana production center shall be
2 permitted in any area in which agricultural production
3 is permitted except as provided within this chapter;
4 and

5 (2) No medical marijuana production center or dispensary
6 shall be permitted within seven hundred fifty feet of
7 the real property comprising a playground, public
8 housing project or complex, or school.

9 (b) As used in this section:

10 "Playground" means any public outdoor facility, including
11 any parking lot appurtenant thereto, that is intended for
12 recreation, with any portion thereof containing three or more
13 separate apparatus intended for the recreation of children,
14 including but not limited to sliding boards, swing sets, and
15 teeterboards.

16 "Public housing project or complex" means a housing project
17 directly controlled, owned, developed, or managed by the Hawaii
18 public housing authority pursuant to the federal or state low-
19 rent public housing program.



1 "School" means any public or private preschool,
2 kindergarten, elementary, intermediate, middle, secondary, or
3 high school.

4 § -23 Annual inspections, audits, and reports. (a)
5 Each medical marijuana production center and dispensary licensed
6 pursuant to this part shall:

- 7 (1) Be subject to an annual announced inspection and
8 unlimited unannounced inspections of its operations by
9 the department;
- 10 (2) Submit reports on at least a quarterly basis, or as
11 otherwise required, and in the format specified by the
12 department; and
- 13 (3) Annually cause an independent financial audit, at the
14 dispensary licensee's own expense, to be conducted of
15 the dispensary, its production center, and retail
16 dispensing locations and shall submit the audit's
17 findings to the department.

18 (b) The department shall report annually to the governor
19 and the legislature on the establishment and regulation of
20 medical marijuana production centers and dispensaries including
21 but not limited to the number and location of production centers



1 and dispensaries licensed, the total licensing fees collected,
2 the total amount of taxes collected from production centers and
3 dispensaries, and any licensing violations determined by the
4 department.

5 **§ -24 Cultivation of medical marijuana by qualifying**
6 **patients and primary caregivers.** Nothing in this chapter shall
7 be construed as prohibiting a qualifying patient or primary
8 caregiver from cultivating or possessing an adequate supply of
9 medical marijuana pursuant to part IX of chapter 329.

10 **§ -25 Coordination among state and federal agencies.**

11 The department shall initiate ongoing dialogue among relevant
12 state and federal agencies to identify processes and policies
13 that ensure the privacy of qualifying patients and the
14 compliance of qualifying patients, primary caregivers, and
15 medical marijuana dispensaries with state laws and regulations
16 related to medical marijuana.

17 **§ -26 Public education.** (a) The department shall
18 conduct a continuing education and training program to explain
19 and clarify the purposes and requirements of this chapter or to
20 provide substance abuse prevention and education. The program
21 shall target community partner agencies, physicians and other



1 health care providers, patients and caregivers, law enforcement
2 agencies, law and policy makers, and the general public.

3 (b) The department shall employ at least one full-time
4 staff member whose qualifications and duties include the
5 provision of medical marijuana health education.

6 § -27 Administrative rules. (a) The department shall
7 adopt rules pursuant to chapter 91 to effectuate the purposes of
8 this chapter.

9 (b) No later than January 4, 2016, the department shall
10 adopt interim rules, which shall be exempt from chapter 91 and
11 chapter 201M, to effectuate the purposes of this chapter;
12 provided that the interim rules shall remain in effect until
13 July 1, 2018, or until rules are adopted pursuant subsection
14 (a), whichever occurs sooner."

15 PART III

16 SECTION 3. Section 46-4, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§46-4 County zoning. (a) This section and any
19 ordinance, rule, or regulation adopted in accordance with this
20 section shall apply to lands not contained within the forest



1 reserve boundaries as established on January 31, 1957, or as
2 subsequently amended.

3 Zoning in all counties shall be accomplished within the
4 framework of a long-range, comprehensive general plan prepared
5 or being prepared to guide the overall future development of the
6 county. Zoning shall be one of the tools available to the
7 county to put the general plan into effect in an orderly manner.

8 Zoning in the counties of Hawaii, Maui, and Kauai means the
9 establishment of districts of such number, shape, and area, and
10 the adoption of regulations for each district to carry out the
11 purposes of this section. In establishing or regulating the
12 districts, full consideration shall be given to all available
13 data as to soil classification and physical use capabilities of
14 the land to allow and encourage the most beneficial use of the
15 land consonant with good zoning practices. The zoning power
16 granted herein shall be exercised by ordinance which may relate
17 to:

18 (1) The areas within which agriculture, forestry,
19 industry, trade, and business may be conducted;
20 (2) The areas in which residential uses may be regulated
21 or prohibited;



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- (3) The areas bordering natural watercourses, channels, and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted;
 - (4) The areas in which particular uses may be subjected to special restrictions;
 - (5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered;
 - (6) The location, height, bulk, number of stories, and size of buildings and other structures;
 - (7) The location of roads, schools, and recreation areas;
 - (8) Building setback lines and future street lines;
 - (9) The density and distribution of population;
 - (10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;
 - (11) Minimum and maximum lot sizes; and
 - (12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.



1 The council of any county shall prescribe rules,
2 regulations, and administrative procedures and provide personnel
3 it finds necessary to enforce this section and any ordinance
4 enacted in accordance with this section. The ordinances may be
5 enforced by appropriate fines and penalties, civil or criminal,
6 or by court order at the suit of the county or the owner or
7 owners of real estate directly affected by the ordinances.

8 Any civil fine or penalty provided by ordinance under this
9 section may be imposed by the district court, or by the zoning
10 agency after an opportunity for a hearing pursuant to chapter
11 91. The proceeding shall not be a prerequisite for any
12 injunctive relief ordered by the circuit court.

13 Nothing in this section shall invalidate any zoning
14 ordinance or regulation adopted by any county or other agency of
15 government pursuant to the statutes in effect prior to July 1,
16 1957.

17 The powers granted herein shall be liberally construed in
18 favor of the county exercising them, and in such a manner as to
19 promote the orderly development of each county or city and
20 county in accordance with a long-range, comprehensive general
21 plan to ensure the greatest benefit for the State as a whole.

1 This section shall not be construed to limit or repeal any
2 powers of any county to achieve these ends through zoning and
3 building regulations, except insofar as forest and water reserve
4 zones are concerned and as provided in subsections (c) and (d).

5 Neither this section nor any ordinance enacted pursuant to
6 this section shall prohibit the continued lawful use of any
7 building or premises for any trade, industrial, residential,
8 agricultural, or other purpose for which the building or
9 premises is used at the time this section or the ordinance takes
10 effect; provided that a zoning ordinance may provide for
11 elimination of nonconforming uses as the uses are discontinued,
12 or for the amortization or phasing out of nonconforming uses or
13 signs over a reasonable period of time in commercial,
14 industrial, resort, and apartment zoned areas only. In no event
15 shall such amortization or phasing out of nonconforming uses
16 apply to any existing building or premises used for residential
17 (single-family or duplex) or agricultural uses. Nothing in this
18 section shall affect or impair the powers and duties of the
19 director of transportation as set forth in chapter 262.

20 (b) Any final order of a zoning agency established under
21 this section may be appealed to the circuit court of the circuit



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1 in which the land in question is found. The appeal shall be in
2 accordance with the Hawaii rules of civil procedure.

3 (c) Each county may adopt reasonable standards to allow
4 the construction of two single-family dwelling units on any lot
5 where a residential dwelling unit is permitted.

6 (d) Neither this section nor any other law, county
7 ordinance, or rule shall prohibit group living in facilities
8 with eight or fewer residents for purposes or functions that are
9 licensed, certified, registered, or monitored by the State;
10 provided that a resident manager or a resident supervisor and
11 the resident manager's or resident supervisor's family shall not
12 be included in this resident count. These group living
13 facilities shall meet all applicable county requirements not
14 inconsistent with the intent of this subsection, including but
15 not limited to building height, setback, maximum lot coverage,
16 parking, and floor area requirements.

17 (e) Neither this section nor any other law, county
18 ordinance, or rule shall prohibit the use of land for employee
19 housing and community buildings in plantation community
20 subdivisions as defined in section 205-4.5(a)(12); in addition,
21 no zoning ordinance shall provide for the elimination,



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- 1 amortization, or phasing out of plantation community
- 2 subdivisions as a nonconforming use.

3 (f) Neither this section nor any other law, county
4 ordinance, or rule shall prohibit the use of land for medical
5 marijuana production centers or medical marijuana dispensaries
6 established and licensed pursuant to chapter ; provided that
7 the land is otherwise zoned for agriculture, manufacturing, or
8 retail purposes."

PART IV

10 SECTION 4. Section 321-30.1, Hawaii Revised Statutes, is
11 amended to read as follows:

12 " [+] S321-30.1[+] Medical marijuana registry and regulation
13 special fund; established. (a) There is established within the
14 state treasury the medical marijuana registry and regulation
15 special fund. The fund shall be expended at the discretion of
16 the director of health:

17 (1) To establish and regulate a system of medical
18 marijuana dispensaries in the State;

[{1}] (2) To offset the cost of the processing and issuance
of patient registry identification certificates and
primary caregiver registration certificates;



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- 1 [←2] (3) To fund positions and operating costs authorized
2 by the legislature;
- 3 [←3] (4) To establish and manage a secure and confidential
4 database; [and]
- 5 (5) To fund public education as required by
6 section -26;
- 7 (6) To fund substance abuse prevention and education
8 programs; and
- 9 [←4] (7) For any other expenditure necessary, [as
10 authorized by the legislature,] consistent with this
11 chapter and chapter, to implement [a] medical
12 marijuana registry and regulation [program.] programs.
- 13 (b) The fund shall consist of all moneys derived from fees
14 collected pursuant to subsection (c) [.] and section -4.
- 15 There is established within the medical marijuana registry and
16 regulation special fund:
- 17 (1) A medical marijuana registry program sub-account, into
18 which shall be deposited [All] all fees collected
19 pursuant to subsection (c) [shall be deposited into
20 the medical marijuana registry special fund.]; and



1 (2) A medical marijuana dispensary program sub-account,
2 into which shall be deposited all fees collected
3 pursuant to section -4.

4 (c) The department, upon completion of the transfer of the
5 medical use of marijuana program, shall charge a medical
6 marijuana registration fee to qualifying patients of no more
7 than \$35."

PART V

9 SECTION 5. Chapter 329, Hawaii Revised Statutes, is
10 amended by adding four new sections to part IX to be
11 appropriately designated and to read as follows:

12 "§329- Protections afforded to an owner or qualified
13 employee of a licensed medical marijuana dispensary. (a) An
14 owner or employee of a medical marijuana dispensary that is
15 licensed under chapter may assert the production or
16 distribution of medical marijuana as an affirmative defense to
17 any prosecution involving marijuana under this part,
18 chapter , or chapter 712; provided that the owner or
19 employee strictly complied with the requirements of chapter
20 and any administrative rules adopted thereunder.



1 (b) An owner or employee of a licensed medical marijuana
2 dispensary not strictly complying with the requirements of
3 chapter , and any administrative rules adopted thereunder,
4 shall not be afforded the protections provided by subsection
5 (a).

6 S329- Prohibited acts; flammable solvents. (a) No
7 qualifying patient or primary caregiver shall use butane to
8 extract tetrahydrocannabinol from marijuana plants.

9 (b) Any person who violates this section shall be guilty
10 of a class C felony.

11 S329- Authorized sources of medical marijuana. (a)
12 After December 31, 2018, a qualifying patient shall obtain
13 medical marijuana or manufactured marijuana products only:

14 (1) From a dispensary licensed pursuant to chapter ;
15 provided that the marijuana shall be purchased and
16 paid for at the time of purchase; or
17 (2) By cultivating marijuana in an amount that does not
18 exceed an adequate supply for the qualifying patient,
19 pursuant to section 329-122.

20 After December 31, 2018, no primary caregiver shall be
21 authorized to cultivate marijuana for any qualifying patient.



- 1 (b) This section shall not apply to:
- 2 (1) A qualifying patient who is a minor or an adult
3 lacking legal capacity and the primary caregiver is
4 the parent, guardian, or person having legal custody
5 of a qualifying patient described in this paragraph;
6 or
7 (2) A qualifying patient on any island on which there is
8 no medical marijuana dispensary licensed pursuant to
9 chapter _____.

10 §329- Prescription and pharmacy requirements not
11 applicable. Notwithstanding any other law to the contrary, the
12 prescription requirements of section 329-38 and the board of
13 pharmacy licensure or regulatory requirements under chapter 461
14 shall not apply to the medical use of marijuana under this
15 part."

16 SECTION 6. Section 329-121, Hawaii Revised Statutes, is
17 amended by amending the definitions of "adequate supply" and
18 "debilitating medical condition" to read as follows:

19 ""Adequate supply" means an amount of marijuana jointly
20 possessed between the qualifying patient and the primary
21 caregiver that is not more than is reasonably necessary to



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1 [assure] ensure the uninterrupted availability of marijuana for
2 the purpose of alleviating the symptoms or effects of a
3 qualifying patient's debilitating medical condition; provided
4 that an "adequate supply" shall not exceed: seven marijuana
5 plants, whether immature or mature, and four ounces of usable
6 marijuana at any given time. The four ounces of usable
7 marijuana shall include any combination of usable marijuana and
8 manufactured marijuana products, as provided in chapter ,
9 with the marijuana in the manufactured marijuana products being
10 calculated using information provided pursuant to section
11 -9(c).

12 "Debilitating medical condition" means:

- 13 (1) Cancer, glaucoma, positive status for human
14 immunodeficiency virus, acquired immune deficiency
15 syndrome, or the treatment of these conditions;
- 16 (2) A chronic or debilitating disease or medical condition
17 or its treatment that produces one or more of the
18 following:
- 19 (A) Cachexia or wasting syndrome;
- 20 (B) Severe pain;
- 21 (C) Severe nausea;



- 1 (D) Seizures, including those characteristic of
2 epilepsy; [ex]
3 (E) Severe and persistent muscle spasms, including
4 those characteristic of multiple sclerosis or
5 Crohn's disease; or
6 (F) Post-traumatic stress disorder; or
7 (3) Any other medical condition approved by the department
8 of health pursuant to administrative rules in response
9 to a request from a physician or potentially
10 qualifying patient."

11 SECTION 7. Section 329-122, Hawaii Revised Statutes, is
12 amended to read as follows:

- 13 **"§329-122 Medical use of marijuana; conditions of use.**
14 (a) Notwithstanding any law to the contrary, the medical use of
15 marijuana by a qualifying patient shall be permitted only if:
16 (1) The qualifying patient has been diagnosed by a
17 physician as having a debilitating medical condition;
18 (2) The qualifying patient's physician has certified in
19 writing that, in the physician's professional opinion,
20 the potential benefits of the medical use of marijuana



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- 1 would likely outweigh the health risks for the
2 particular qualifying patient; and
- 3 (3) The amount of marijuana possessed by the qualifying
4 patient does not exceed an adequate supply.
- 5 (b) Subsection (a) shall not apply to a qualifying patient
6 under the age of eighteen years, unless:
- 7 (1) The qualifying patient's physician has explained the
8 potential risks and benefits of the medical use of
9 marijuana to the qualifying patient and to a parent,
10 guardian, or person having legal custody of the
11 qualifying patient; and
- 12 (2) A parent, guardian, or person having legal custody
13 consents in writing to:
- 14 (A) Allow the qualifying patient's medical use of
15 marijuana;
- 16 (B) Serve as the qualifying patient's primary
17 caregiver; and
- 18 (C) Control the acquisition of the marijuana, the
19 dosage, and the frequency of the medical use of
20 marijuana by the qualifying patient.



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1 (c) The authorization for the medical use of marijuana in
2 this section shall not apply to:

3 (1) The medical use of marijuana that endangers the health
4 or well-being of another person;

5 (2) The medical use of marijuana:

6 (A) In a school bus, public bus, or any moving
7 vehicle;

8 (B) In the workplace of one's employment;

9 (C) On any school grounds;

10 (D) At any public park, public beach, public
11 recreation center, recreation or youth center; or

12 (E) [Other] At any other place open to the public;

13 [and] provided that a qualifying patient, primary
14 caregiver, or an owner or employee of a medical
15 marijuana dispensary licensed under chapter

16 shall not be prohibited from transporting

17 marijuana or any manufactured marijuana product,

18 as that term is defined in section -1, in any

19 public place; provided further that the marijuana

20 or manufactured marijuana product shall be

21 transported in a sealed container, not be visible



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1 to the public, and shall not be removed from its
2 sealed container or consumed or used in any way
3 while it is in the public place; and

4 (3) The use of marijuana by a qualifying patient, parent,
5 or primary caregiver for purposes other than medical
6 use permitted by this part.

7 (d) For the purposes of this section, "transport" means
8 the transportation of marijuana, usable marijuana, or any
9 manufactured marijuana product between:

10 (1) A qualifying patient and the qualifying patient's
11 primary caregiver; or
12 (2) The production centers and the retail dispensing
13 locations under a dispensary licensee's license;
14 provided that "transport" does not include the interisland
15 transportation of marijuana, usable marijuana, or any
16 manufactured marijuana product."

PART VI

18 SECTION 8. Section 329-123, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Physicians who issue written certifications shall
21 provide, in each written certification, the name, address,



1 patient identification number, and other identifying information
2 of the qualifying patient. The department of health shall
3 require, in rules adopted pursuant to chapter 91, that all
4 written certifications comply with a designated form completed
5 by or on behalf of a qualifying patient. The form shall require
6 information from the applicant, primary caregiver, and [primary
7 care] physician as specifically required or permitted by this
8 chapter. The form shall require the address of the location
9 where the marijuana is grown and shall appear on the registry
10 card issued by the department of health. The certifying
11 physician shall be required to [be the qualifying patient's
12 primary care physician.] have a bona fide physician-patient
13 relationship with the qualifying patient. All current active
14 medical marijuana permits shall be honored through their
15 expiration date."

16 PART VII

17 SECTION 9. Section 846-2.7, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) Criminal history record checks may be conducted by:
20 (1) The department of health or the department's designee
21 on operators of adult foster homes or developmental



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- 1 disabilities domiciliary homes and their employees, as
2 provided by section 333F-22;
- 3 (2) The department of health or the department's designee
4 on prospective employees, persons seeking to serve as
5 providers, or subcontractors in positions that place
6 them in direct contact with clients when providing
7 non-witnessed direct mental health services as
8 provided by section 321-171.5;
- 9 (3) The department of health or the department's designee
10 on all applicants for licensure for, operators for,
11 prospective employees, and volunteers at one or more
12 of the following: skilled nursing facility,
13 intermediate care facility, adult residential care
14 home, expanded adult residential care home, assisted
15 living facility, home health agency, hospice, adult
16 day health center, special treatment facility,
17 therapeutic living program, intermediate care facility
18 for individuals with intellectual disabilities,
19 hospital, rural health center and rehabilitation
20 agency, and, in the case of any of the above
21 facilities operating in a private residence, on any



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- 1 adult living in the facility other than the client as
2 provided by section 321-15.2;
- 3 (4) The department of education on employees, prospective
4 employees, and teacher trainees in any public school
5 in positions that necessitate close proximity to
6 children as provided by section 302A-601.5;
- 7 (5) The counties on employees and prospective employees
8 who may be in positions that place them in close
9 proximity to children in recreation or child care
10 programs and services;
- 11 (6) The county liquor commissions on applicants for liquor
12 licenses as provided by section 281-53.5;
- 13 (7) The county liquor commissions on employees and
14 prospective employees involved in liquor
15 administration, law enforcement, and liquor control
16 investigations;
- 17 (8) The department of human services on operators and
18 employees of child caring institutions, child placing
19 organizations, and foster boarding homes as provided
20 by section 346-17;



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- 1 (9) The department of human services on prospective
- 2 adoptive parents as established under section
- 3 346-19.7;
- 4 (10) The department of human services on applicants to
- 5 operate child care facilities, prospective employees
- 6 of the applicant, and new employees of the provider
- 7 after registration or licensure as provided by section
- 8 346-154;
- 9 (11) The department of human services on persons exempt
- 10 pursuant to section 346-152 to be eligible to provide
- 11 child care and receive child care subsidies as
- 12 provided by section 346-152.5;
- 13 (12) The department of health on operators and employees of
- 14 home and community-based case management agencies and
- 15 operators and other adults, except for adults in care,
- 16 residing in foster family homes as provided by section
- 17 321-484;
- 18 (13) The department of human services on staff members of
- 19 the Hawaii youth correctional facility as provided by
- 20 section 352-5.5;



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- 1 (14) The department of human services on employees,
- 2 prospective employees, and volunteers of contracted
- 3 providers and subcontractors in positions that place
- 4 them in close proximity to youth when providing
- 5 services on behalf of the office or the Hawaii youth
- 6 correctional facility as provided by section 352D-4.3;
- 7 (15) The judiciary on employees and applicants at detention
- 8 and shelter facilities as provided by section 571-34;
- 9 (16) The department of public safety on employees and
- 10 prospective employees who are directly involved with
- 11 the treatment and care of persons committed to a
- 12 correctional facility or who possess police powers
- 13 including the power of arrest as provided by section
- 14 353C-5;
- 15 (17) The board of private detectives and guards on
- 16 applicants for private detective or private guard
- 17 licensure as provided by section 463-9;
- 18 (18) Private schools and designated organizations on
- 19 employees and prospective employees who may be in
- 20 positions that necessitate close proximity to
- 21 children; provided that private schools and designated



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- 1 organizations receive only indications of the states
2 from which the national criminal history record
3 information was provided pursuant to section 302C-1;
4 (19) The public library system on employees and prospective
5 employees whose positions place them in close
6 proximity to children as provided by section
7 302A-601.5;
8 (20) The State or any of its branches, political
9 subdivisions, or agencies on applicants and employees
10 holding a position that has the same type of contact
11 with children, vulnerable adults, or persons committed
12 to a correctional facility as other public employees
13 who hold positions that are authorized by law to
14 require criminal history record checks as a condition
15 of employment as provided by section 78-2.7;
16 (21) The department of health on licensed adult day care
17 center operators, employees, new employees,
18 subcontracted service providers and their employees,
19 and adult volunteers as provided by section 321-496;
20 (22) The department of human services on purchase of
21 service contracted and subcontracted service providers

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- 1 and their employees serving clients of the [+]adult
2 protective and community services branch[+], as
3 provided by section 346-97;
- 4 (23) The department of human services on foster grandparent
5 program, senior companion program, and respite
6 companion program participants as provided by section
7 346-97;
- 8 (24) The department of human services on contracted and
9 subcontracted service providers and their current and
10 prospective employees that provide home and community-
11 based services under section 1915(c) of the Social
12 Security Act, title 42 United States Code section
13 1396n(c), or under any other applicable section or
14 sections of the Social Security Act for the purposes
15 of providing home and community-based services, as
16 provided by section 346-97;
- 17 (25) The department of commerce and consumer affairs on
18 proposed directors and executive officers of a bank,
19 savings bank, savings and loan association, trust
20 company, and depository financial services loan
21 company as provided by section 412:3-201;



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- 1 (26) The department of commerce and consumer affairs on
- 2 proposed directors and executive officers of a
- 3 nondepository financial services loan company as
- 4 provided by section 412:3-301;
- 5 (27) The department of commerce and consumer affairs on the
- 6 original chartering applicants and proposed executive
- 7 officers of a credit union as provided by section
- 8 412:10-103;
- 9 (28) The department of commerce and consumer affairs on:
- 10 (A) Each principal of every non-corporate applicant
- 11 for a money transmitter license; and
- 12 (B) The executive officers, key shareholders, and
- 13 managers in charge of a money transmitter's
- 14 activities of every corporate applicant for a
- 15 money transmitter license,
- 16 as provided by sections 489D-9 and 489D-15;
- 17 (29) The department of commerce and consumer affairs on
- 18 applicants for licensure and persons licensed under
- 19 title 24;
- 20 (30) The Hawaii health systems corporation on:
- 21 (A) Employees;



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- 1 (B) Applicants seeking employment;
- 2 (C) Current or prospective members of the corporation
- 3 board or regional system board; or
- 4 (D) Current or prospective volunteers, providers, or
- 5 contractors,
- 6 in any of the corporation's health facilities as
- 7 provided by section 323F-5.5;
- 8 (31) The department of commerce and consumer affairs on:
- 9 (A) An applicant for a mortgage loan originator
- 10 license; and
- 11 (B) Each control person, executive officer, director,
- 12 general partner, and manager of an applicant for
- 13 a mortgage loan originator company license,
- 14 as provided by chapter 454F;
- 15 (32) The state public charter school commission or public
- 16 charter schools on employees, teacher trainees,
- 17 prospective employees, and prospective teacher
- 18 trainees in any public charter school for any position
- 19 that places them in close proximity to children, as
- 20 provided in section 302D-33;

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- 1 (33) The counties on prospective employees who work with
2 children, vulnerable adults, or senior citizens in
3 community-based programs;
- 4 (34) The counties on prospective employees for fire
5 department positions which involve contact with
6 children or vulnerable adults;
- 7 (35) The counties on prospective employees for emergency
8 medical services positions which involve contact with
9 children or vulnerable adults;
- 10 (36) The counties on prospective employees for emergency
11 management positions and community volunteers whose
12 responsibilities involve planning and executing
13 homeland security measures including viewing,
14 handling, and engaging in law enforcement or
15 classified meetings and assisting vulnerable citizens
16 during emergencies or crises;
- 17 (37) The State and counties on employees, prospective
18 employees, volunteers, and contractors whose position
19 responsibilities require unescorted access to secured
20 areas and equipment related to a traffic management
21 center;



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- 1 (38) The State and counties on employees and prospective
2 employees whose positions involve the handling or use
3 of firearms for other than law enforcement purposes;
4 (39) The State and counties on current and prospective
5 systems analysts and others involved in an agency's
6 information technology operation whose position
7 responsibilities provide them with access to
8 proprietary, confidential, or sensitive information;
9 [+] (40) [+] The department of commerce and consumer affairs on
10 applicants for real estate appraiser licensure or
11 certification as provided by chapter 466K; [and]
12 (41) The department of health or its designee on all
13 license applicants, licensees, employees, contractors,
14 and prospective employees of medical marijuana
15 dispensaries, and individuals permitted to enter and
16 remain in medical marijuana dispensary facilities as
17 provided under sections -15(a)(4) and
18 -16(a)(3); and
19 [+(41)] (42) Any other organization, entity, or the State,
20 its branches, political subdivisions, or agencies as
21 may be authorized by state law."

1

PART VIII

2 SECTION 10. There is appropriated out of the general
3 revenues of the State of Hawaii the sum of \$750,000 or so much
4 thereof as may be necessary for fiscal year 2015-2016, and the
5 same sum or so much thereof as may be necessary for fiscal year
6 2016-2017, to be deposited into the medical marijuana registry
7 and regulation special fund established pursuant to section 321-
8 30.1, Hawaii Revised Statutes.

9 SECTION 11. There is appropriated out of the medical
10 marijuana registry and regulation special fund the sum of
11 \$750,000 or so much thereof as may be necessary for fiscal year
12 2015-2016 and the same sum or so much thereof as may be
13 necessary for fiscal year 2016-2017 to carry out the purposes of
14 this Act, including the establishment, hiring, and filling of
15 five permanent full-time equivalent (5.0 FTE) positions to carry
16 out the purposes of the medical marijuana dispensary program
17 established pursuant to this Act.

18 The sums appropriated shall be expended by the department
19 of health for the purposes of this Act.

20 SECTION 12. Not later than July 1, 2017, the department of
21 health shall establish a repayment plan and schedule to repay to



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1 the general fund, the sums deposited into the medical marijuana
2 registry and regulation special fund established pursuant to
3 section 321-30.1, Hawaii Revised Statutes. The department of
4 health shall only use moneys from the medical marijuana registry
5 and regulation special fund to repay the general fund.

PART IX

7 SECTION 13. Not later than March 15, 2016, the director of
8 health, or the director's designee, shall submit a report and
9 provide an informational briefing to the legislature concerning
10 the progress of implementing the provisions of part II of this
11 Act, including the status of rulemaking by the department of
12 health pertaining to the licensure of medical marijuana
13 dispensaries and production centers.

PART X

15 SECTION 14. For the purposes of effectuating this Act, the
16 personnel hired and the contracts entered into by the department
17 of health, pursuant to this Act, shall be exempt from chapter
18 76, Hawaii Revised Statutes, for a period beginning on July 1,
19 2015, and ending on June 30, 2017; provided that:

20 (1) All personnel actions taken pursuant to this Act by
21 the department of health after June 30, 2017, shall be



1 subject to chapter 76, Hawaii Revised Statutes, as
2 appropriate; and
3 (2) Any employee hired by the department of health to
4 effectuate this Act, who occupies a position exempt
5 from civil service on July 1, 2017, shall:
6 (A) Be appointed to a civil service position; and
7 (B) Not suffer any loss of prior service credit,
8 vacation or sick leave credits previously earned,
9 or other employee benefits or privileges;
10 provided that the employee possesses the minimum
11 qualifications and public employment requirements for
12 the class or position to which appointed; provided
13 further that subsequent changes in status shall be
14 made pursuant to applicable civil service and
15 compensation laws.

16 PART XI

17 SECTION 15. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 SECTION 16. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



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1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 17. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 18. This Act shall take effect on July 1, 2015.

APPROVED this 14 day of JUL , 2015


GOVERNOR OF THE STATE OF HAWAII





EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 25, 2013

GOV. MSG. NO. 1281

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

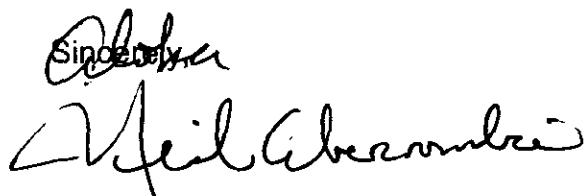
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 25, 2013, the following bill was signed into law:

SB642 HD2 CD1

RELATING TO HEALTH
ACT 178 (13)



A handwritten signature in black ink, appearing to read "Neil Abercrombie". Above the signature, there is a smaller, partially obscured name that appears to start with "Sincere".

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on JUN 25 2013

THE SENATE
TWENTY-SEVENTH LEGISLATURE, 2013
STATE OF HAWAII

ACT 178

S.B. NO.

642
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A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that the State's medical
2 marijuana program was enacted into law in 2000 as a public
3 health program conceived out of compassion for the health and
4 welfare of the seriously ill. After twelve years, the
5 experience of the program indicates that improvements to the law
6 will help to fulfill its original intent by clarifying
7 provisions and removing serious obstacles to patient access and
8 physician participation.

9 The purpose of this Act is to amend the medical use of
10 marijuana law to address the concerns of Hawaii's seriously ill
11 patients.

12 SECTION 2. Section 329-121, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending the definition of "adequate supply" to
15 read:

16 ""Adequate supply" means an amount of marijuana jointly
17 possessed between the qualifying patient and the primary
18 caregiver that is not more than is reasonably necessary to



1 assure the uninterrupted availability of marijuana for the
2 purpose of alleviating the symptoms or effects of a qualifying
3 patient's debilitating medical condition; provided that an
4 "adequate supply" shall not exceed [three mature] seven
5 marijuana plants [~~, four immature marijuana plants, and one~~
6 ~~ounce~~, whether immature or mature, and four ounces of usable
7 marijuana [per each mature plant.] at any given time."

8 2. By amending the definition of "medical use" to read:

9 ""Medical use" means the acquisition, possession,
10 cultivation, use, distribution, or transportation of marijuana
11 or paraphernalia relating to the administration of marijuana to
12 alleviate the symptoms or effects of a qualifying patient's
13 debilitating medical condition. For the purposes of "medical
14 use", the term distribution is limited to the transfer of
15 marijuana and paraphernalia [~~from the primary caregiver to the~~
16 ~~qualifying patient~~]."

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

19 ""Primary caregiver" means a person[~~7~~] eighteen years of
20 age or older, other than the qualifying patient and the
21 qualifying patient's physician, [~~who is eighteen years of age or~~
22 ~~older~~] who has agreed to undertake responsibility for managing



1 the well-being of the qualifying patient with respect to the
2 medical use of marijuana. In the case of a minor or an adult
3 lacking legal capacity, the primary caregiver shall be a parent,
4 guardian, or person having legal custody."

5 4. By amending the definition of "usable marijuana" to
6 read:

7 ""Usable marijuana" means the dried leaves and flowers of
8 the plant Cannabis family Moraceae, and any mixture [+] or [+]
9 preparation thereof, that are appropriate for the medical use of
10 marijuana. "Usable marijuana" does not include the seeds,
11 stalks, and roots of the plant."

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

14 ""Written certification" means the qualifying patient's
15 medical records or a statement signed by a qualifying patient's
16 physician, stating that in the physician's professional opinion,
17 the qualifying patient has a debilitating medical condition and
18 the potential benefits of the medical use of marijuana would
19 likely outweigh the health risks for the qualifying patient.

20 The department of ~~public safety~~ health may require, through
21 its rulemaking authority, that all written certifications comply



1 with a designated form. "Written certifications" are valid for
2 only one year from the time of signing."

3 SECTION 3. Section 329-122, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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

- 8 (1) The qualifying patient has been diagnosed by a
9 physician as having a debilitating medical condition;
- 10 (2) The qualifying patient's physician has certified in
11 writing that, in the physician's professional opinion,
12 the potential benefits of the medical use of marijuana
13 would likely outweigh the health risks for the
14 particular qualifying patient; and
- 15 (3) The amount of marijuana possessed by the qualifying
16 patient does not exceed an adequate supply."

17 SECTION 4. Section 329-123, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§329-123 Registration requirements.** (a) Physicians who
20 issue written certifications shall [register the names,
21 addresses, patient identification numbers,] provide, in each
22 written certification, the name, address, patient identification



1 number, and other identifying information of the [patients
2 ~~issued written certifications with the department of public~~
3 ~~safety.] qualifying patient. The department of health shall~~
4 require, in rules adopted pursuant to chapter 91, that all
5 written certifications comply with a designated form completed
6 by or on behalf of a qualifying patient. The form shall require
7 information from the applicant, primary caregiver, and primary
8 care physician as specifically required or permitted by this
9 chapter. The form shall require the address of the location
10 where the marijuana is grown and shall appear on the registry
11 card issued by the department of health. The certifying
12 physician shall be required to be the qualifying patient's
13 primary care physician. All current active medical marijuana
14 permits shall be honored through their expiration date.

15 (b) Qualifying patients shall register with the department
16 of [public safety.] health. The registration shall be effective
17 until the expiration of the certificate issued by the department
18 of health and signed by the physician. Every qualifying patient
19 shall provide sufficient identifying information to establish
20 the personal identities of the qualifying patient and the
21 primary caregiver. Qualifying patients shall report changes in
22 information within [five] ten working days. Every qualifying

1 patient shall have only one primary caregiver at any given time.
2 The department of health shall [then] issue to the qualifying
3 patient a registration certificate, and [may] shall charge [a
4 ~~reasonable fee not to exceed~~] \$35 [-] per year.

5 (c) Primary caregivers shall register with the department
6 of [~~public safety.~~] health. Every primary caregiver shall be
7 responsible for the care of only one qualifying patient at any
8 given time.

9 (d) Upon [~~an~~] inquiry by a law enforcement agency, which
10 inquiry may be made twenty-four hours a day, seven days a week,
11 the department of [~~public safety~~] health shall immediately
12 verify whether the [~~particular qualifying patient~~] subject of
13 the inquiry has registered with the department of health and may
14 provide reasonable access to the registry information for
15 official law enforcement purposes."

16 SECTION 5. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 7. This Act shall take effect on January 2, 2015.

S.B. NO. 642
H.D. 2
C.D. 1

APPROVED this 25 day of JUN , 2013


Neil Abercrombie

GOVERNOR OF THE STATE OF HAWAII

DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-850 (Interim
Rules)
Hawaii Administrative Rules

July 6, 2023

SUMMARY

Chapter 11-850 (Interim Rules), Hawaii
Administrative Rules, entitled "Medical Cannabis
Dispensaries", is amended and compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 850

MEDICAL CANNABIS DISPENSARIES

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SUBCHAPTER 1

GENERAL PROVISIONS

§11-850-1 Purpose and applicability. (a) The purpose of this chapter is to regulate a statewide dispensary system to ensure safe and legal access to medical cannabis for qualifying patients and qualifying out-of-state patients.

(b) The requirements of this chapter shall apply as indicated; provided that, for cannabis and manufactured cannabis products that are being produced and dispensed as of February 24, 2022:

- (1) Until December 31, 2022, the application of subchapters 7 and 8 shall be limited to the extent that a licensee may continue to produce and dispense the cannabis and manufactured cannabis products in the same manner as they are then currently being produced, as long as the requirements of sections 11-850-110, 11-850-111(c), 11-850-112(b)(3), (4), and (8), 11-850-113, 11-850-114, and 11-850-126 are met; and
- (2) The remaining requirements of subchapters 7 and 8 shall apply to all cannabis and manufactured cannabis products as of January

1, 2023. [Eff 12/14/15; am and comp 2/24/22; am and comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-10, 329D-11, 329D-27) (Imp: HRS §§329D-1 to 329D-27; SLH 2017, Act 170, §3)

§11-850-2 Definitions. As used in this chapter:

"Accreditation body" means an impartial organization that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement for Testing and which requires laboratories to conform to ISO/IEC 17025, the general requirements for the competence of laboratories established by the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

"Actual yield" means the quantity that is actually produced at any appropriate step of manufacture or packaging of a particular manufactured cannabis product.

"Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

"Allergen cross-contact" means the unintentional incorporation of an allergen into cannabis or a manufactured cannabis product.

"Applicant" means an individual applicant and applying entity who are applying for a dispensary license pursuant to chapter 329D, Hawaii Revised Statutes (HRS).

"Applying entity" means a business registered with the department of commerce and consumer affairs applying for a dispensary license pursuant to chapter 329D, HRS.

"Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant genus

cannabis. "Artificially derived cannabinoid" does not include:

- (1) A naturally occurring chemical substance that is separated from the plant genus cannabis by a chemical or mechanical extraction process; or
- (2) Cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

"Batch" means a specific quantity of cannabis or manufactured cannabis product that is intended to be uniform and that is produced during a specified time period covered by a single batch production record during the same production cycle. A batch of cannabis shall contain only cannabis of an identical strain that has been grown and harvested together and exposed to substantially similar conditions throughout cultivation.

"Batch number" means any distinctive group of letters, numbers, or symbols, or any combination of them, from which the complete history of the production, packaging, labeling, and storage of a batch of cannabis or manufactured cannabis products can be determined.

"Blanching" means a pre-packaging heat treatment for an adequate time and at an adequate temperature to partially or completely inactivate naturally occurring enzymes and to effect other physical or biochemical changes.

"Business days" means Monday through Friday, excluding State holidays.

"Cannabinoids" means any of the various naturally occurring, biologically active, chemical constituents of cannabis that bind to or interact with receptors of the endogenous cannabinoid system.

"Cannabis" has the same meaning as defined in section 329-121, HRS.

"Caregiver of a qualifying out-of-state patient" has the same meaning as defined in section 329-121, HRS.

"Certificate of accreditation" means a certificate issued by an accreditation body for a laboratory facility, entity, or site to be registered in Hawaii.

"Certified laboratory" means a laboratory that is certified by the department to analyze cannabis and manufactured cannabis products for content, contamination, and consistency as provided in this chapter.

"Component" means any substance intended for use in the production of a manufactured cannabis product, including those that may not appear in the finished batch of the manufactured cannabis product.

"Contact surface" means any surface that contacts cannabis, a component, or a manufactured cannabis product, and those surfaces from which drainage onto the cannabis, component, or manufactured cannabis product, or onto surfaces that contact the cannabis, component, or manufactured cannabis product, occurs during the normal course of operations. Examples of contact surfaces include containers, utensils, tables, surfaces of equipment, and packaging.

"Contamination" means microbiological, chemical, radiological, or physical substances that either develop in or are added to cannabis, manufactured cannabis products, or ingredients and are capable of causing cannabis or manufactured cannabis products to be:

- (1) Unsafe for consumption or topical use, as intended; or
- (2) In violation of a regulatory standard.

"Days" as used in this chapter means calendar days unless otherwise specified.

"Department" means the state department of health.

"Director" means the director of the state department of health or the director's designee.

"Dispensary facility" means all property designated by a dispensary licensee as a medical cannabis production center or a retail dispensing location, including all property designated by the licensee as a subcontracted medical cannabis

production center or a subcontracted retail dispensing location.

"Dispensary licensee" means an individual applicant and an applying entity who are issued a license by the department and includes their officers, employees, or agents.

"Dispense" or "dispensing" has the same meaning as defined in section 329D-1, HRS.

"Edible cannabis products" has the same meaning as defined in section 329D-10(c), HRS.

"Enclosed indoor facility" has the same meaning as defined in section 329D-1, HRS.

"Final form" means the form cannabis or a manufactured cannabis product is in when it is available for sale at a retail dispensing location. For pre-filled and sealed containers used to aerosolize and deliver cannabis orally, this is the final form of the cannabis, cannabis oils, or cannabis extracts that will be placed into the sealed containers.

"Gummy" or "gummies" means a chewable soft confection made primarily from sugar with gelatin or another gelling agent such as starch or pectin.

"Hemp" has the same meaning as defined in section 328G-1, HRS.

"Hemp product" has the same meaning as defined in section 328G-1, HRS.

"Individual applicant" means an individual authorized by an applying entity to apply for a dispensary license pursuant to chapter 329D, HRS, who shall be the primary point of contact with the department during the application process and after licensing.

"Ingredient" means any substance that is used in the manufacture of a manufactured cannabis product and that is intended to be present in the finished batch of the manufactured cannabis product.

"Manufacture" has the same meaning as defined in section 329D-1, HRS, except that it excludes chemical synthesis of cannabis or its psychoactive constituents.

"Manufactured cannabis product" has the same meaning as defined in section 329D-1, HRS, except that it excludes chemically synthesized cannabis or its psychoactive constituents.

"Medical cannabis dispensary" or "dispensary" has the same meaning as defined in section 329D-1, HRS.

"Medical cannabis production center" or "production center" has the same meaning as defined in section 329D-1, HRS.

"Medical use" has the same meaning as defined in section 329-121, HRS.

"Microorganisms" means yeasts, molds, bacteria, viruses, and other similar microscopic organisms having public health or sanitary concern. This definition includes species that:

- (1) May have public health significance;
- (2) May cause cannabis, a component, or a manufactured cannabis product to decompose; or
- (3) Indicate that the cannabis, component, or manufactured cannabis product is contaminated.

"Pathogen" means a microorganism of public health significance.

"Person" has the same meaning as defined in section 329D-1, HRS.

"Pest" means any objectionable insect or other animal including birds, rodents, flies, mites, and larvae.

"Playground" has the same meaning as defined in section 329D-22(b), HRS.

"Primary caregiver" has the same meaning as defined in section 329-121, HRS.

"Product complaint" means any communication that contains any written, electronic, or oral allegation expressing concern with the quality of cannabis or a manufactured cannabis product for any reason. Examples of product complaints are: Foul odor, off taste, illness or injury, disintegration time, color variation, tablet size or size variation, under-filled container, foreign material in a cannabis or manufactured cannabis product container, improper

packaging, mislabeling, or cannabis or manufactured cannabis products that are superpotent, subpotent, or contain the wrong ingredient, or contain a drug or other contaminant (e.g., bacteria, pesticide, mycotoxin, glass, lead).

"Production" or "produce" has the same meaning as defined in section 329D-1, HRS.

"Psychoactive" means that a chemical substance changes nervous system function and results in alterations in perception, mood, consciousness, cognition, or behavior.

"Qualified individual" means a person who has the education, training, or experience (or a combination thereof) necessary to produce, package, or store clean and safe cannabis or manufactured cannabis products as appropriate to the individual's assigned duties.

"Qualifying out-of-state patient" or "registered qualifying out-of-state patient" has the same meaning as defined in section 329-121, HRS.

"Qualifying patient" has the same meaning as defined in section 329-121, HRS.

"Quality" means that the cannabis or manufactured cannabis product consistently meets established specifications for content, consistency, and limits on contaminants, and has been produced, packaged, labeled, and stored under conditions to prevent contamination.

"Quality control operation" means a planned and systematic procedure for taking all actions necessary to prevent cannabis or manufactured cannabis products from being contaminated.

"Quality control personnel" means any person, persons, or group within a medical cannabis production center designated to be responsible for its quality control operations.

"Registered employee of a dispensary" or "authorized employee of a dispensary" means an individual employed by a dispensary licensee or a dispensary subcontractor, who meets all of the requirements of this chapter for dispensary employees and whose name has been provided to the department by the dispensary licensee.

"Representative sample" means a sample that consists of an adequate number of increments that are drawn based on rational criteria, such as random sampling, and that are intended to ensure that the sample accurately portrays the material being sampled.

"Reprocessing" means using, in the production of cannabis or a manufactured cannabis product, cannabis, manufactured cannabis products, or components that have been previously removed from production and that have been made suitable for use in the production of cannabis or a manufactured cannabis product.

"Reserve sample" means a representative sample of cannabis or manufactured cannabis product that is held for a designated period of time.

"Retail dispensing location" has the same meaning as defined in section 329D-1, HRS.

"Rework" means manufactured cannabis products or components that have been removed from production and that have been successfully made suitable for use as or in manufactured cannabis products.

"Safe moisture level" is a level of moisture low enough to prevent the growth of undesirable microorganisms in the cannabis or manufactured cannabis product under the intended conditions of production and storage. The safe moisture level for a manufactured cannabis product is related to its water activity (a_w). An a_w will be considered safe if adequate data are available that demonstrate that the manufactured cannabis product or component at or below the given a_w will not support the growth of undesirable microorganisms.

"Sanitize" means to adequately treat cleaned equipment, containers, utensils, or any other cleaned contact surface by a process that is effective in destroying vegetative cells of pathogens, and in substantially reducing numbers of other microorganisms, but without adversely affecting the product or its safety for the consumer.

"School" has the same meaning as defined in section 329D-22(b), HRS.

"Scope of accreditation" means a document issued by an accreditation body which describes the

methodologies, range, and parameters for analyzing products for which the accreditation has been granted.

"Standard operating procedure" means written instructions on how to perform tasks and descriptions of the approved or required procedures for accomplishing specific quality assurance objectives.

"Subcontractor" or "contractor" has the same meaning as defined in section 329D-1, HRS.

"Synthetic cannabinoid" has the same meaning as defined in section 328G-1, HRS.

"Theoretical yield" means the quantity that would be produced at any appropriate step of manufacture or packaging of a particular manufactured cannabis product, based upon the quantity of components or packaging to be used, in the absence of any loss or error in actual production.

"Time/temperature control for safety product" means a manufactured cannabis product that:

- (1) Requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation; and
- (2) If regulated as a food, would meet the definition of a "time/temperature control for safety food" in the U.S. Food and Drug Administration 2017 Food Code (9th edition).

"Total tetrahydrocannabinol" or "total THC" means the sum of the percentage by weight of:

- (1) Delta-9-tetrahydrocannabinolic acid (D9-THCA) multiplied by 0.877;
- (2) Delta-9-tetrahydrocannabinol (D9-THC); and
- (3) Delta-8-tetrahydrocannabinol (D8-THC).

"Water activity" or " a_w " is a measure of the free moisture in cannabis, a component, or a manufactured cannabis product and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature. [Eff 12/14/15; am and comp 2/24/22; am and comp 4/29/22; am and comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-10, 329D-11, 329D-27) (Imp: HRS §§329-121, 329D-1 to 329D-27; SLH 2017, Act 170, §3)

§11-850-3 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff 12/14/15; comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG -7 2023] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-1 to 329D-27)

§11-850-4 Disclaimer. Nothing in this chapter is intended to represent anything about the legality of the use or possession of cannabis pursuant to federal law. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG -7 2023] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-1 to 329D-27; SLH 2017, Act 170, §3)

§11-850-5 Number of licenses per county. (a) The department may issue eight dispensary licenses statewide including three licenses for the city and county of Honolulu, two licenses for the county of Hawaii, two licenses for the county of Maui, and one license for the county of Kauai. No dispensary license shall be issued for the county of Kalawao.

(b) Beginning October 1, 2018, the department may issue dispensary licenses in addition to those authorized by subsection (a), based on qualifying patient need; provided that:

- (1) No more than one license may be issued per five hundred qualifying patients residing in any single county;
- (2) In considering whether to award a new license, the department shall consider an applicant's capability to serve and supply

medical cannabis to qualifying patients in a rural or underserved geographical area of a county; and

- (3) A "rural or underserved geographical area" shall be determined by considering the number of registered qualifying patients that reside within a certain zip code compared to the quantity of medical cannabis that the closest production center and retail dispensing location have the capability to provide.

(c) The number of licenses the department issues is subject to the availability of qualified applicants in each county. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023]

(Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-2, 329D-7)

\$11-850-6 Number of production centers per license; allowable number of plants. (a) A dispensary licensee shall be allowed to operate up to three production centers.

(b) Each production center shall be limited to no more than five thousand cannabis plants; provided that the department may determine whether a dispensary licensee shall be allowed an additional two thousand five hundred cannabis plants at a licensee's production center, provided that a licensee shall be allowed no more than fifteen thousand cannabis plants in total across all of the licensees' production centers. No more than seven thousand five hundred plants shall be allowed at a single production center. For purposes of this section, "plant" means a cannabis plant that is greater than twelve vertical inches in height from where the base of the stalk emerges from the growth medium to the tallest point of the plant, or greater than twelve horizontal inches in width from the end of one branch to the end of another branch; provided that multiple stalks emanating from the same root ball or root system shall be considered part of

the same single plant. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp **AUG - 7 2023**] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §329D-2)

§11-850-7 Number of retail dispensing locations per license. (a) A dispensary shall be allowed to operate up to two retail dispensing locations; provided that the department may determine whether a dispensary licensee shall be allowed no more than two additional retail dispensing locations. In considering whether to allow additional retail dispensing locations, the department shall consider the licensee's capability to serve and supply medical cannabis to qualified patients in a rural or underserved geographical area of a county, as defined in 329D-2(1).

(b) No more than one retail dispensing location may be located at the same address. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp **AUG - 7 2023**] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §329D-2)

§11-850-8 Restrictions. (a) A person shall not be granted more than one dispensary license.

(b) A dispensary license shall not be sold or otherwise transferred from one person to another person, except with the prior written approval of the department following notice given in accordance with section 329D-5.5, HRS.

(c) A dispensary facility shall not be permitted within seven hundred fifty feet of the real property comprising a playground or school. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp **AUG - 7 2023**] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-2, 329D-3, 329D-5.5, 329D-6, 329D-22)

§11-850-9 Subcontractors. (a) The provisions of this chapter and chapter 329D, HRS, shall apply to a subcontractor in the same manner as to a dispensary licensee.

(b) A dispensary licensee shall not subcontract with any person who is subcontracted to another dispensary licensee for the production or dispensing of cannabis or manufactured cannabis products. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp ~~AUG - 7 2023~~] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-1 to 329D-27; SLH 2017, Act 170, §3)

§11-850-10 (Reserved).

SUBCHAPTER 2

LICENSING

§11-850-11 License required. No person shall operate a medical cannabis dispensary unless the person has a license issued by the department pursuant to this chapter. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp ~~AUG - 7 2023~~] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-2, 329D-5, 329D-6; SLH 2017, Act 170, §3)

§11-850-12 Application. (a) An application for a dispensary license shall include both an individual applicant and an applying entity and they shall apply to the department on a form and in a manner prescribed by the department.

(b) The department shall establish an open application period for available licenses.

(c) The department shall publish notice of the open application period no less than thirty days prior to the start of the open application period. The notice shall include but not be limited to:

- (1) The date and time the open application period begins and ends;
- (2) Where and how to obtain an application form;
- (3) Where and how to submit an application form;
- (4) Where to obtain a copy of the rules; and
- (5) Information about the merit scoring system.

(d) The department shall post on its website the names of all individual applicants and applying entities.

(e) Information and statements provided in an application shall become conditions of a license if the application is selected, and failure to satisfy the conditions will be cause for revocation or denial of renewal. [Eff 12/14/15; comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-4)

§11-850-13 Minimum qualifications for individual applicant. An individual applicant shall:

- (1) Be not less than twenty-one years of age;
- (2) Be a legal resident of the State for not less than five years preceding the date of application;
- (3) Not have any felony convictions or any other disqualifying background history in accordance with this chapter; and
- (4) Be authorized by the applying entity to submit an application for a dispensary license, and act as the primary point of contact with the department. [Eff 12/14/15; comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-3, 329D-7)

§11-850-14 Documentation and information for individual applicant. (a) An individual applicant shall provide the following required information and documents:

- (1) Legal name, date of birth, legal residence, last four digits of the applicant's social security number, mailing address, and principal residence address if different from the mailing address, phone number, facsimile number, email address, whether the individual applicant was convicted of a felony, the person's authority to act on behalf of the applying entity, and date of start of residency in the State of Hawaii; and
- (2) The following supporting documents shall be submitted at the time of application:
 - (A) To establish legal name an applicant must present at least one of the following source documents:
 - (i) Certified copy of a birth certificate or marriage certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth or marriage;
 - (ii) Valid, unexpired U.S. passport or U.S. passport card;
 - (iii) Consular report of birth abroad Form FS-240, DS-1350 or FS-545 issued by the U.S. Department of State;
 - (iv) Valid, unexpired permanent resident card (Form I-551) issued by the Department of Homeland Security (DHS) or the U.S. Citizenship and Immigration Services (USCIS);

- (v) Unexpired employment authorization document issued by the DHS, Form I-766 or Form I-688B;
 - (vi) Unexpired foreign passport with the following: a valid, unexpired U.S. visa affixed, and an approved I-94 form documenting the applicant's most recent admittance into the United States or a DHS admittance stamp on the passport;
 - (vii) Certificate of naturalization issued by DHS, Form N-550 or Form N-570;
 - (viii) Certificate of citizenship, Form N-560 or Form N-561, issued by DHS
 - (ix) Court-issued, certified copy of a divorce decree; or
 - (x) Certified copy of a legal change of name order;
- (B) To establish date of birth an applicant must present at least one of the following source documents:
- (i) At least one document included in clauses (i) through (viii) of subparagraph (A) of this paragraph; or
 - (ii) Valid, unexpired driver's license or government issued photo identification card;
 - (iii) To establish residency in the State of not less than five years preceding the application, an applicant must present at least one of the following source documents:
 - (iv) State of Hawaii tax return Form N-11 for each of the five years preceding the application without schedules, worksheets, or attachments, and redacted to remove all financial information and all but the last four digits

- of the individual's social security number;
- (v) Evidence of voter registration;
- (vi) Ownership, lease, or rental documents for place of primary domicile;
- (vii) Billing statements including utility bills; or
- (viii) Vehicle registration;
- (D) To establish proof of no felony convictions or other disqualifying background information, an individual applicant shall provide the following documentation:
- (i) Report and validation code from an eCrim report generated by the Hawaii Criminal Justice Data Center not more than 60 days prior to the date of application; and
- (ii) Consent to a background check including fingerprinting; and
- (E) Documentation of the authority of the individual to act on behalf of the applying entity.
- (b) The information and documents shall be submitted in a manner prescribed by the department in the notice of open application, and all of the original documents or certified copies shall be retained on file by the applicant and be subject to physical inspection by the department as part of the application evaluation process. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-3, 329D-4, 329D-7, 329D-12)

\$11-850-15 Minimum qualifications for applying entity. An applying entity shall:

- (1) Be organized under the laws of the State;
- (2) Have a Hawaii tax identification number;

- (3) Have a department of commerce and consumer affairs business registration division number and suffix;
- (4) Have a federal employer identification number;
- (5) Not be less than fifty-one per cent held by Hawaii legal residents or entities wholly controlled by Hawaii legal residents who have been legal residents for not less than five years immediately preceding the date the application was submitted;
- (6) Have financial resources under its control of not less than \$1,000,000 for each license applied for, plus not less than \$100,000 for each retail dispensing location allowed under the license applied for, in the form of bank statements or escrow accounts, and those financial resources shall have been under the control of the applying entity for not less than ninety days immediately preceding the date the application was submitted; and
- (7) Be composed of owners, principals, or members, each of whom is not less than twenty-one years of age and has no felony convictions or any other disqualifying background history in accordance with section 11-850-17. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-3, 329D-7)

§11-850-16 Documentation and information for applying entity. (a) An applying entity shall provide the following required information and documents:

- (1) Name of the applying entity and any other name under which the applying entity does business; street address, telephone number,

facsimile number, email address; date the applying entity was organized under the laws of Hawaii; Hawaii tax identification number; federal employer identification number; names of owners and percentage of ownership for each; designation of the county for which the applicant is applying for a license; and

- (2) The following supporting documents shall be submitted at the time of application:
- (A) To establish that not less than fifty-one per cent of an entity applicant is held by Hawaii legal residents or entities wholly controlled by individuals who have been legal residents for not less than five years immediately preceding the date of application an applying entity shall present the source documents listed in section 11-850-14(a)(2)(C) for each owner whose shares count toward the fifty-one per cent ownership requirement;
 - (B) A tax clearance certificate issued by the department of taxation dated not more than thirty days prior to the date of the application;
 - (C) A certificate of good standing and business registration division number and suffix from the department of commerce and consumer affairs;
 - (D) Copies of the entity's bank statements for the twelve months prior to the date of application;
 - (E) A certified copy of the organizing documents of the applying entity;
 - (F) A copy of the applying entity's bylaws;
 - (G) To establish that the applying entity has financial resources under its control of not less than \$1,000,000 for each license applied for, plus not less than \$100,000 for each retail

dispensing location allowed under the license applied for, and that the financial resources have been under the control of the applying entity for not less than ninety days prior to the date of application an applying entity shall present the following:

- (i) Copies of bank statements; or
- (ii) Escrow accounts;

(H) To establish legal name and date of birth for each owner, principal, or member, an applying entity shall submit any of the documents listed in section 11-850-14(a)(2)(A) and any of the documents listed in section 11-850-14(a)(2)(B); and

(I) To establish proof of no felony convictions for each individual listed in section 11-850-17(a)(2), an applying entity shall provide the following documentation for each:

- (i) Report and validation code from an eCrim report generated by the Hawaii Criminal Justice Data Center not more than 60 days prior to the date of application; and
- (ii) Consent to a background check including fingerprinting.

(b) The information and documents shall be submitted in a manner prescribed by the department in the notice of open application, and all of the original documents or certified copies shall be retained on file by the applicant and be subject to physical inspection by the department as part of the application evaluation process. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp

AUG -7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-3, 329D-4, 329D-7, 329D-12)

§11-850-17 Background checks. (a) The following are subject to background checks conducted by the department or its designee:

- (1) The individual applicant or licensee;
- (2) All officers, directors, members of a limited liability corporation, shareholders with at least twenty-five per cent ownership interest in a corporation, and managers of an entity applicant or licensee;
- (3) Each employee of a dispensary;
- (4) Each subcontractor of a dispensary;
- (5) All officers, directors, members of a limited liability corporation, shareholders with at least twenty-five per cent ownership interest in a corporate owner, and managers of a subcontracted production center or retail dispensing location;
- (6) Each employee of a subcontracted production center or retail dispensing location;
- (7) Any person permitted to enter or remain in a dispensary facility pursuant to section 329D-15(a)(4) or 329D-16(a)(3), HRS; and
- (8) Agents of any of the above persons.

(b) A person subject to background checks as provided in subsection (a) shall be disqualified as an individual applicant or licensee, be disqualified as an entity applicant or licensee, be prohibited from entering a dispensary, and be prohibited from having any responsibility for operating a dispensary, if the person:

- (1) Has a conviction related to use, possession, or distribution of drugs or intoxicating compounds;
- (2) Has a conviction for a crime involving violence;
- (3) Has a conviction for a crime involving a firearm;
- (4) Has a conviction for a crime involving theft, or business or commercial fraud; or
- (5) Has any other background history that the department finds would pose a risk to the health, safety, or welfare of the public, a

qualifying patient, or a qualifying out-of-state patient, considering the nature of the offense, the time elapsed since the offense occurred, and evidence of rehabilitation.

(c) A dispensary licensee shall deny employment to any individual who has been convicted of:

- (1) Murder in any degree;
- (2) A class A or class B felony; or
- (3) A class C felony involving trafficking, distributing, or promoting a schedule I or II controlled substance other than cannabis within the last ten years.

(d) A dispensary licensee may deny employment to any individual who has been convicted of a class C felony involving:

- (1) Fraud, deceit, misrepresentation, embezzlement, or theft; or
- (2) Endangering the welfare of a minor.

(e) A person subject to background checks pursuant to section 329D-12(a)(5), HRS, shall be disqualified to enter the premises of a dispensary facility if the person has a felony conviction;

(f) Each person undergoing a background check shall provide written consent and all applicable processing fees to the department or its designee to conduct the background check.

(g) All dispensary licensees shall have written policies and procedures on conducting and maintaining current background checks on all of the persons listed in subsection (a) which shall include but not be limited to notifying the department immediately of any arrest or conviction for an offense listed in subsections (b) to (e). [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp

AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27, 846-2.7) (Imp: HRS §§329D-3, 329D-6, 329D-7, 329D-12, 329D-15, 329D-16)

§11-850-18 Application fee. (a) Each application for a dispensary license shall include a

non-refundable application fee of \$5,000 by certified check or cashier's check payable to State of Hawaii Department of Health, delivered or mailed by certified mail, return receipt requested, to: Department of Health, Medical Cannabis Dispensary Licensing Section, 601 Kamokila Blvd., Rm. 337, Kapolei, HI, 96707.

(b) The application fee must be received by the department or postmarked by 4:30 pm HST on the last day of the open application period.

(c) An application is not complete and will not be considered unless the application fee is timely received by the department as stated in subsection (b). [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-4, 329D-7)

\$11-850-19 Verification of application. (a)

After receipt of an application, the department shall verify that the application and supporting documentation is complete, and the information submitted in the application is true and valid, and meets the requirements of section 329D-3, HRS.

(b) Applications that meet the requirements of section 329D-3, HRS, shall be placed into the pool of applicants for further review and selection based on merit, and the department shall notify the applicant in writing.

(c) Applications that do not meet the requirements of section 329D-3, HRS, shall be denied pursuant to section 11-850-24, and the department shall notify the applicant in writing. [Eff 12/14/15; comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-3, 329D-4, 329D-5, 329D-7)

\$11-850-20 Selection process and criteria based on merit. (a) The department shall consider the

following criteria based on merit to evaluate applications verified pursuant to section 11-850-19:

- (1) Ability to operate a business, including but not limited to education, knowledge, and experience with:
 - (A) Regulated industries;
 - (B) Agriculture or horticulture;
 - (C) Commercial manufacturing;
 - (D) Pharmaceutical companies;
 - (E) Operating or working in a medical cannabis dispensary business;
 - (F) Creating and implementing a business plan, including a timeline for opening a business;
 - (G) Creating and implementing a financial plan;
 - (H) Retail sales;
 - (I) Secure inventory tracking and control;
 - (J) Protecting confidential customer information;
 - (K) Owning or managing a business that required twenty-four hour security monitoring; and
 - (L) Any other experience the applicant considers relevant;
- (2) Plan for operating a medical cannabis dispensary in the county for which the applicant is seeking a license, including but not limited to a timeline for opening a retail dispensing location;
- (3) Proof of financial stability and access to financial resources, including but not limited to:
 - (A) Legal sources of finances immediately available to begin operating a dispensary;
 - (B) A summary of financial statements in businesses previously or currently owned or operated by the applicant;
 - (C) A financial plan for operating a medical cannabis dispensary in Hawaii;
 - (D) Good credit history; and

- (E) History of bankruptcy by the applicant or entities owned or operated by the applicant;
- (4) Ability to comply with the security requirements of this chapter and section 329D-7, HRS;
- (5) Capacity to meet the needs of qualifying patients and qualifying out-of-state patients, including but not limited to:
 - (A) Educating patients on how cannabis can be used to assist patients with debilitating medical conditions and about the cannabis and manufactured cannabis products that will be available in the applicant's retail dispensing locations;
 - (B) Producing and maintaining a supply of cannabis that is sufficient to meet the needs of qualifying patients and qualifying out-of-state patients;
 - (C) Providing safe, accessible retail dispensing locations; and
 - (D) Measuring and improving customer satisfaction;
- (6) Ability to comply with criminal background check requirements pursuant to this chapter and sections 329D-6, 329D-12, and 846-2.7, HRS;
- (7) Ability to comply with the requirements in this chapter and chapters 329 and 329D, HRS, for inventory tracking, security, and sales limits for qualifying patients and qualifying out-of-state patients;
- (8) Ability to maintain confidentiality of a qualifying patient's or qualifying out-of-state patient's medical condition, health status, and purchases of cannabis or manufactured cannabis products;
- (9) Ability to comply with the requirements for certified laboratory analysis of cannabis and manufactured cannabis products pursuant to this chapter;

- (10) Ability to comply with requirements for signage, packaging, labeling, and chain of custody of products;
 - (11) A plan for secure disposal or destruction of cannabis and manufactured cannabis products;
 - (12) Ability to ensure product safety, in accordance with this chapter; and
 - (13) No history of having a business license revoked.
- (b) Each merit criterion will be worth a number of points announced by the department in the notice of open application period.
- (c) The department shall group the applications according to the county of proposed licensure.
- (d) A review panel comprised of members designated by the department who have relevant expertise shall evaluate the applications and award points for each merit criterion. The points shall be totaled for each application and the applications ranked from the highest total score to the lowest total score within each group.
- (e) In order to be awarded a license based on merit criteria, an applicant must be able to show the ability to operate a dispensary.
- (f) The department shall award a dispensary license to the highest scoring applicant or applicants within each group. The department shall notify in writing each of the applicants of their respective score and ranking for their respective group. The department shall post on its website the total score for each applicant.
- (g) The department shall hold unselected applications in reserve to offer a license to the next highest scoring applicant if the highest scoring applicant fails to pay the licensing fee in accordance with section 11-850-21. When all available licenses within each group have been issued, the department shall remove all unselected applications from its list of reserved applications in that group and notify all applicants. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth:

HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-5, 329D-7; SLH 2017, Act 170, §3)

§11-850-21 Licensing fee and issuance of license. (a) Within seven days of receiving written notice of selection from the department, the selected applicant shall submit to the department a dispensary license fee of \$75,000 by certified or cashier's check made payable to: State of Hawaii Department of Health.

(b) If the dispensary license fee is not timely paid, the selected applicant will be disqualified, and the department shall select the next highest scoring applicant within the segregated group of applications in accordance with section 11-850-20.

(c) Upon issuance of a dispensary license, the dispensary licensee may begin operations; provided that it may not begin producing or dispensing cannabis or manufactured cannabis products until it receives a written notice to proceed from the department for each phase of production and for dispensing, following inspections to determine compliance with this chapter and chapter 329D, HRS. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp

AUG - 7 2013] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-4, 329D-5, 329D-6, 329D-7; SLH 2017, Act 170, §3)

§11-850-22 Narcotics enforcement division certificate. (a) Upon award of a license pursuant to section 11-850-21, a dispensary licensee shall apply to the department of public safety narcotics enforcement division (NED) and obtain a certificate to possess and handle cannabis and manufactured cannabis products.

(b) A dispensary licensee shall provide proof of the NED certificate to the department within seven days of obtaining the certificate.

(c) The dispensary licensee shall maintain the certificate throughout the licensing period, and shall notify the department immediately if the NED certificate is suspended or revoked. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG -7-2023] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329-33, 329D-9; SLH 2017, Act 170, §3)

§11-850-23 Term. A license shall be valid for one year from the date issued unless suspended or revoked by the department, or unless surrendered by the dispensary licensee. [Eff 12/14/15; comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG -7-2023] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-4, 329D-21)

§11-850-24 Denial of application for or renewal of a license. (a) The department may deny an application for or renewal of a license for any of the following reasons:

- (1) Failure to provide the information required in sections 11-850-13 through 11-850-17;
- (2) Failure to meet the requirements set forth in this chapter or chapter 329D, HRS;
- (3) Provision of misleading, incorrect, false, or fraudulent information;
- (4) Failure to pay all applicable fees as required;
- (5) Receipt of an application evaluation score lower than the successful applicants for the respective county;
- (6) An applicant has a background history that indicates the applicant does not have a reputable and responsible character or would pose a risk to the health, safety, or welfare of the public, qualifying patients, or qualifying out-of-state patients; or
- (7) Any other ground that serves the purpose of this chapter or chapter 329D, HRS.

(b) If the department denies an application for or renewal of a license, the department shall notify the applicant in writing of the department's decision, including the reason for the denial.

(c) A person aggrieved by a decision made pursuant to this section may appeal by filing a request in writing for a hearing before the director within twenty days from receipt of the notice of denial. Any hearing conducted under this section shall be conducted as a contested case under chapter 91, HRS, and chapter 11-1. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp *AUG -7-2022*] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-3, 329D-4, 329D-5, 329D-6, 329D-12, 329D-15, 329D-16)

\$11-850-25 License renewal process. (a) A license may be renewed if the dispensary licensee:

- (1) Submits to the department a renewal application on a form and in a manner prescribed by the department at least sixty days prior to the expiration date on the license;
- (2) Continues to meet all the requirements of this chapter and chapter 329D, HRS; and
- (3) Submits the renewal fee to the department as required in subsection (c).

(b) Before renewing a license, the department may require further information and documentation and may conduct additional background checks to determine that the licensee continues to meet the requirements of this chapter and chapter 329D, HRS.

(c) After receiving written notice from the department that its renewal application has been approved, the dispensary licensee shall pay the annual renewal fee calculated by the department in accordance with section 11-850-28 by certified or cashier's check payable to: State of Hawaii Department of Health prior to the expiration date on the license.

(d) A dispensary licensee whose license is not renewed shall cease all operations immediately upon expiration of the license, return the license to the department, and destroy all cannabis and manufactured cannabis products in the dispensary licensee's possession pursuant to this chapter. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp ~~AUG - 7 2020~~] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-2, 329D-3, 329D-4, 329D-6, 329D-7; SLH 2017, Act 170, §3)

§11-850-26 Surrender of license. (a) A dispensary may voluntarily surrender a license to the department at any time.

(b) If a dispensary voluntarily surrenders a license, the dispensary shall:

- (1) Return the license to the department;
- (2) Submit a report to the department including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained; and
- (3) Destroy all cannabis and manufactured cannabis products in its possession pursuant to this chapter.

(c) No portion of the licensing fee shall be returned to the dispensary licensee if the license is voluntarily surrendered prior to the expiration of the license. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp ~~AUG - 7 2020~~] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-2, 329D-4, 329D-6, 329D-7, 329D-18; SLH 2017, Act 170, §3)

§11-850-27 Change in information. (a) The dispensary licensee shall notify the department of any changes in contact information.

(b) The dispensary licensee shall notify the department in writing no less than fourteen days in advance of any change that may affect the licensee's qualifications for licensure, and submit to the department supporting documentation to prove the dispensary licensee continues to be qualified. In the event of a change for which a dispensary licensee does not have prior notice, the licensee shall notify the department immediately upon learning of the change.

[Eff 12/14/15; comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG -7 2023] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §§329D-3, 329D-4)

§11-850-28 License renewal fee. (a) The license renewal fee shall be calculated by the department by determining and adding the applicable base fee for each production center owned, operated, or subcontracted by the licensee in accordance with subsection (b) and the base fee for each retail dispensing location owned, operated, or subcontracted by the licensee in accordance with subsection (c) and discounting the total by the sum of the discount percentages applicable to the licensee in accordance with subsections (d) and (e).

(b) Fees per production center. The base fee for each medical cannabis production center shall be determined using the following table and is based upon a combination of the maximum number of plants cultivated at the production center and the type of manufacturing operations taking place at the production center.

Number of plants	Manufacturing operations		
	Cultivation, packaging, and labeling only	Solvent-less, water-based, or	Other processes, including hydrocarbon-

		CO ₂ -based processes	and alcohol-based
Up to 2,500 plants	\$25,000	\$35,000	\$40,000
Up to 5,000 plants	\$50,000	\$60,000	\$65,000
Up to 7,500 plants	\$75,000	\$85,000	\$90,000

(c) Fees per retail dispensing location. The base fee for each retail dispensing location shall be \$20,000.

(d) Discount percentage based on market conditions in each county. The total base fee shall be adjusted by the applicable discount percentage for the licensee's county of operation.

- (1) Oahu (City and County of Honolulu): zero per cent discount.
- (2) Hawaii: Five per cent discount.
- (3) Maui: Five per cent discount.
- (4) Kauai: Ten per cent discount.

(e) Discount percentage based on market share. The total base fee shall be adjusted by the applicable discount percentage for the licensee's prior year market share, which is the licensee's prior year gross sales divided by the sum of prior year gross sales for all licensees, as calculated by the department, expressed as a percentage.

- (1) Market share greater than twenty per cent: Zero per cent discount.
- (2) Market share between ten and twenty per cent: Five per cent discount.
- (3) Market share less than ten per cent: Ten per cent discount.

(f) Prorated fees for new production center or retail dispensing location. Before the department issues final approval for a licensee to begin operating a new production center or retail dispensing

location in accordance with section 11-850-32 or 11-850-33, respectively, the licensee shall pay an additional licensing fee for the new location. The fee shall be calculated by the department as follows:

- (1) For a production center, the base fee shall be determined using the table in subsection (b) based upon a combination of the maximum number of plants to be cultivated at the production center and the planned type of manufacturing operations;
- (2) For a retail dispensing location, the base fee shall be \$20,000;
- (3) The base fee shall be discounted by the sum of the discount percentages applicable to the licensee in accordance with subsections (d) and (e); and
- (4) The discounted fee shall be prorated for the remaining term of the licensee's current license, on a calendar day basis. [Eff 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-2, 329D-4, 329D-6, 329D-7)

§§11-850-29 to 11-850-30 (Reserved).

SUBCHAPTER 3

OPERATIONS

§11-850-31 Dispensary operations. (a) In all dispensary facilities, only the individual licensee, authorized employees of the dispensary, authorized employees of the subcontracted dispensary facilities, employees of a certified laboratory for analysis purposes, state employees authorized by the director, and law enforcement and other government officials

acting in their official capacity shall be permitted to touch or handle any cannabis or manufactured cannabis products; provided that a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient may receive cannabis or manufactured cannabis products at a retail dispensing location following completion of a sale.

(b) A retail dispensing location shall not be at the same location as a production center. Considerations for determining whether locations are the same include proximity and whether there are separate buildings, entrances, and parking areas.

(c) No dispensary licensee, including a dispensary licensee's officers, employees, agents, or anyone with any financial interest in a licensed dispensary shall provide written certification pursuant to chapter 329, HRS, for the medical use of cannabis for any person. A dispensary shall not provide to a physician or advanced practice registered nurse who provides written certification any benefit or consideration, including payment, discount, advertising, office space, or event space. A dispensary shall not provide to patients, directly or indirectly, any benefit for seeking or receiving written certification from a particular physician or advanced practice registered nurse.

(d) A dispensary licensee shall maintain and follow all policies and procedures required by this chapter.

(e) Sale and transportation of cannabis or manufactured cannabis products from one dispensary licensee to any other dispensary licensee shall be completed in accordance with sections 11-850-36 and 11-850-45. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; am and comp

AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-2, 329D-6, 329D-7, 329D-17, 329D-18; SLH 2017, Act 170, §3)

§11-850-32 Production centers. (a) Not less than thirty days prior to producing or manufacturing any cannabis or manufactured cannabis products at a licensed production center, a dispensary licensee shall provide the department with the address, tax map key number, and a copy of the premises title or lease, as applicable, of the proposed location of that production center and allow the department to inspect the premises to determine the dispensary's ability to comply with the requirements of this chapter and chapter 329D, HRS.

(b) Until the department approves its facility and the licensee pays the fee calculated by the department in accordance with section 11-850-28(f), the dispensary shall not possess cannabis or begin producing or manufacturing cannabis or manufactured cannabis products at the facility.

- (c) Production centers shall:
 - (1) Remain secured pursuant to this chapter at all times;
 - (2) Be in an enclosed indoor facility;
 - (3) Be accessible to authorized individuals only as identified in this chapter;
 - (4) Maintain a twenty-four hour security system pursuant to this chapter and chapter 329D, HRS; and
 - (5) Display a copy of the current, valid dispensary license and current, valid narcotics enforcement division certificate at all times.

(d) Production centers shall not allow the entry of animals, except service animals as defined in section 347-2.5, HRS, guard dogs or pest-detecting dogs allowed under section 11-850-113(c), and beneficial insects. Service animals shall:

- (1) Be allowed only if a health or safety hazard will not result from the presence or activities of the service animal; and
- (2) Not be allowed to enter areas where cannabis, manufactured cannabis products, or components are exposed or where equipment or utensils are washed.

(e) Hemp shall not be produced, handled, stored, or processed in a medical cannabis production center. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-2, 329D-6, 329D-7, 329D-18; SLH 2017, Act 170, §3)

\$11-850-33 Retail dispensing locations. (a)

Not less than sixty days prior to opening a licensed retail dispensing location for business, a dispensary licensee shall provide the department with the address, tax map key number, and a copy of the premises title or lease, as applicable, of the proposed location of that retail dispensing location and allow the department to inspect the premises to determine the dispensary's ability to comply with the requirements of this chapter and chapter 329D, HRS.

(b) Until the department approves its facility and the licensee pays the fee calculated by the department in accordance with section 11-850-28(f), the retail dispensing location shall not possess or dispense cannabis or manufactured cannabis products.

(c) Retail dispensing locations shall:

- (1) Remain locked at all times;
- (2) Not be open for dispensing before 8:00 a.m. or after 8:00 p.m., Hawaii-Aleutian Standard Time, Monday through Sunday;
- (3) Be in an enclosed indoor facility;
- (4) Be accessible to authorized individuals only as identified in this chapter;
- (5) Maintain a twenty-four hour security system pursuant to this chapter;
- (6) Require a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient to present a valid government-issued photo identification and a valid medical use of cannabis registration card issued by the department pursuant to chapter 329, HRS, before entering the premises;

- (7) Record the name and entry and exit date and time of all persons entering the retail dispensing location in accordance with subsection 11-850-51(a)(5);
 - (8) Display a copy of the current, valid dispensary license, current, valid narcotics enforcement division certificate, and any other required permits or licenses at all times;
 - (9) Store all cannabis or manufactured cannabis products behind a counter or other barrier to ensure that a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient does not have direct access to the product prior to sale.
- (d) Retail dispensing locations shall not:
- (1) Provide free samples of cannabis or manufactured cannabis products;
 - (2) Dispense cannabis or manufactured cannabis products as premade or manufactured cigarettes or in any form prepared specifically for smoking or inhaling, except for forms specifically designed for use in devices that provide safe pulmonary administration pursuant to subsection 11-850-72(a)(4) to (5);
 - (3) Make available for sale or as gifts or premiums any supplies or paraphernalia that provide for the use of medical cannabis in smokable or inhalable form, except for devices that provide safe pulmonary administration pursuant to subsection 11-850-72(a)(4) to (5);
 - (4) Dispense cannabis or manufactured cannabis products to a qualifying patient or qualifying out-of-state patient who is under the age of eighteen years; or
 - (5) Allow the entry of animals, except for service animals as defined in section 347-2.5, HRS. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22;

comp AUG - 7 2023] (Auth: HRS §§321-9,
329D-7, 329D-27) (Imp: HRS §§329-122,
329D-2, 329D-6, 329D-7; SLH 2017, Act 170,
§3)

§11-850-34 Dispensary employees. (a) A dispensary licensee shall establish and maintain written policies and procedures governing the qualifications, recruitment, hiring, and training of operators, employees, or subcontractors of production centers and retail dispensary locations.

(b) No person under the age of twenty-one shall be employed by a dispensary facility.

(c) Operators, employees, and subcontractors shall wear an identification badge issued by the dispensary with the photograph and name of the wearer in a visible location at all times when on the premises of a dispensary facility.

(d) A dispensary licensee shall provide training upon hire and annually to each employee. The training shall include, but not be limited to the following:

- (1) Health, safety, and sanitation standards in accordance with this chapter;
- (2) Security pursuant to this chapter;
- (3) Prohibitions and enforcement pursuant to this chapter;
- (4) Confidentiality pursuant to this chapter; and
- (5) All other provisions of this chapter and chapter 329D, HRS, that apply to that person's scope of employment.

(e) The dispensary licensee shall provide the names of all employees and subcontractors to the department and shall immediately notify the department in writing of any change in the employment status of any of its employees or subcontractors. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-15, 329D-16, 329D-17, 329D-18, 329D-19)

\$11-850-35 Employee records. (a) A dispensary licensee shall have available at each dispensary facility a time clock or other adequate method to record the month, day, year, and time that each employee arrives at and leaves the facility.

(b) Time record entries shall be made at the time an employee reports for duty and again when the employee goes off duty and at any time the employee leaves and returns to the premises for any reason.

(c) A dispensary licensee shall maintain all employee records, including the specific employee training provided and hours worked in accordance with section 11-850-41. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp

AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-15, 329D-16, 329D-17, 329D-18, 329D-19)

\$11-850-36 Transport. (a) A dispensary licensee may transport cannabis and manufactured cannabis products between its facilities, between its facilities and a laboratory for analysis, and from its production center to the production center of another dispensary licensee that is purchasing the cannabis or manufactured cannabis product in accordance with section 11-850-45.

(b) Only employees designated by the dispensary licensee, who are trained and knowledgeable on the transportation protocols required by this chapter, shall transport cannabis and manufactured cannabis products. Every transport of cannabis and manufactured cannabis products shall be accompanied by at least one employee.

(c) Each time cannabis and manufactured cannabis products are transported, the dispensary licensee shall prepare a manifest on a form prescribed by the

department that lists the elements required by the department's tracking system.

(d) A dispensary licensee shall only transport cannabis or manufactured cannabis products that are listed on the manifest.

(e) A dispensary licensee shall transport cannabis or manufactured cannabis products in secured containers. The dispensary licensee shall include a copy of the manifest in the interior and on the exterior of the container.

(f) For transport from a dispensary facility, a transport container shall be packed, secured, and loaded in full view of security surveillance cameras. For transport to a dispensary facility, a transport container shall be unloaded and unpacked in full view of security surveillance cameras.

(g) Cannabis and manufactured cannabis products shall be transported under conditions that maintain their quality and safety.

(h) Upon receipt of cannabis and manufactured cannabis products the dispensary licensee or the laboratory shall:

- (1) Unpack the transported cannabis or manufactured cannabis products and verify the container contents against the associated manifest within twenty-four hours of receipt;
- (2) Immediately report to the department any discrepancies between what is received and what is on the manifest or if any seal on the container is broken;
- (3) Immediately initiate an investigation into any discrepancies found and any broken seal; and
- (4) Submit a written report of the discrepancy, broken seal, investigation, and resolution to the department within three calendar days of the initial report.

(i) The designated employees transporting cannabis and manufactured cannabis products shall not stop at a location not listed on the manifest.

(j) The dispensary licensee shall transport cannabis and manufactured cannabis products using routes that reduce the possibility of theft or diversion.

(k) A dispensary licensee shall not transport cannabis or manufactured cannabis products:

- (1) Off site to qualifying patients, primary caregivers, qualifying out-of-state patients, or caregivers of qualifying out-of-state patients; or
- (2) To, from, or within any federal fort or arsenal, national park or forest, any other federal enclave, or any other property possessed or occupied by the federal government.

(l) A dispensary licensee undertakes transportation with the understanding that state law and its protections do not affect federal law and its enforcement. A dispensary licensee shall not transport cannabis or manufactured cannabis products to another county or another island, unless:

- (1) No certified laboratory is located in the county or on the island where the dispensary is located and the cannabis or manufactured cannabis product is transported solely for the purposes of laboratory analysis pursuant to subchapter 9 and subject to all tracking requirements in subchapter 5; or
- (2) The cannabis or manufactured cannabis product is transported solely for delivery to another dispensary licensee that is purchasing the cannabis or manufactured cannabis product in accordance with section 11-850-45 and subject to all tracking requirements in subchapter 5. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; am and comp

AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-8, 329D-17, 329D-18, 329D-19; SLH 2017, Act 170, §3)

§11-850-37 Inspections. (a) Each dispensary licensee shall be subject to an annual announced inspection and unlimited unannounced inspections by the department, and inspections by any other government employee or official acting in an official capacity. Inspections for license renewals shall be unannounced in accordance with section 329D-23(a)(1), HRS.

(b) A dispensary licensee shall permit entry to the department for the purposes of any inspection.

(c) A dispensary licensee shall give the department access to all parts of the dispensary property, equipment, records, documents, and any other substance, material, or information relevant to ensure the dispensary licensee's compliance with this chapter, upon request.

(d) A dispensary licensee shall not refuse to allow inspection at any of its dispensary facilities, and its employees and personnel shall not delay or interfere with any inspection.

(e) Upon completion of the inspection, the department shall provide written notice to the dispensary licensee of its findings and if applicable shall proceed in accordance with subchapter 11. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-4, 329D-6, 329D-7, 329-10, 329-13, 329D-15, 329D-16, 329-17, 329D-18, 329-19, 329D-23)

§11-850-38 Reports. (a) A dispensary licensee shall submit quarterly reports on January 31, April 30, July 31, and October 31. If the due date for submitting a quarterly report falls on a Saturday, Sunday, or State holiday, the report will be on time if it is submitted on the next day that is not a Saturday, Sunday, or State holiday. Reports shall be

submitted on a form and in a manner prescribed by the department.

- (b) Reports shall include:
 - (1) Records of entry and exit for all individuals who entered a dispensary facility;
 - (2) Amounts by category of cannabis produced and manufactured cannabis products manufactured, purchased from other dispensary, and offered for retail sale;
 - (3) Amounts by category of cannabis and manufactured cannabis products sold at retail dispensing locations and sold to another dispensary;
 - (4) A list of all cannabis, manufactured cannabis products, or unusable cannabis materials that have been destroyed or will be destroyed;
 - (5) A summary financial statement;
 - (6) Laboratory results of all analyses conducted;
 - (7) Description of any breach or halt in its security system and tracking system;
 - (8) An updated list of employees; and
 - (9) Any other information requested by the department. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; am and comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-9, 329D-10, 329D-18, 329D-19, 329D-23; SLH 2017, Act 170, §3)

\$11-850-39 Audits. (a) A dispensary licensee shall annually obtain an independent financial audit from a licensed certified public accountant of all dispensary operations and assets in compliance with generally accepted auditing standards, at the dispensary licensee's expense, and shall provide a copy of the audit's findings to the department.

(b) The report of the audit's findings shall be completed and submitted to the department no later than sixty days prior to the end of the license expiration date, or at another time as the department may direct.

(c) When a license is revoked, suspended, surrendered, or expires, a dispensary licensee shall file a final report thirty days following revocation, suspension, surrender, or expiration. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-7, 329D-21, 329D-23)

§11-850-40 Confidentiality of information. (a) A dispensary licensee shall safeguard and keep confidential from public disclosure any personally identifying information and the medical condition of a qualifying patient or qualifying out-of-state patient.

(b) A dispensary licensee shall prohibit photography or video recording inside a dispensary facility by anyone other than the dispensary licensee, the department, law enforcement personnel, or persons approved in writing by the department. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-27) (Imp: HRS §329D-7)

§11-850-41 Recordkeeping. (a) A dispensary licensee shall maintain business operation records including but not limited to:

- (1) Inventory tracking including transport of cannabis and manufactured cannabis products;
- (2) Sales and compliance with dispensing limitations for each qualifying patient, primary caregiver, qualifying out-of-state patient, and caregiver of a qualifying out-of-state patient;

- (3) Purchases from another dispensary, sales to another dispensary, purchase and sale contracts for dispensary to dispensary transactions, and compliance with section 11-850-45;
 - (4) Financial records including income, expenses, bank deposits and withdrawals, and audit reports;
 - (5) Logs of entry and exit for dispensary facilities; and
 - (6) Employee records.
- (b) Records required by this chapter shall:
- (1) Be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records;
 - (2) Contain the actual values and observations obtained during monitoring and verification activities;
 - (3) Be accurate, indelible, and legible;
 - (4) Be created concurrently with performance of the activity documented;
 - (5) Be as detailed as necessary to provide history of work performed; and
 - (6) Include:
 - (A) Information adequate to identify the facility (e.g., the name and, when necessary, the location of the facility);
 - (B) The date and, when appropriate, the time of the activity documented;
 - (C) The signature or initials of the person performing the activity; and
 - (D) Where appropriate, the identity of the product and the batch number.
- (c) A dispensary licensee shall retain all security recordings for a minimum of fifty days.
- (d) Records pertaining to cannabis or manufactured cannabis products shall be retained for six years beyond the date of distribution of the last batch of cannabis or manufactured cannabis products

associated with those records. Records that relate to the general adequacy of the equipment or processes being used by a facility, including the results of scientific studies and evaluations, shall be retained at the facility for at least six years after their use is discontinued.

(e) Except as provided in subsections (c) and (d), all records required by this chapter shall be retained at the facility for at least six years after the date they were prepared. Offsite storage of records is permitted if such records can be retrieved and provided onsite within twenty-four hours of request for official review. Electronic records are considered to be onsite if they are accessible from an onsite location.

(f) If reduction techniques, such as microfilming, are used, the dispensary shall make suitable reader and photocopying equipment readily available to the department. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; am and comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-9, 329D-13, 329D-15, 329D-16, 329D-18, 329D-19, 329D-20, 329D-23; SLH 2017, Act 170, §3)

§11-850-42 Allowed quantities for dispensing.

(a) A dispensary licensee may dispense to a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient any combination of cannabis or manufactured cannabis products that shall not exceed four ounces of cannabis during a period of fifteen consecutive days, and shall not exceed eight ounces of cannabis during a period of thirty consecutive days.

(b) Consistent with section 11-850-61, a dispensary licensee shall determine the quantity of cannabis or manufactured cannabis products purchased by a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient from any other licensed

dispensary within the state and shall not sell any amount of cannabis or manufactured cannabis products to that qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient that exceeds the limits identified in this chapter. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329-122, 329D-6, 392D-7, 329D-13, 329D-14, 329D-17, 329D-18; SLH 2017, Act 170, §3)

\$11-850-43 Disposal or destruction. (a) A dispensary licensee or laboratory certified by the department to analyze cannabis and manufactured cannabis products shall dispose of or destroy unused, unsold, contaminated, or expired cannabis or manufactured cannabis products, or waste products resulting from the cultivating or manufacturing process, including any inventory existing at the time of revocation or surrender of a license, in a way that assures that the cannabis or manufactured cannabis product does not become available to unauthorized persons and is documented as subtracted from inventory.

(b) A dispensary licensee shall destroy or dispose of unused, unsold, contaminated, or expired cannabis or manufactured cannabis products by a means prescribed by the department or the department of public safety narcotics enforcement division administrator.

(c) A dispensary licensee shall establish written policies and procedures to be followed by all of its employees for the disposal or destruction of unused, unsold, contaminated, or expired cannabis and manufactured cannabis products. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-8, 329D-18, 329D-19; SLH 2017, Act 170, §3)

§11-850-44 Solvents and processing practices.

(a) Solvents used in producing manufactured cannabis products shall be of the highest purity, with the minimum standard being solvent intended to be safe for use in manufacturing a product for human consumption.

(b) The following solvents shall not be used in the production of manufactured cannabis products:

- (1) Benzene;
- (2) Carbon tetrachloride;
- (3) 1,2-Dichloroethane;
- (4) 1,1-Dichloroethene; and
- (5) 1,1,1-Trichloroethane.

(c) Cannabis shall not be processed using butane in an open system where fumes are not contained nor by use of any other method of processing the department determines poses a risk to health and safety. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp

AUG - 7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §§329D-9)

§11-850-45 Dispensary to dispensary sales.

(a) A dispensary licensee that proposes to purchase cannabis or manufactured cannabis products from another dispensary licensee shall submit a proposed purchasing plan to the department on a form prescribed by the department. The proposed purchasing plan shall be submitted at least thirty days before purchase, except as allowed in subsection (g). Purchasing plans shall include the following:

- (1) The name of the selling and purchasing dispensary licensees;
- (2) Signature of a duly authorized representative of both the selling and the purchasing dispensary licensees;
- (3) The amount and type of cannabis or manufactured cannabis product planned to be purchased, including the equivalent physical

weight of the cannabis used to manufacture the manufactured cannabis products, calculated by the seller pursuant to section 329D-9(c), HRS; and

- (4) An explanation by the purchasing dispensary licensee of how the planned purchase is necessary:

- (A) To ensure that qualifying patients have continuous access to cannabis for medical use; or
- (B) For medical, scientific, or other legitimate purposes approved by the department.

(b) The department may approve or deny a proposed purchasing plan at its discretion.

(c) Upon department approval of a purchasing plan, a dispensary licensee may purchase according to the plan; provided that a dispensary licensee shall not receive within a thirty-day period more than eight hundred ounces of cannabis or manufactured cannabis products, based on the equivalent physical weight of the cannabis used to manufacture the manufactured cannabis products, calculated by the seller pursuant to section

329D-9(c), HRS, except as allowed in subsection (g).

(d) Cannabis and manufactured cannabis products sold to another dispensary licensee shall meet all applicable testing requirements in subchapter 9 and all transportation requirements in section 11-850-36.

(e) Cannabis and manufactured cannabis products purchased pursuant to this section intended for direct retail sale shall meet all applicable packaging and labeling requirements for retail sale in subchapter 10 at the time of transportation to the purchasing licensee's production center.

(f) Cannabis and manufactured cannabis products purchased pursuant to this section that are not intended for direct retail sale may be used in production. If any change is made to the cannabis or manufactured cannabis product other than repackaging bulk packaged cannabis into retail packaging, putting bulk packaged oil into products designed for safe

pulmonary administration, or relabeling, the final form shall be re-tested and comply with requirements in subchapter 9.

(g) A licensee may petition the department for permission to purchase cannabis or manufactured cannabis products less than thirty days after submission of the proposed purchasing plan required by subsection (a) or in an amount exceeding the limit specified in subsection (c). The department may grant petitions at its discretion. Petitions shall include:

- (1) An explanation of how unforeseeable circumstances, such as fire, flood, or blight, reduced the petitioner's inventory to such an extent that patient access is currently or imminently threatened;
- (2) The proposed amounts of cannabis and each type of manufactured cannabis product the petitioner requests permission to purchase; and
- (3) The proposed timing of purchase. [Eff and comp **AUG - 7 2023**] (Auth: HRS §§321-9, 329D-6, 329D-27) (Imp: HRS §§329D-6, 329D-9, 329D-11, 329D-18)

§§11-850-46 to 11-850-50 (Reserved) .

SUBCHAPTER 4

SECURITY

§11-850-51 Required security in all dispensary facilities. (a) All dispensary facilities shall have the following security features:

- (1) A video surveillance system professionally installed that allows for twenty-four hour

continuous video monitoring and recording of all dispensary facilities as follows:

- (A) All video equipment used in a dispensary facility shall have back up capability;
 - (B) All recorded images must clearly and accurately display the time and date;
 - (C) The surveillance system storage device and the cameras must be internet protocol (IP) compatible;
 - (D) The video surveillance system shall have minimum camera resolution to allow for the clear and certain identification of any person and activities in any area of a dispensary facility where cannabis and manufactured cannabis products are produced, moved, or stored; all point of sale areas; any room used to pack or unpack a secured container used to transport cannabis or manufactured cannabis products; any room or area storing a surveillance system storage device; and all exits and entrances to a dispensary facility from both indoor and outdoor locations;
 - (E) The surveillance system video recording storage device shall be secured in a lockbox, cabinet, or closet, or secured in another manner that limits access to protect the system from tampering or theft; and
 - (F) The dispensary licensee shall make video recordings available to the department upon request;
- (2) An alarm system to detect unauthorized entry and allow notification of law enforcement in an emergency. The alarm system shall be:
- (A) Electronic with a backup power source for a minimum of four hours;
 - (B) Connected to a security response organization or to law enforcement;

- (C) Activated twenty-four hours a day every day; and
 - (D) Professionally installed;
- (3) A locked entry point to screen individuals for authorized entry to the facility. Only the following may be authorized to enter dispensary facilities:
- (A) Persons included on a current department-approved list provided to the department by the licensee of those persons who are allowed into that dispensary's facilities for a specific purpose for that dispensary in accordance with section 329D-15(a)(4) or 329D-16(a)(3), HRS;
 - (B) Other approved individuals, with government issued photo identification, including:
 - (i) A government employee or official acting in the person's official capacity; and
 - (ii) Dispensary employees;
 - (C) In an emergency situation, individuals not on the department-approved list who are contracted to repair infrastructure, provided that:
 - (i) Repair workers shall show government issued photo identification;
 - (ii) Repair workers shall be escorted at all times by an individual licensee or registered employee; and
 - (iii) The licensee shall notify the department of the use of each individual repair worker immediately; and
 - (D) For retail dispensing locations only, with valid government issued photo identification and valid medical cannabis card issued pursuant to chapter 11-160:

- (i) Qualifying patients;
 - (ii) Primary caregivers;
 - (iii) Qualifying out-of-state patients;
 - (iv) Caregivers of qualifying out-of-state patients;
- (4) All entrances, exits, windows, and other points of entry shall be equipped with commercial-grade, non-residential locks or other functioning mechanical or electrical security devices; and
- (5) A system to record the names of persons listed in paragraph (3) entering the dispensary facility and the date and time of entry to and exit from the dispensary facility; provided that the dispensary licensee's electronic tracking system pursuant to subsection 11-850-61(b) shall be used to record the name and date and time of entry to and exit from the dispensary facility for a qualifying patient, primary caregiver, qualifying out-of-state patient, and caregiver of a qualifying out-of-state patient.
- (b) In the event of a breach or failure of its security system, a dispensary licensee shall immediately suspend operations and secure the affected dispensary facility until the security system is fully operable. The dispensary licensee shall notify the department immediately upon the breach or failure, and again when it resumes operations, by e-mailing medcannabis.dispensary@doh.hawaii.gov. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; am and comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-15, 329D-16, 329D-18, 329D-19, 329D-20; SLH 2017, Act 170, §3)

§11-850-52 Required security in production centers. In addition to other security features required in this chapter and chapter 329D, HRS, all

production centers shall have the following security features:

- (1) Secure fencing that surrounds the premises sufficient to reasonably deter intruders and prevent anyone outside the premises from viewing any cannabis in any form;
- (2) All cannabis and manufactured cannabis products shall be secured in a locked room, vault, or locked container securely affixed to a wall or floor. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §329D-6, 329D-7, 329D-16, 329D-18, 329D-19, 329D-20; SLH 2017, Act 170, §3)

§11-850-53 Required security in retail dispensing locations. In addition to the other security features required in this chapter and chapter 329D, HRS, all retail dispensing locations shall have the following security features:

- (1) A protocol for admitting qualifying patients, primary caregivers, qualifying out-of-state patients, or caregivers of qualifying out-of-state patients with valid government issued photo identification and medical cannabis registration cards issued pursuant to chapter 329, HRS, prior to allowing them access to the secured room for sales;
- (2) A separate secured room for sales which shall include secured and locked display cases for cannabis and manufactured cannabis products;
- (3) A maximum occupancy limit ratio in the secured sales room of two customers to every one retail dispensing location employee;
- (4) All cannabis and manufactured cannabis products shall be secured in a locked room,

- vault, or locked container securely affixed to a wall or floor; and
- (5) Exterior lighting that illuminates all entries and exits to allow for the clear and certain identification of any person and activities. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-15, 329D-18; SLH 2017, Act 170, §3)

§§11-850-54 to 11-850-60 (Reserved).

SUBCHAPTER 5

TRACKING REQUIREMENTS

§11-850-61 Tracking requirements. (a) A dispensary licensee shall track electronically the dispensary's inventory of cannabis and manufactured cannabis products through each stage of processing, from propagation to point of sale, disposal, or destruction, and maintain a record of clear and unbroken chain of custody at all stages, including during transport of the inventory between dispensary facilities and between a dispensary facility and a laboratory. A dispensary licensee shall also track electronically inventory that is quarantined, recalled, returned, reprocessed, or sold to or purchased from another dispensary in accordance with section 11-850-45.

(b) A dispensary licensee shall track electronically all sales of cannabis and manufactured cannabis products to qualifying patients, primary caregivers, qualifying out-of-state patients, and

caregivers of qualifying out-of-state patients from all dispensaries in the State and shall have a sales system that automatically prohibits sales in excess of the legal limits, as set out in section 11-850-42, and that cannot be overridden manually.

(c) A dispensary licensee shall acquire, operate, and maintain a secure computer software tracking system that interfaces with the department's computer software tracking system to allow the department real time, twenty-four hour access to the dispensary licensee's tracking system and inventory records. The dispensary licensee's tracking system shall capture and report all the data required by the department's tracking system and permit the department to access such data in event the department's computer software tracking system is inoperable or is not functioning properly and sales are made pursuant to an alternate tracking system under subsection (e).

(d) In the event of a breach or failure of its tracking system, a dispensary licensee shall suspend operations dependent on the tracking system until the tracking system is fully operable. The dispensary licensee shall notify the department immediately upon the breach or failure, and again when it resumes operations.

(e) In the event the department's computer software tracking system is inoperable or is not functioning properly, the department may implement an alternate tracking system to temporarily enable qualifying patients, primary caregivers, qualifying out-of-state patients, or caregivers of qualifying out-of-state patients to purchase medical cannabis or manufactured cannabis products from a licensed dispensary. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; am and comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-27) (Imp: HRS §§329D-6, 329D-7, 329D-8, 329D-13, 329D-14, 329D-18, 329D-19; SLH 2017, Act 170, §3)

§§11-850-62 to 11-850-70 (Reserved) .

SUBCHAPTER 6

PRODUCTS AND PRODUCT STANDARDS

\$11-850-71 Cannabis. (a) A dispensary licensee may dispense cannabis only in the form of dried matured processed flowers of female cannabis plants. A dispensary licensee shall not add any other ingredient to cannabis in any way.

(b) A dispensary licensee shall establish and maintain written standard operating procedures for the production, manufacture, analysis, sale, security, storage, inventory tracking, transportation, and disposal of cannabis that includes but is not limited to:

- (1) Safe and appropriate use of equipment;
- (2) Effective training and monitoring of employees and subcontractors who participate in the production or sale of cannabis;
- (3) Adequate protocols for laboratory analysis of cannabis pursuant to this chapter; and
- (4) Safe and appropriate storage and disposal or destruction of cannabis at all stages of production and sale.

(c) The director may require quarantine, removal, or modification of cannabis determined to present a potential health hazard. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-1, 321-9, 329D-7, 329D-8, 329D-9, 329D-10, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-10; SLH 2017, Act 170, §3)

\$11-850-72 Manufactured cannabis products. (a) A dispensary licensee may manufacture cannabis products limited to:

- (1) Edible cannabis products as specified in section 11-850-76;
- (2) Ointments and skin lotions;
- (3) Transdermal patches;
- (4) Pre-filled and sealed containers used to aerosolize and deliver cannabis orally, such as with an inhaler or nebulizer; provided that the containers need not be manufactured by the licensed dispensary but:
 - (A) Shall be filled only with cannabis, cannabis oils, or cannabis extracts manufactured by a dispensary licensee;
 - (B) Shall not contain nicotine, hemp, hemp-derived cannabinoids, tobacco-related products or any non-cannabis derived products; and
 - (C) Shall be designed to be used with devices used to provide safe pulmonary administration of manufactured cannabis products; and
- (5) Devices that provide safe pulmonary administration; provided that:
 - (A) The heating element of the device, if any, is made of inert materials such as glass, ceramic, or stainless steel, and not of plastic or rubber;
 - (B) The device is distributed solely for use with single-use, pre-filled, tamper-resistant, sealed containers that do not contain nicotine, other tobacco products, hemp, or hemp-derived cannabinoids;
 - (C) The device is used to aerosolize and deliver cannabis by inhalation, such as an inhaler, medical-grade nebulizer, or other similar medical grade volatilization device;
 - (D) There is a temperature control on the device that is regulated to prevent the combustion of cannabis oil; and
 - (E) The device need not be manufactured by the licensed dispensary.

(b) A dispensary licensee shall establish and maintain written standard operating procedures for the manufacturing, analysis, sale, security, storage, inventory tracking, transportation, and disposal of manufactured cannabis products that includes but is not limited to:

- (1) Safe and appropriate use of manufacturing equipment;
- (2) Safe and appropriate storage of materials used to produce manufactured cannabis products;
- (3) Effective training and monitoring of employees and subcontractors who participate in the manufacturing or dispensing of manufactured cannabis products;
- (4) Adequate protocols for laboratory analysis of manufactured cannabis products pursuant to this chapter; and
- (5) Safe and appropriate storage and disposal or destruction of manufactured cannabis products at all stages of production and sale.

(c) A dispensary licensee shall report to the department prior to producing any manufactured cannabis products:

- (1) Strains of cannabis to be used by the dispensary to produce manufactured cannabis products;
 - (2) Types of manufactured cannabis products that the dispensary will produce; and
 - (3) The manufacturing process or processes the dispensary will use in producing manufactured cannabis products.
- (d) Prohibited ingredients.
- (1) Except for alcohol in tinctures and caffeine naturally occurring in chocolate, no manufactured cannabis product shall contain nicotine, caffeine, alcohol, or any other substance not derived from cannabis that:
- (A) Is psychoactive; or
 - (B) Would increase the potency, toxicity, or addictive potential of the product

- or create a potentially unsafe combination with cannabinoids.
- (2) No manufactured cannabis product shall contain:
- (A) Synthetic cannabinoids; or
 - (B) Artificially derived cannabinoids.
- (3) No aerosolizeable manufactured cannabis product shall contain zirconium.
- (4) No manufactured cannabis product shall contain:
- (A) Any color additives not listed in subpart A or C of 21 C.F.R. part 73, published by the U.S. Government Publishing Office, as amended as of April 1, 2021;
 - (B) Bithionol;
 - (C) Vinyl chloride;
 - (D) Halogenated salicylanilides listed in 21 C.F.R. section 700.15, published by the U.S. Government Publishing Office, as amended as of April 1, 2021;
 - (E) Chloroform;
 - (F) Methylene chloride;
 - (G) Prohibited cattle material, as defined in 21 C.F.R. section 700.27, published by the U.S. Government Publishing Office, as amended as of April 1 , 2021;
 - (H) Mercury compounds;
 - (I) Hexachlorophene;
 - (J) Ephedrine alkaloids; or
 - (K) Any ingredient the department determines would render the product injurious or hazardous to health.
- (e) Prohibited components. Except for ointments intended for topical application, skin lotions, and transdermal patches, manufactured cannabis products shall not be manufactured with any components that are not intended to be safe for use in manufacture of a product for human consumption. Additives used as components in the production of manufactured cannabis products, except for ointments intended for topical

application, skin lotions, and transdermal patches, shall be limited to those allowed for use in food in section 11-29-8.

(f) A dispensary licensee shall not produce manufactured cannabis products with an appearance, flavor, or smell designed to appeal to minors.

(g) The director may require quarantine, removal, or modification of a manufactured cannabis product determined to present a potential health hazard. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; am and comp

AUG - 7 2023] (Auth: HRS §§321-1, 321-9, 329D-7, 329D-8, 329D-9, 329D-10, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-10, 329D-17; SLH 2017, Act 170, §3)

\$11-850-73 Manufacturing permits or licenses.

(a) A dispensary licensee shall determine the manufacturing activities required to produce the products intended for sale and shall obtain and maintain as current all required state and county permits or licenses for a particular manufacturing activity.

(b) A dispensary licensee shall provide the department with proof of possession of all state or county permits or licenses necessary for a particular manufacturing activity prior to dispensing any manufactured cannabis products and upon request.

(c) A dispensary licensee shall post at the dispensary licensee's facilities a copy of all current state and county permits or licenses necessary for manufacturing.

(d) Upon suspension or revocation of a state or county permit or license necessary for a particular manufacturing activity, the dispensary licensee shall immediately cease production or manufacture of the particular product covered by the relevant state or county permit or license and shall notify the department. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth:

§11-850-74

HRS §§321-9, 329D-27) (Imp: HRS §§329D-9, 329D-10; SLH 2017, Act 170, §3)

§11-850-74 Equivalent weights for manufactured cannabis products. A dispensary licensee that produces manufactured cannabis products shall calculate the equivalent physical weight of the cannabis that is used to manufacture the product, and shall make available to the department and to consumers of the manufactured cannabis product the equivalency calculations and the formulas used. [Eff 12/14/15; am and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp ~~AUG - 7 2023~~] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329-122, 329D-7, 329D-9, 329D-13; SLH 2017, Act 170, §3)

§11-850-75 Repealed. [Eff 12/14/15; R 2/24/22] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-76 Edible cannabis products. (a) A dispensary licensee may manufacture edible cannabis products limited to the product types listed in subsection (b) and subject to all requirements and prohibitions in this section. A dispensary may manufacture product test batches as necessary to produce the documentation required in subsection (d) prior to meeting the requirements in subsection (c), but shall not dispense an edible cannabis product until all requirements of this section are met for that product.

(b) Allowable edible cannabis products are limited to the following types:

- (1) Capsules;
- (2) Lozenges;
- (3) Pills;

- (4) Infused oils and butters; provided that oils and butters shall not contain garlic or peppers;
- (5) Oil extracts and concentrates;
- (6) Tinctures; provided that tinctures shall:
 - (A) Have a maximum volume of two ounces; and
 - (B) Be labeled for intended use measured in drops or dropperfuls.
- (7) Gummies;
- (8) Hard molded confections made primarily from sugar or syrup;
- (9) Chocolates;
- (10) Cookies;
- (11) Brownies;
- (12) Honey;
- (13) Beverages;
- (14) Powdered beverage mixes or beverage additives; and
- (15) Syrup beverage mixes or beverage additives.
- (c) An edible cannabis product shall:
 - (1) Not be a time/temperature control for safety product; and
 - (2) Be homogenous to ensure uniform distribution of cannabinoids.
- (d) A dispensary manufacturing an edible cannabis product shall maintain records documenting compliance with subsection (c) in accordance with section 11-850-41. The records documenting compliance with subsection (c)(2) shall include an attestation by a certified laboratory and documentation of analytical results from the same laboratory for product batch samples and quality control samples.
- (e) Edible cannabis products shall not be designed to resemble commercially available candy or other products marketed to children. The words "candy" and "candies" shall not be used on packaging, labeling, advertising, product lists, or product menus. Edible cannabis products shall not be in the shape of or contain a depiction of a human, animal, or fruit, or a shape or depiction that bears the likeness or contains characteristics of a realistic or

fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

(f) Edible cannabis products shall contain no more than ten milligrams total tetrahydrocannabinol per dose, serving, or single wrapped item; provided that no edible cannabis product that is sold in a pack of multiple doses, servings, or single wrapped items, or any container, shall contain more than one thousand milligrams of total tetrahydrocannabinol per pack or container.

(g) Edible cannabis products shall be manufactured and packaged with one of the following aids to guide portioning:

- (1) Single-serving packaging;
- (2) Scoring that guides and assists with breaking a multi-serving product into single-serving portions; or
- (3) The inclusion of a measuring device that is designed, sized, or clearly marked to measure a single serving. [Eff and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; am and comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-10, 329D-11, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-10, 329D-11, 329D-17, 329D-19)

§11-850-77 Hemp products; use of hemp products as ingredients in manufactured cannabis products.

(a) A hemp product used as an ingredient in a manufactured cannabis product shall be in compliance with all applicable requirements of chapter 11-37.

(b) A hemp product shall not be used as an ingredient in a pre-filled and sealed container for use with a device that provides safe pulmonary administration or as an ingredient in a device that provides safe pulmonary administration.

(c) A retail dispensing location may offer for sale hemp products that are compliant with chapter 11-37. [Eff and comp 2/24/22; comp 4/29/22; comp

11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-9, 329D-10, 329D-27) (Imp: HRS §§329D-7, 329D-9, 329D-10)

§11-850-78 Documentation of valid laboratory testing. (a) A dispensary licensee shall maintain records of all laboratory results, including the certificate of analysis required by section 11-850-135(c), in accordance with section 11-850-41.

(b) For cannabis and each manufactured cannabis product it dispenses, and prior to dispensing a new manufactured cannabis product, a dispensary shall ensure that the certified laboratory testing its products meets the requirements of section 11-850-134(b).

(c) A dispensary shall maintain records documenting compliance with subsection (b) in accordance with section 11-850-41. The records shall include the following produced by the certified laboratory:

- (1) An attestation that the laboratory meets the requirements of section 11-850-134(b);
- (2) Analytical results for batch samples and quality control samples; and
- (3) Records of validation studies and proficiency tests. [Eff 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-19, 329D-23)

§§11-850-79 to 11-850-109 (Reserved) .

SUBCHAPTER 7

CURRENT GOOD MANUFACTURING PRACTICE

§11-850-110 General health and safety standards.

(a) A dispensary licensee shall ensure that all cannabis and manufactured cannabis products it dispenses are safe for use or consumption by qualifying patients and qualifying out-of-state patients.

(b) A dispensary licensee shall comply with State and county health, safety, and sanitation regulations and may be subject to inspection to confirm that no health or safety concerns are present which may contaminate the products. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp

AUG - 7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-111 Personnel. (a) The management of a medical cannabis production center shall ensure that all individuals who produce cannabis or manufactured cannabis products are qualified to perform their assigned duties.

(b) Each individual engaged in production of cannabis or manufactured cannabis products (including temporary and seasonal personnel) or in the supervision thereof shall:

- (1) Be a qualified individual, as that term is defined in section 11-850-2; and
- (2) Receive training in the principles of hygiene and safety, including the importance of employee health and personal hygiene, as appropriate to the cannabis or manufactured cannabis product, the facility, and the individual's assigned duties.

(c) The management of the medical cannabis production center shall take reasonable measures and precautions to ensure the following:

- (1) Disease control. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an

illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which there is a reasonable possibility of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials becoming contaminated, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected, unless conditions such as open lesions, boils, and infected wounds are adequately covered (e.g., by an impermeable cover). Personnel shall be instructed to report such health conditions to their supervisors.

- (2) Cleanliness. All persons working in direct contact with cannabis, manufactured cannabis products, components, contact surfaces, and packaging materials shall conform to hygienic practices while on duty to the extent necessary to protect against allergen cross-contact and against contamination of cannabis or manufactured cannabis products. The methods for maintaining cleanliness include:
- (A) Wearing outer garments suitable to the operation in a manner that protects against allergen cross-contact and against the contamination of cannabis manufactured cannabis products, components, contact surfaces, or packaging materials;
 - (B) Maintaining adequate personal cleanliness;
 - (C) Washing hands thoroughly (and sanitizing if necessary to protect against contamination with undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from the workstation, and at any other time when

- the hands may have become soiled or contaminated;
- (D) Removing all unsecured jewelry and other objects that might fall into cannabis, manufactured cannabis products, components, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which cannabis, manufactured cannabis products, or components are manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials;
- (E) Maintaining gloves, if they are used in handling cannabis, manufactured cannabis products, or components, in an intact, clean, and sanitary condition;
- (F) Wearing, where appropriate, in an effective manner, hair nets, headbands, caps, beard covers, or other effective hair restraints;
- (G) Storing clothing or other personal belongings in areas other than where cannabis, manufactured cannabis products, or components are exposed or where equipment or utensils are washed;
- (H) Confining the following to areas other than where cannabis, manufactured cannabis products, or components may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco; and
- (I) Taking any other necessary precautions to protect against allergen cross-

contact and against contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials with microorganisms or foreign substances (including perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin).

(d) Responsibility for ensuring compliance by individuals with the requirements of this subchapter shall be clearly assigned to supervisory personnel who have the education, training, or experience (or a combination thereof) necessary to supervise the production of clean and safe cannabis and manufactured cannabis products.

(e) Records that document training required by subsection (b)(2) shall be established and maintained subject to the requirements of section 11-850-41.

[Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22;
comp AUG -7 2023] (Auth: HRS §§321-9, 329D-7,
329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-9, 329D-19)

\$11-850-112 Facility and grounds. (a) Grounds. The grounds about a production center under the control of the dispensary shall be kept in a condition that will protect against the contamination of cannabis or manufactured cannabis products. The methods for adequate maintenance of grounds shall include:

- (1) Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the facility that may constitute an attractant, breeding place, or harborage for pests;
- (2) Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where cannabis, manufactured cannabis products, or components are exposed;

- (3) Adequately draining areas that may contribute contamination to cannabis, manufactured cannabis products, or components by seepage, foot-borne filth, or providing a breeding place for pests;
 - (4) Operating systems for waste treatment and disposal in an adequate manner so that they do not constitute a source of contamination in areas where cannabis, manufactured cannabis products, or components are exposed; and
 - (5) If the facility grounds are bordered by grounds not under the dispensary's control and not maintained in the manner described in paragraphs (1) to (4), care shall be exercised in the facility by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of contamination.
- (b) Facility construction and design. The facility shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for cannabis and manufactured cannabis product production purposes (i.e., production and storage). The facility shall:
- (1) Provide adequate space for such placement of equipment and storage of materials as is necessary for maintenance, sanitary operations, and the production of safe cannabis and manufactured cannabis products;
 - (2) Permit the taking of adequate precautions to reduce the potential for mix-ups and allergen cross-contact and for contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials with microorganisms, chemicals, filth, and other extraneous material. The potential for allergen cross-contact and for contamination may be reduced by adequate safety controls and operating practices and effective design, including the separation of operations in which allergen cross-

- contact and contamination are likely to occur, by one or more of the following means: location, time, partition, air flow systems, dust control systems, enclosed systems, or other effective means;
- (3) Be constructed in such a manner that:
- (A) Floors, walls, and ceilings may be adequately cleaned, kept clean, and kept in good repair;
 - (B) Drip or condensate from fixtures, ducts, and pipes does not contaminate cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials; and
 - (C) Aisles or working spaces are provided between equipment and walls and are adequately unobstructed and of adequate width to permit employees to perform their duties and to protect against contaminating cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials with clothing or personal contact;
- (4) Provide adequate lighting in hand-washing areas, dressing and locker rooms, and toilet rooms and in all areas where cannabis, manufactured cannabis products, or components are examined, produced, packed, or stored and where equipment or utensils are cleaned;
- (5) Provide shatter-resistant light bulbs, fixtures, skylights, or other glass suspended over exposed cannabis, manufactured cannabis products, or components in any step of preparation, or otherwise protect against contamination in case of glass breakage;
- (6) Provide adequate ventilation or control equipment to minimize dust, odors, and vapors (including steam and noxious fumes) in areas where they may cause allergen cross-contact or contaminate cannabis,

- manufactured cannabis products, or components;
- (7) Locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for allergen cross-contact and for contaminating cannabis, manufactured cannabis products, components, contact surfaces, and packaging materials; and
- (8) Provide, where necessary, adequate screening or other protection against pests. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp ~~AUG - 7 2023~~] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-113 Sanitary operations. (a) General maintenance. Buildings, fixtures, and other physical facilities shall be maintained in a clean and sanitary condition and shall be kept in repair adequate to prevent cannabis or manufactured cannabis products from becoming contaminated. Cleaning and sanitizing of utensils and equipment shall be conducted in a manner that protects against allergen cross-contact and against contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials.

(b) Substances used in cleaning and sanitizing; storage of toxic materials.

- (1) Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures shall be free from undesirable microorganisms and shall be safe and adequate under the conditions of use. Compliance with this requirement may be verified by any effective means, including purchase of these substances under a letter of guarantee or certification or examination of these substances for contamination. Only the following toxic materials may be used or stored in a medical cannabis production center:

- (A) Those required to maintain clean and sanitary conditions;
 - (B) Those necessary for use in laboratory testing procedures;
 - (C) Those necessary for facility and equipment maintenance and operation; and
 - (D) Those necessary for use in the facility's operations.
- (2) Toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified and stored in a manner that protects against contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials.
- (c) Pest control. Pests shall not be allowed in any area of a production center. Guard, guide, or pest-detecting dogs may be allowed in some areas of a production center if the presence of the dogs is unlikely to result in contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials. Effective measures shall be taken to exclude pests from the production and storage areas and to protect against the contamination of cannabis, manufactured cannabis products, or components on the premises by pests. The use of pesticides to control pests in the production center is permitted only under precautions and restrictions that will protect against the contamination of cannabis, manufactured cannabis products, components, contact surfaces, and packaging materials.
- (d) Sanitation of contact surfaces. All contact surfaces, including utensils and contact surfaces of equipment, shall be cleaned as frequently as necessary to protect against allergen cross-contact and against contamination of cannabis, manufactured cannabis products, or components.
- (1) Contact surfaces used for producing and storing cannabis or low-moisture manufactured cannabis products or components shall be in a clean, dry, sanitary condition

before use. When the surfaces are wet-cleaned, they shall, when necessary, be sanitized and thoroughly dried before subsequent use.

- (2) In wet processing, when cleaning is necessary to protect against allergen cross-contact or the introduction of microorganisms into cannabis, manufactured cannabis products, or components, all contact surfaces shall be cleaned and sanitized before use and after any interruption during which the contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, the utensils and contact surfaces of the equipment shall be cleaned and sanitized as necessary.
- (3) Single-service articles (such as utensils intended for one-time use, paper cups, and paper towels) shall be stored, handled, and disposed of in a manner that protects against allergen cross-contact and against contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials.

(e) Sanitation of non-contact surfaces. Non-contact surfaces of equipment used in the operation of a production center shall be cleaned in a manner and as frequently as necessary to protect against allergen cross-contact and against contamination of cannabis, manufactured cannabis products, components, contact surfaces, and packaging materials.

(f) Storage and handling of cleaned portable equipment and utensils. Cleaned and sanitized portable equipment with contact surfaces and utensils shall be stored in a location and manner that protects contact surfaces from allergen cross-contact and from contamination. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS \$329D-9)

§11-850-114 Sanitary facilities and controls.

Each medical cannabis production center shall be equipped with adequate sanitary facilities and accommodations including:

- (1) Water supply. The water supply shall be adequate for the operations intended and shall be derived from an adequate source. Any water that contacts cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials shall be safe and of adequate sanitary quality. Running water at a suitable temperature, and under pressure as needed, shall be provided in all areas where required for the production of cannabis and manufactured cannabis products, for the cleaning of equipment, utensils, and packaging materials, or for employee sanitary facilities;
- (2) Plumbing. Plumbing shall be of adequate size and design and adequately installed and maintained to:
 - (A) Carry adequate quantities of water to required locations throughout the facility;
 - (B) Properly convey sewage and liquid disposable waste from the facility;
 - (C) Avoid constituting a source of contamination to cannabis, manufactured cannabis products, components, water supplies, equipment, or utensils or creating an unsanitary condition;
 - (D) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor; and
 - (E) Provide that there is not backflow from, or cross-connection between, piping systems that discharge

- wastewater or sewage and piping systems that carry water for cannabis or manufactured cannabis product production;
- (3) Sewage disposal. Sewage shall be disposed of into an adequate sewerage system or disposed of through other adequate means;
- (4) Toilet facilities. Each medical cannabis production center shall provide employees with adequate, readily accessible toilet facilities. Toilet facilities shall be kept clean and shall not be a potential source of contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials;
- (5) Hand-washing facilities. Each medical cannabis production center shall provide hand-washing facilities designed to ensure that an employee's hands are not a source of contamination of cannabis, manufactured cannabis products, components, contact surfaces, or packaging materials, by providing facilities that are adequate, convenient, and furnish running water at a suitable temperature; and
- (6) Rubbish disposal. Rubbish shall be so conveyed, stored, and disposed of as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage or breeding place for pests, and protect against contamination of cannabis, manufactured cannabis products, components, contact surfaces, packaging materials, water supplies, and ground surfaces. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG -7 2023]
(Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-115 Equipment and utensils. (a) All medical cannabis production center equipment and utensils used in production and storage of cannabis or manufactured cannabis products shall be so designed and of such material and workmanship as to be adequately cleanable and shall be adequately maintained to protect against allergen cross-contact and against contamination.

(b) Equipment and utensils shall be designed, constructed, and used appropriately to avoid the contamination of cannabis, manufactured cannabis products, or components with lubricants, fuel, metal fragments, contaminated water, or any other contaminants.

(c) Equipment shall be installed so as to facilitate the cleaning and maintenance of the equipment and of adjacent spaces.

(d) Contact surfaces shall be corrosion-resistant.

(e) Contact surfaces shall be made of non-toxic materials and designed to withstand the environment of their intended use and the action of cannabis, manufactured cannabis products, and components, and, if applicable, cleaning compounds, sanitizing agents, and cleaning procedures.

(f) Contact surfaces shall be maintained to protect cannabis, manufactured cannabis products, and components from allergen cross-contact and from being contaminated by any source.

(g) Seams on contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms and allergen cross-contact.

(h) Equipment that is in areas where cannabis or manufactured cannabis products are produced, packed, or stored and that does not come into contact with cannabis, manufactured cannabis products, or components shall be so constructed that it can be kept in a clean and sanitary condition.

(i) Production, conveyance, and storage systems, including gravimetric, pneumatic, closed, and

automated systems, shall be of a design and construction that enables them to be maintained in an appropriate clean and sanitary condition.

(j) Each freezer and cold storage compartment used to store cannabis, manufactured cannabis products, or components capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment.

(k) Instruments and controls used for measuring, regulating, or recording temperatures, pH, acidity, water activity, or other conditions that control or prevent the growth of undesirable microorganisms in cannabis, manufactured cannabis products, or components shall be accurate and precise and adequately maintained, and adequate in number for their designated uses.

(l) Compressed air or other gases mechanically introduced into cannabis, manufactured cannabis products, or components or used to clean contact surfaces or equipment shall be treated in such a way that cannabis, manufactured cannabis products, or components are not contaminated.

(m) Equipment and utensils used in measuring, mixing, or weighing shall be:

- (1) Of suitable size and accuracy for measuring, mixing, and weighing operations;
- (2) Calibrated regularly or checked according to a written standard operating procedure with results documented, where appropriate; and
- (3) Removed from use if they are defective, do not meet recommended tolerances, or cannot be repaired and calibrated immediately.

[Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-116 Processes and controls. (a)

General.

- (1) All operations in the production and storage of cannabis, manufactured cannabis products, and components shall be conducted in accordance with adequate sanitation principles.
 - (2) Appropriate quality control operations shall be employed to ensure that cannabis and manufactured cannabis products are suitable for human consumption or for topical application to the skin or hair, as applicable, and that packaging materials are safe and suitable.
 - (3) Overall sanitation of the facility shall be under the supervision of one or more competent individuals assigned responsibility for this function.
 - (4) Adequate precautions shall be taken to ensure that production procedures do not contribute to allergen cross-contact or to contamination from any source.
 - (5) Chemical, microbial, or extraneous-material testing procedures shall be used where necessary to identify sanitation failures or possible allergen cross-contact and contamination.
 - (6) All cannabis, components, and in-process materials that have become contaminated shall be rejected, or if appropriate and allowed under section 11-850-135(h)(1), treated or processed to eliminate the contamination.
- (b) Ingredients.
- (1) Ingredients shall be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into manufactured cannabis products and shall be stored under conditions that will protect against allergen cross-contact and against contamination and minimize deterioration.

- Ingredients shall be washed or cleaned as necessary to remove soil or other contamination. Water used for washing, rinsing, or conveying cannabis, manufactured cannabis products, or components shall be safe and of adequate sanitary quality. Water may be reused for washing, rinsing, or conveying cannabis, manufactured cannabis products, or components if it does not cause allergen cross-contact or increase the level of contamination of the cannabis, manufactured cannabis product, or component.
- (2) Ingredients shall either not contain levels of microorganisms that may render the manufactured cannabis product injurious to the health of humans, or they shall be treated during manufacturing operations so that they no longer contain levels that would cause the product to be contaminated.
- (3) Ingredients susceptible to contamination with aflatoxins or other natural toxins shall not be contaminated before these ingredients are incorporated into a manufactured cannabis product.
- (4) Ingredients and rework susceptible to contamination with pests, undesirable microorganisms, or extraneous material shall be examined and, based on examination results, shall not be contaminated before these ingredients are incorporated into a manufactured cannabis product.
- (5) Ingredients and rework shall be stored in bulk or in containers designed and constructed so as to protect against mix-ups, allergen cross-contact, and contamination and shall be stored at such temperature and relative humidity and in such a manner as to prevent the ingredients or manufactured cannabis product from becoming contaminated. Material scheduled for reprocessing shall be identified as such.

- (6) Frozen ingredients shall be kept frozen. If thawing is required prior to use, it shall be done in a manner that prevents the ingredients from becoming contaminated.
- (7) Liquid or dry ingredients received and stored in bulk form shall be stored in a manner that protects against allergen cross-contact and against contamination.
- (8) Ingredients that are allergens, and rework that contains allergens, shall be identified and stored in a manner that prevents allergen cross-contact.
- (9) Water used as an ingredient shall be:
 - (A) Of a defined quality;
 - (B) Unaffected by materials used in the water treatment equipment;
 - (C) Tested or monitored regularly to verify that it meets applicable chemical, physical, and microbiological specifications for quality; and
 - (D) Supplied by a system set up to avoid stagnation and risks of contamination that is routinely cleaned and sanitized according to an appropriate standard operating procedure that ensures no biofilm build-up.
- (c) Manufacturing operations.
 - (1) Equipment, utensils, and containers shall be maintained in an adequate condition through appropriate cleaning and sanitizing, as necessary. Insofar as necessary, equipment shall be taken apart for thorough cleaning.
 - (2) All cannabis and manufactured cannabis product production and storage shall be conducted under such conditions and controls as are necessary to minimize the potential for the growth of microorganisms, allergen cross-contact, contamination, and deterioration.
 - (3) Components that can support the rapid growth of undesirable microorganisms shall be stored at temperatures that will prevent the

- component from becoming contaminated during production and storage.
- (4) Measures such as sterilizing, irradiating, pasteurizing, cooking, freezing, refrigerating, controlling pH, or controlling a_w that are taken to destroy or prevent the growth of undesirable microorganisms shall be adequate under the conditions of production, storage, and distribution to prevent cannabis, manufactured cannabis products, or components from being contaminated.
- (5) Work-in-process and rework shall be handled in a manner that protects against allergen cross-contact, contamination, and growth of undesirable microorganisms.
- (6) Effective measures shall be taken to protect cannabis and manufactured cannabis products from allergen cross-contact and from contamination by ingredients, other components, or refuse. When ingredients, other components, or refuse are unprotected, they shall not be handled simultaneously in a receiving, loading, or shipping area if that handling could result in allergen cross-contact or contamination of cannabis or manufactured cannabis products. Cannabis, manufactured cannabis products, or components transported by conveyor shall be protected against allergen cross-contact and against contamination as necessary.
- (7) Equipment, containers, and utensils used to convey or store cannabis, components, work-in-process, rework, or other manufactured cannabis products shall be constructed, handled, and maintained during production and storage in a manner that protects against allergen cross-contact and against contamination.
- (8) Adequate measures shall be taken to protect against the inclusion of metal or other

- extraneous material in cannabis or manufactured cannabis products.
- (9) Cannabis, manufactured cannabis products, and components that are contaminated:
- (A) Shall be disposed of in a manner that protects against the contamination of other cannabis, manufactured cannabis products, and components; or
 - (B) If the contaminated cannabis, manufactured cannabis product, or component is allowed to be reprocessed under section 11-850-135(h)(1), it may be:
 - (i) Reprocessed using a method that has been proven to be effective; or
 - (ii) Reprocessed and reexamined and subsequently found not to be contaminated before being incorporated into other manufactured cannabis products.
- (10) All operations in the production and storage of cannabis, manufactured cannabis products, and components shall be performed so as to protect cannabis, manufactured cannabis products, and components against allergen cross-contact, contamination, and growth of undesirable microorganisms. Cannabis, manufactured cannabis products, and components shall be protected from contaminants that may drip, drain, or be drawn into them.
- (11) Heat blanching, when required in the preparation of manufactured cannabis products or components capable of supporting microbial growth, shall be effected by heating the manufactured cannabis product or component to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling it or passing it to subsequent manufacturing without delay. Growth and

contamination by thermophilic microorganisms in blanchers shall be minimized by the use of adequate operating temperatures and by periodic cleaning and sanitizing as necessary.

- (12) Cannabis and manufactured cannabis products and components that rely principally on the control of aw for preventing the growth of undesirable microorganisms shall be processed to and maintained at a safe moisture level.
- (13) Manufactured cannabis products and components that rely principally on the control of pH for preventing the growth of undesirable microorganisms shall be monitored and maintained at a pH of 4.6 or below.
- (14) When ice is used in contact with cannabis, manufactured cannabis products, or components, it shall be made from water that is safe and of adequate sanitary quality in accordance with section 11-850-114(1) and manufactured in accordance with current good manufacturing practice. [Eff and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-117 Warehousing and distribution.

Storage and transportation of cannabis, manufactured cannabis products, and components shall be under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination of cannabis, manufactured cannabis products, or components as well as against deterioration of the cannabis, manufactured cannabis product, or component and the container. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§§11-850-118 to 11-850-120 (Reserved).

SUBCHAPTER 8

QUALITY CONTROL

§11-850-121 Standard operating procedures. (a)

A medical cannabis dispensary shall establish written processing and control standard operating procedures for the production of cannabis and manufactured cannabis products (for example, formulations, processing procedures, in-process control methods, packaging procedures, procedures for operating equipment).

(b) Standard operating procedures shall include provisions to ensure that:

- (1) The selection, weighing, and measuring of ingredients and the determination of finished yield are reviewed by a second individual;
- (2) Major equipment, transfer lines, containers and tanks used for processing, holding, or filling are identified to indicate contents, batch identification, stage of processing, and control status;
- (3) There are appropriate measures to prevent contamination with microorganisms, chemicals, filth, or other extraneous material;
- (4) There are in-process controls to ensure product uniformity, integrity (for example, in-process batch weights), accurate fill of mixing containers, and adequacy of mixing;
- (5) The theoretical yield for a production batch is compared with the actual yield;

- (6) The storage and handling of packaging materials that are intended to come into direct contact with the product prevent mix-ups and microbiological or chemical contamination; and
 - (7) Finished product packages bear permanent, meaningful, unique batch numbers.
- (c) Documentation of standard operating procedures shall be sufficient to prevent errors of interpretation and loss of information.
- (d) Documentation of standard operating procedures shall be established and maintained subject to the requirements of section 11-850-41. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9, 329D-19)

§11-850-122 Batch production and distribution records. (a) Production records shall document, for each batch of cannabis or manufactured cannabis product:

- (1) Review of ingredient records to determine if ingredients are adequately controlled;
- (2) Ingredients (name, code, batch number, quantity, etc.) added to the batch;
- (3) Production steps (for example, processing, handling, transferring, holding, and filling);
- (4) In-process sampling, controlling, and adjusting steps;
- (5) Compliance with or deviations from standard operating procedures;
- (6) Detailed description of any deviations from standard procedures, justifications for the deviations, and corrective measures taken;
- (7) Any quality control review and disposition decision and follow-up required by section 11-850-123;
- (8) Any remediation carried out under section 11-850-129; and

- (9) Batch number.
- (b) Distribution records shall identify, for each batch of cannabis or manufactured cannabis product:
 - (1) The product;
 - (2) The batch number;
 - (3) The retail dispensing location; and
 - (4) The date of distribution.
- (c) Batch production and distribution records shall be adequate to conduct an effective recall.
- (d) Batch production and distribution records shall be established and maintained subject to the requirements of section 11-850-41. [Eff and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp AUG -7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §§329D-9, 329D-19)

\$11-850-123 Quality control review and disposition decisions. (a) A dispensary shall establish and follow written standard operating procedures and assign specific staff persons as quality control personnel to fulfill the requirements of this section.

- (b) Quality control personnel shall conduct a review and make a disposition decision if:
- (1) A contaminant limit or water activity limit established in section 11-850-135 is exceeded;
 - (2) Production of a batch deviates from established standard operating procedures, including when any step is not completed;
 - (3) There is any unanticipated occurrence during production operations that contaminates or may lead to contamination of cannabis, a manufactured cannabis product, component, or packaging, or could lead to the use of an incorrect label;
 - (4) Calibration of an instrument or control suggests a problem that may have resulted in a failure to ensure the quality of a batch

- of cannabis or manufactured cannabis product; or
- (5) Cannabis or a manufactured cannabis product is returned.
- (c) The quality control review shall include examination of the following, as applicable:
- (1) Batch production records;
- (2) Certificates of analysis or other testing records for ingredients;
- (3) Laboratory analysis records for finished product;
- (4) Label and packaging integrity;
- (5) Use by date; and
- (6) Any other examinations necessary to determine whether quality standards are met.
- (d) When there is a deviation or unanticipated occurrence during the production and in-process control system that results in or could lead to contamination of cannabis, a manufactured cannabis product, a component, or packaging, or could lead to the use of an incorrect label, quality control personnel shall reject the cannabis, manufactured cannabis product, component, packaging, or label unless quality control personnel approve a treatment, an in-process adjustment, or reprocessing to correct the applicable deviation or occurrence.
- (e) The person who conducts the review and makes the disposition decision shall, at the time of performance, document that review and disposition decision in accordance with section 11-850-128. [Eff and comp 2/24/22; am and comp 4/29/22; am and comp 11/17/22; comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-8, 329D-9, 329D-19)

§11-850-124 Returned cannabis or manufactured cannabis products. (a) Standard operating procedures. A dispensary shall establish and follow written standard operating procedures to fulfill the requirements of this section.

(b) Quarantine and investigation of production processes. Returned cannabis or manufactured cannabis products shall be identified and quarantined until quality control personnel conduct a review as required by section 11-850-123(c).

(c) Investigation of other batches. If the reason for cannabis or a manufactured cannabis product being returned implicates other batches, the dispensary shall conduct an investigation of each of those other batches in accordance with section 11-850-123(c) to determine compliance with subchapter 7 and the contamination limits in section 11-850-135.

(d) Destruction. A dispensary shall destroy any returned cannabis or manufactured cannabis product.
[Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22;
comp AUG -7 2023] (Auth: HRS §§321-9, 329D-7,
329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8,
329D-9, 329D-18)

§11-850-125 Product complaints. (a) A dispensary shall establish and follow written procedures to fulfill the requirements of this section.

(b) Review and investigation of product complaints. A qualified person shall:

- (1) Review all product complaints to determine whether the product complaint involves a possible failure of cannabis or a manufactured cannabis product to meet any of the contaminant limits in section 11-850-135 or any other requirements of this chapter, including those requirements that, if not met, may result in a risk of illness or injury; and
- (2) Investigate any product complaint that involves a possible failure of cannabis or a manufactured cannabis product to meet any of the contaminant limits in section 11-850-135 or any other requirements of this chapter, including those requirements that, if not

met, may result in a risk of illness or injury.

(c) Quality control personnel shall review and approve decisions about whether to investigate a product complaint and review and approve the findings and follow-up action of any investigation performed.

(d) The review and investigation of the product complaint by a qualified person, and the review by quality control personnel about whether to investigate a product complaint, and the findings and follow-up action of any investigation performed, shall extend to all relevant batches and records. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp

AUG -7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-126 Adverse events. (a) A dispensary shall establish and follow written procedures to fulfill the requirements of this section.

(b) A dispensary licensee shall notify the department within forty-eight hours after learning of an adverse event associated with cannabis or a manufactured cannabis product sold at a retail dispensing location operated by the dispensary licensee. For the purposes of this section, "adverse event" means any untoward medical occurrence associated with the use of cannabis or a manufactured cannabis product, which may include any unfavorable or unintended sign, symptom, or disease. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp

AUG -7 2023] (Auth: HRS §§321-9, 329D-9, 329D-27) (Imp: HRS §329D-9)

§11-850-127 Recalls. (a) A dispensary shall establish a written recall plan for cannabis and for each manufactured cannabis product.

(b) The written recall plan shall include procedures that describe the steps to be taken, and

assign responsibility for taking those steps, to perform the following actions as appropriate to the dispensary:

- (1) Notify the retail dispensing locations of the product being recalled, including how to return or dispose of the affected product;
 - (2) Notify qualifying patients, qualifying out-of-state patients, and the public about any hazard presented by the product when appropriate to protect public health;
 - (3) Conduct effectiveness checks to verify that the recall is carried out; and
 - (4) Appropriately dispose of recalled product (e.g., through reprocessing or destroying the product).
- (c) A dispensary shall notify the department in writing within twenty-four hours of initiating a recall. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp ~~AUG - 7 2023~~] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-18)

\$11-850-128 Recordkeeping for quality control.

(a) A medical cannabis dispensary shall establish and maintain the following records documenting compliance with this subchapter:

- (1) Written procedures for quality control operations, including:
 - (A) Conducting a review and making a disposition decision;
 - (B) Approving or rejecting any reprocessing;
 - (C) Identifying and investigating additional potentially implicated batches;
 - (D) Handling of returned cannabis or manufactured cannabis products, including procedures for quarantine, destruction, and salvaging and reprocessing; and

- (E) Reviewing and investigating product complaints;
- (2) Written documentation, at the time of performance, that quality control personnel performed the review, approval, or rejection requirements by recording the following:
 - (A) Date that the review, approval, or rejection was performed; and
 - (B) Signature of the person performing the review, approval, or rejection;
- (3) Documentation of any quality control review and disposition decision and follow-up shall be included in the appropriate batch production record and shall include:
 - (A) Identification of the specific deviation or unanticipated occurrence;
 - (B) Description of the investigation into the cause of the deviation or unanticipated occurrence;
 - (C) Evaluation of whether or not the deviation or unanticipated occurrence has resulted in or could lead to a failure to ensure the quality of the cannabis or manufactured cannabis product;
 - (D) Identification of the action(s) taken to correct, and prevent a recurrence of, the deviation or unanticipated occurrence;
 - (E) Explanation of what was done with the cannabis, manufactured cannabis product, packaging, or label;
 - (F) A scientifically valid reason for any reprocessing of a manufactured cannabis product that is rejected; and
 - (G) The signature of the individual(s) designated to perform the quality control operation, who conducted the review and made the disposition decision, and of each qualified individual who provides information

- relevant to the review and disposition decision;
- (4) The results of any laboratory analyses conducted as part of a quality control review or product complaint investigation;
- (5) Documentation of the re-evaluation by quality control personnel of any manufactured cannabis product that is reprocessed and the determination by quality control personnel of whether the reprocessed manufactured cannabis product meets contaminant limits established in section 11-850-135;
- (6) A written record of every product complaint that is related to production practices or production center standards:
- (A) The person who performs the requirements of section 11-850-125 shall document, at the time of performance, that the requirement was performed; and
- (B) The written record of the product complaint shall include the following:
- (i) The name and description of the cannabis or manufactured cannabis product;
- (ii) The batch number of the cannabis or manufactured cannabis product, if available;
- (iii) The date the complaint was received and the name, address, or telephone number of the complainant, if available;
- (iv) The nature of the complaint including, if known, how the cannabis or manufactured cannabis product was used;
- (v) The reply to the complainant, if any; and
- (vi) Findings of the investigation and follow-up action taken when an investigation is performed;

- (7) A written record of every adverse event and report of an adverse event to the department as required by section 11-850-126; and
 - (8) A written recall plan as required by section 11-850-127.
- (b) The records required by subsection (a) are subject to the requirements of section 11-850-41.
[Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22;
comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-8,
329D-9, 329D-27) (Imp: HRS §§329D-8, 329D-9, 329D-19)

§11-850-129 Remediation and reanalysis. (a) As permitted by section 11-850-135(h)(1), a batch of cannabis or manufactured cannabis products may be remediated and submitted a certified laboratory for reanalysis in accordance with the following procedures:

- (1) The dispensary licensee shall submit the sampling plan, certificate of analysis, and a remediation plan to the department within thirty calendar days of issuance of the certificate of analysis by the certified laboratory. The remediation plan shall include:
 - (A) A description of how the cannabis or manufactured cannabis product batch will be remediated so that the batch, or any product produced therefrom, will meet all laboratory testing and quality assurance requirements; and
 - (B) Evidence of the effectiveness of the proposed remediation strategy;
- (2) The dispensary licensee shall begin remediating the cannabis or manufactured cannabis products within thirty calendar days of receiving approval from the department;
- (3) A cannabis or manufactured cannabis product batch that has been remediated shall be reanalyzed and the licensee shall submit the

post-remediation certificate of analysis to the department;

- (4) The licensee shall not distribute any cannabis or manufactured cannabis products from the batch until receiving approval from the department; and
- (5) The licensee shall dispose of the cannabis or manufactured cannabis product in accordance with section 11-850-135(i) if:
 - (A) The licensee does not receive approval of its remediation plan from the department;
 - (B) The licensee is unable to begin remediation within thirty calendar days of receiving approval; or
 - (C) The reanalysis results fail to meet any of the specifications in section 11-850-135(c).

(b) If any cannabis or manufactured cannabis product that does not meet the specifications in section 11-850-135(c) is mixed with another batch of cannabis or manufactured cannabis product or remediated in violation of this section, the batch or mixture shall be deemed contaminated, regardless of any analytical results, and shall be disposed of in accordance with section 11-850-135(i).

(c) All remediation activities conducted under this section shall be documented in batch production records in accordance with section 11-850-122.

(d) Remediated cannabis, manufactured cannabis products, and products produced therefrom shall be tested and undergo quality assurance review in accordance with all applicable requirements of this chapter prior to distribution for dispensing. [Eff 11/17/22; comp ~~AUG -7-20~~] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-19)

\$11-850-130 (Reserved) .

SUBCHAPTER 9

LABORATORY CERTIFICATION, ANALYSIS, AND STANDARDS

\$11-850-131 Laboratory analysis required; batch size limits; representative samples; reserve samples.

(a) A dispensary licensee shall not dispense cannabis or manufactured cannabis products unless a laboratory certified by the department pursuant to this chapter has analyzed a representative sample of the cannabis or manufactured cannabis products and the samples meet the requirements set out in this subchapter.

(b) All samples submitted for laboratory analysis or held as reserve samples shall meet the requirements in subsection (f) for cannabis and subsection (g) for manufactured cannabis products.

(c) Collection of samples used to complete the analyses required by section 11-850-135 must take place after the batch of cannabis or manufactured cannabis product has completed all required production steps as outlined in the dispensary's standard operating procedures, except packaging and labeling, and is in its final form.

(d) A dispensary licensee shall maintain two reserve samples from each batch:

(1) In the same packaging in which the cannabis or manufactured cannabis product is dispensed;

(2) Under conditions consistent with the label or, if no storage conditions are recommended on the label, under ordinary storage conditions; and

(3) Until the use by date.

(e) A dispensary shall make reserve samples available for analysis or request laboratory analysis of reserve samples as directed by the department.

(f) Cannabis batch samples shall meet the following requirements:

- (1) The sampler shall obtain a representative sample from each batch. The representative sample must weigh at least 0.35 per cent of the total batch weight. A sampler may collect a representative sample greater than 0.35 per cent of the total batch weight if necessary to perform the required testing or to ensure that the samples obtained are representative.
- (2) The batch from which a sample is obtained shall weigh no more than 50.0 pounds. Laboratory analyses of a sample collected from a batch weighing more than 50.0 pounds shall be deemed invalid and the batch from which the sample was obtained shall not be released for retail sale.
- (3) When the sampler obtains a representative sample from a batch, the sampler shall do all the following:
 - (A) Collect at least the number of sample increments relative to the batch size as listed in Table 1. The sampler may collect a greater number of sample increments if necessary to perform the required testing or to ensure that the samples obtained are representative;
 - (B) Obtain sample increments from random and varying locations of the batch, both vertically and horizontally. To the extent practicable, the sample increments obtained from a batch shall be of equal weight; and
 - (C) To the extent practicable, collect an equal number of sample increments from each container if the batch is stored in multiple containers.

Table 1

Cannabis batch size (pounds)	Minimum number of increments per sample
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≤ 10.0	8
10.1 - 20.0	16
20.1 - 30.0	23
30.1 - 40.0	29
40.1 - 50.0	34

(g) Manufactured cannabis product batch samples shall meet the following requirements:

- (1) The sampler shall obtain a representative sample from each manufactured cannabis product batch.
- (2) The batch from which a sample is obtained shall contain no more than 150,000 units. Laboratory analyses of a sample collected from a batch containing more than 150,000 units shall be deemed invalid and the batch from which the sample was obtained shall not be released for retail sale.
- (3) The sampler shall obtain a representative sample of a manufactured cannabis product batch by collecting at least the number of sample increments relative to the batch size as listed in Table 2. Each sample increment consists of one packaged unit or an equivalent amount of product in its final form. The sampler may collect a greater number of sample increments if necessary to perform the required testing or to ensure that the samples obtained are representative.

Table 2

Manufactured cannabis product batch size (units)	Minimum number of increments (units) per sample
≤ 50	2
51 - 150	3
151 - 500	5

501 - 1,200	8
1,201 - 3,200	13
3,201 - 10,000	20
10,001 - 35,000	32
35,001 - 150,000	50

[Eff 12/14/15; S11-850-81; am, ren
 S11-850-131, and comp 2/24/22; comp 4/29/22;
 am and comp 11/17/22; comp AUG - 7 2023]
 (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9,
 329D-27) (Imp: HRS §§329D-7, 329D-8,
 329D-9; SLH 2017, Act 170, §3)

S11-850-132 Requirements for laboratory certification. (a) No laboratory is authorized to handle or analyze cannabis or manufactured cannabis products unless that laboratory is certified by the department as specified in this subchapter, except as provided in subsection (d).

(b) The department may grant a certification to a laboratory to analyze cannabis and manufactured cannabis products if that laboratory:

- (1) Is independent from all medical cannabis dispensary licensees and employees and all other persons and entities with a financial interest in a dispensary licensee;
- (2) Is accredited in Hawaii by an accreditation body whose standards are equivalent to the International Standards for Organization (ISO) 17025, with a scope of accreditation that includes analytes listed in section 11-850-135(c) for cannabis and manufactured cannabis products;
- (3) Demonstrates capacity and proficiency to test cannabis and manufactured cannabis products in accordance with this chapter;

- (4) Has established standard operating procedures that include chain of custody for samples transferred to the laboratory or between laboratories for analysis; and
 - (5) Has obtained a certification of registration from the department of public safety in accordance with section 329-32, HRS, and chapter 23-200.
- (c) The department may grant a provisional certification to a laboratory to analyze cannabis and manufactured cannabis products if that laboratory:
- (1) Is owned or operated by a laboratory that is accredited in another jurisdiction by an accreditation body whose standards are equivalent to the ISO 17025, with a scope of accreditation that includes cannabis and manufactured cannabis products;
 - (2) Has applied to be ISO 17025 accredited in Hawaii by an accreditation body whose standards are equivalent to the International Standards for Organization (ISO), for a scope of accreditation that includes analytes listed in section 11-850-135(c) for cannabis and manufactured cannabis products; and
 - (3) Meets the requirements in subsection (b)(1), (3), (4), and (5).
- (d) A laboratory applying for certification under this subchapter may handle and analyze samples of cannabis or manufactured cannabis products for the purpose of becoming certified pursuant to this subchapter provided the laboratory has obtained a certification of registration from the department of public safety in accordance with section 329-32, HRS, and chapter 23-200 prior to handling or analyzing samples. [Eff 12/14/15; §11-850-82; am, ren §11-850-132, and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp AUG - 7 2003] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9; SLH 2017, Act 170, §3)

§11-850-133 Procedures for laboratory

certification. (a) To apply for a laboratory certification to analyze cannabis and manufactured cannabis products, a laboratory shall submit to the department on forms and in a manner prescribed by the department:

- (1) An application;
 - (2) All information and documents required by the department, including but not limited to:
 - (A) Laboratory employee qualifications;
 - (B) Standard operating procedures;
 - (C) Quality assurance plan;
 - (D) Validation studies;
 - (E) Annual proficiency tests;
 - (F) A copy of the laboratory's most recent assessment by the laboratory's accreditation body, the laboratory's responses to any findings of non-compliance with standards or recommendations, and the corrective actions taken by the laboratory to address the findings or recommendations; and
 - (G) A copy of the laboratory's accreditation in Hawaii or another jurisdiction, accompanied by the scope of accreditation; and
 - (3) An annual certification fee in the amount of \$3,000.
- (b) As part of its review conducted prior to issuing certification to a laboratory, the department:
- (1) Shall conduct an on-site evaluation of a laboratory seeking initial certification or a laboratory seeking to meet the requirements of section 11-850-132(b) after a period of provisional certification; and
 - (2) May conduct an on-site evaluation of a laboratory seeking renewal of certification.
 - (c) The department may issue a certification to a laboratory that meets the applicable requirements

set forth in this chapter, including the requirements of section 11-850-132(b).

(d) The department may issue a provisional certification to a laboratory that meets the applicable requirements set forth in this chapter, including the requirements of section 11-850-132(c).

(e) The department shall deny certification to any laboratory that does not meet the requirements set forth in this subchapter.

(f) A laboratory certification pursuant to this subchapter shall expire one year after the date it is issued by the department.

(g) To apply for renewal of a laboratory certification, a laboratory shall submit the application, information, documents, and fee required in subsection (a) no later than two months prior to expiration of its certification. [Eff 12/14/15; §11-850-83; am, ren §11-850-133, and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp

AUG - 7 2013] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9; SLH 2017, Act 170, §3)

§11-850-134 Minimum operating standards for laboratories certified pursuant to this subchapter.

(a) Upon being certified by the department, a laboratory shall:

- (1) Display a copy of the certification in a prominent location on the laboratory premises;
- (2) Obtain department approval of the laboratory's employee qualifications, quality assurance plan, and standard operating procedures to analyze cannabis and manufactured cannabis products;
- (3) Follow the scope for which it is accredited for analyzing cannabis and manufactured cannabis products and the requirements for laboratory standards and analysis established in this subchapter;

- (4) Notify the department within one business day after receiving notice of any kind that its accreditation has been denied, suspended, or revoked;
 - (5) Notify the department immediately of any change or anticipated change that may affect the operations of the laboratory with regard to its ability to continue to meet the requirements of this subchapter, including, but not limited to, proficiency test results, employee changes, instrumentation, methodology, standard operating procedures, facilities, and accreditation; and
 - (6) Follow other conditions set forth in the certification as issued by the department.
- (b) For cannabis and each manufactured cannabis product it tests, a certified laboratory shall:
- (1) Be able to meet the requirements of section 11-850-135(a) and (b) for the product;
 - (2) Have the appropriate certifications and accreditations to perform an analytical method or methods applicable to the product matrix;
 - (3) Have completed validation studies for the applicable analytical method or methods and product matrix; and
 - (4) Have completed annual proficiency tests for the applicable analytical method or methods and product matrix.
- (c) A certified laboratory shall maintain the following records for a minimum of five years and shall make all records available to the department upon request:
- (1) Records documenting compliance with subsection (b), including:
 - (A) An attestation that the laboratory meets the requirements;
 - (B) Analytical results for batch samples and quality control samples; and
 - (C) Records of validation studies and proficiency tests;

- (2) Sampling plans required by section 11-850-135(a); and
- (3) Records required by section 11-850-135(f).
[Eff 12/14/15; §11-850-84; am, ren
§11-850-134, and comp 2/24/22; comp 4/29/22;
am and comp 11/17/22; comp *AUG - 7 2020*]
(Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9,
329D-27) (Imp: HRS §§329D-7, 329D-8,
329D-9; SLH 2017, Act 170, §3)

§11-850-135 Laboratory standards and analysis.

(a) A certified laboratory shall develop and follow a statistically valid sampling plan to collect representative samples from each batch of cannabis or manufactured cannabis product in accordance with section 11-850-131. A certified laboratory shall analyze a representative sample from each batch of cannabis or manufactured cannabis products.

(b) A certified laboratory shall analyze samples according to standard operating procedures prepared by the laboratory based on validated methods published in peer reviewed scientific or regulatory literature, subject to approval by the department, and shall document the accuracy, sensitivity, specificity, and reproducibility of the analysis methods.

(c) A certified laboratory shall issue to the dispensary licensee and the department a certificate of analysis for each batch of cannabis and manufactured cannabis products analyzed for that dispensary; provided that a certified laboratory may only analyze and report on those methods and analytes for which it is qualified. The certificate of analysis shall include the results with supporting data for the following:

- (1) The chemical profile of the batch for the following cannabinoids:
 - (A) Total tetrahydrocannabinol;
 - (B) Delta-9-tetrahydrocannabinolic acid;
 - (C) Delta-9-tetrahydrocannabinol;
 - (D) Delta-8-tetrahydrocannabinol;

- (E) Cannabidiol (CBD); and
 - (F) Any other cannabinoid specifically listed or described in the label or packaging of the cannabis or manufactured cannabis product, including but not limited to cannabigerol (CBG) and cannabinol (CBN).
- (2) The presence of the following contaminants, which shall not exceed the specified concentration limits:
- (A) Heavy metals listed in Table 3;

Table 3

Heavy metal	Limit (parts per million)
Arsenic	10.0 ppm
Cadmium	4.0 ppm
Lead	6.0 ppm
Mercury	2.0 ppm

- (B) Pesticides listed in Table 4, each with a limit of 1.0 parts per million (ppm);

Table 4

Pesticide	Chemical Abstracts Service Registry Number (CAS No.)
Abamectin	71751-41-2
Acephate	30560-19-1
Acequinocyl	57960-19-7
Acetamiprid	135410-20-7
Aldicarb	116-06-3
Azoxystrobin	131860-33-8
Bifenazate	149877-41-8
Bifenthrin	82657-04-3
Boscalid	188425-85-6
Carbaryl	63-25-2

Carbofuran	1563-66-2
Chlorantraniliprole	500008-45-7
Chlорfenapyr	122453-73-0
Chlorpyrifos	2921-88-2
Clofentezine	74115-24-5
Cyfluthrin	68359-37-5
Cypermethrin	52315-07-8
DDVP (Dichlorvos)	62-73-7
Diazinon	333-41-5
Dimethoate	60-51-5
Ethoprophos	13194-48-4
Etofenprox	80844-07-1
Etoxazole	153233-91-1
Fenpyroximate	134098-61-6
Fipronil	120068-37-3
Flonicamid	158062-67-0
Fludioxonil	131341-86-1
Hexythiazox	78587-05-0
Imazalil	35554-44-0
Imidacloprid	138261-41-3
Kresoxim-methyl	143390-89-0
Malathion	121-75-5
Metalaxyll	57837-19-1
Methiocarb	2032-65-7
Methomyl	16752-77-5
Methyl parathion	298-00-0
MGK-264	113-48-4
Myclobutanil	88671-89-0
Naled	300-76-5
Oxamyl	23135-22-0
Paclobutrazol	76738-62-0
Permethrins (total of cis- and trans-permethrin isomers) ¹	52645-53-1
Phosmet	732-11-6
Piperonyl butoxide	51-03-6
Prallethrin	23031-36-9
Propiconazole	60207-90-1
Propoxur	114-26-1
Pyrethrins (total of pyrethrin 1, cinerin 1, and jasmolin 1) ²	8003-34-7

Pyridaben	96489-71-3
Spinosad	168316-95-8
Spiromesifen	283594-90-1
Spirotetramat	203313-25-1
Tebuconazole	80443-41-0
Thiacloprid	111988-49-9
Thiamethoxam	153719-23-4
Trifloxystrobin	141517-21-7

Notes to Table 4:

1. Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8, respectively).
2. Pyrethrins should be measured as the cumulative residues of pyrethrin 1, cinerin 1, and jasmolin 1 (CAS numbers 121-21-1, 25402-06-6, and 4466-14-2, respectively).

(C) For manufactured cannabis products,
solvents listed in Table 5;

Table 5

Solvent	Chemical Abstracts Service Registry Number (CAS No.)	Limit (parts per million)
1,1-Dichloroethene	75-35-4	8.0 ppm
1,1,1-Trichloroethane	71-55-6	1,500 ppm
1,2-Dichloroethane	107-06-2	1.0 ppm
Acetone	67-64-1	5000 ppm
Acetonitrile	75-05-8	410 ppm
Benzene	71-43-2	1.0 ppm
Butane	106-97-8	5000 ppm
Carbon tetrachloride	56-23-5	4.0 ppm

Chloroform	67-66-3	1.0 ppm
Ethanol	64-17-5	5000 ppm
Ethyl acetate	141-78-6	5000 ppm
Ethyl ether	60-29-7	5000 ppm
Heptane	142-82-5	5000 ppm
Hexane	110-54-3	290 ppm
Isopropyl alcohol	67-63-0	5000 ppm
Methanol	67-56-1	3000 ppm
Methylene chloride	75-09-2	1.0 ppm
Pentane	109-66-0	5000 ppm
Propane	74-98-6	5000 ppm
Toluene	108-88-3	890 ppm
Total xylenes (ortho-, meta-, para-)	1330-20-7	2170 ppm
Trichloroethylene	79-01-6	1.0 ppm

- (D) Any visible foreign or extraneous material, that is not intended to be part of the product being produced, including but not limited to mold, hair, insects, metal, or plastic;
- (E) The following microbial contaminants, which must not be detected in one gram of cannabis or manufactured cannabis product:
- (i) *Escherichia coli*;
 - (ii) *Salmonella spp.*;
 - (iii) *Aspergillus fumigatus*;
 - (iv) *Aspergillus flavus*;
 - (v) *Aspergillus niger*; and
 - (vi) *Aspergillus terreus*; and
- (F) Mycotoxins listed in Table 6.

Table 6

Mycotoxin	Limit (parts per billion)
Aflatoxins (total of B1, B2, G1, G2)	20 ppb

Ochratoxin A	20 ppb
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- (3) For cannabis, kief, and hashish, water activity (a_w), which shall not exceed 0.65; and
- (4) Additional analyses requested at the discretion of the department.
- (d) The certified laboratory may reanalyze the sample or analyze a different sample from the same batch by following its standard operating procedure to confirm or refute the original result, upon request by the dispensary licensee or upon request by the department at the dispensary licensee's expense, provided that no more than two re-analyses may be performed for the same batch.
- (e) The certified laboratory shall return to the dispensary licensee or destroy in a manner approved by the department any samples or portions of samples of cannabis or manufactured cannabis products that remain after analysis is completed.
- (f) A certified laboratory shall create records of analyses it conducts on cannabis and manufactured cannabis products, including but not limited to:
 - (1) The time and date the sample was obtained;
 - (2) A description of the sample, including the amount;
 - (3) What analyses were conducted on each sample;
 - (4) The results of the analyses including the certificate of analysis; and
 - (5) Evidence of the time, date, and method of destruction of a sample after analysis is completed, and the amount of sample destroyed, or the time and date a sample was returned to a dispensary with a description including the amount.
- (g) A dispensary licensee shall ensure that each sample is analyzed for each of the analytes set out in subsection (c) and may obtain results from different laboratories for different analytes if one laboratory cannot perform all the analyses.
- (h) The level of contaminants and water activity in cannabis and manufactured cannabis products shall

not exceed the limits specified in subsection (c), and if any of the limits are exceeded, the dispensary licensee shall not dispense any portion of the batch of cannabis or manufactured cannabis product that does not conform to the standards; provided that:

- (1) The following may be remediated in accordance with section 11-850-129:
 - (A) Cannabis or manufactured cannabis products that exceed the limits for heavy metals, foreign or extraneous material, microbial contaminants, mycotoxins, or water activity; and
 - (B) Manufactured cannabis products that exceed the limits for solvents or the dosage limits in section 11-850-76(f) or 11-850-142(a)(5);
- (2) The limit for ethanol does not apply to tinctures; and
- (3) The limits for ethanol and isopropyl alcohol do not apply to ointments intended for topical application, skin lotions, and transdermal patches.
 - (i) A dispensary licensee shall dispose of or destroy any batch that does not conform to the standards set out in subsection (c) under video camera surveillance within thirty days; provided that a dispensary licensee shall quarantine a non-conforming batch until any reanalysis pursuant to subsection (d) or (h) is completed. The quarantine shall be lifted only by the department, and only following receipt by the department of a certificate of analysis indicating that the batch conforms to the standards set out in subsection (c). [Eff 12/14/15; §11-850-85; am, ren §11-850-135, and comp 2/24/22; am and comp 4/29/22; comp 4/29/22; am and comp 11/17/22; am and comp AUG -7 2013] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-19; SLH 2017, Act 170, §3)

§11-850-136 Enforcement; suspension and revocation of laboratory certification. (a) A certified laboratory or a laboratory seeking certification shall provide the department access to inspect the laboratory facility, interview laboratory personnel, or review, inspect, evaluate, and audit records and documents related to the analyses of dispensary licensee samples at any time to verify compliance with this subchapter.

(b) If the department finds that a certified laboratory is not in compliance with the requirements of this chapter, the department shall notify the certified laboratory in writing of the specific areas of non-compliance and the department may do one or more of the following:

- (1) Establish a specific timeframe for the correction of areas of non-compliance;
- (2) Require the certified laboratory to submit, within fifteen days of receipt of the department's notification, a written corrective action plan that addresses the areas of non-compliance and that shall be subject to approval by the department; or
- (3) Suspend a laboratory certification and prohibit the laboratory from handling and analyzing cannabis and manufactured cannabis products.

(c) If a satisfactory corrective action plan is not submitted to the department within the required timeframe or the identified areas of non-compliance are not corrected to the satisfaction of the department within the required timeframe, the department may suspend or revoke a laboratory certification.

(d) The department may summarily suspend a laboratory certification if the department finds that a certified laboratory has engaged in a deliberate and willful violation of this subchapter or that a violation presents a substantial probability that physical harm will result.

(e) The department may suspend or revoke a laboratory certification for any of the following reasons:

- (1) Violation of any provision of this chapter;
- (2) Failure to maintain a current accreditation with an accreditation body whose standards are equivalent to the ISO/IEC 17025;
- (3) Submission of misleading, incorrect, false, or fraudulent information;
- (4) Failure to allow inspections by the department;
- (5) Failure to pass inspections by the department;
- (6) Knowingly permitting unauthorized persons to perform technical procedures or issue or sign reports;
- (7) Consistent errors in performance of laboratory procedures, based on faulty technique or controls;
- (8) Where immediate action is required to comply with the law or protect the health and safety of the general public; or
- (9) Any other reason consistent with applicable laws, or other factors that may affect the health, safety, or welfare of the public or a qualifying patient or qualifying out-of-state patient.

(f) Except as allowed by subsection (d), the department shall send, by certified mail return receipt requested, written notification of suspension or revocation to the laboratory and include the specific reasons for the department's action and the process to request a reconsideration of the department's action pursuant to section 11-850-137.

(g) Upon suspension of its certification, the laboratory shall:

- (1) Cease performing one or more of the analyses allowed by the certification as directed by the department;
- (2) Follow all conditions imposed on the certification by the department; and

- (3) Take corrective action as required under subsection (b).
- (h) Upon revocation of its certification, the laboratory shall:
 - (1) Surrender its certification to the department;
 - (2) No longer accept or analyze cannabis or manufactured cannabis products;
 - (3) Return to the dispensary or destroy in a manner approved by the department any samples of cannabis or manufactured cannabis products in its possession at the time of revocation.
- (i) Notwithstanding a laboratory's failure to surrender a revoked certification to the department, the laboratory shall no longer be qualified to analyze cannabis or manufactured cannabis products.
- (j) A laboratory aggrieved by a decision made pursuant to this section may request a reconsideration of the action in accordance with section 11-850-137.
[Eff 12/14/15; §11-850-86; am, ren §11-850-136, and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; comp *AUG -7 2023*] (Auth: HRS §§321-9, 329D-7, 329D-8, 329D-9, 329D-27) (Imp: HRS §§329D-7, 329D-8, 329D-9, 329D-18; SLH 2017, Act 170, §3)

§11-850-137 Request for reconsideration. (a) A laboratory aggrieved by a suspension or revocation made pursuant to section 11-850-136 may request a reconsideration of the action.

(b) A request for reconsideration shall be submitted to the department within five business days after the date of notification; provided that for the purposes of this section, "date of notification" means three days after the department mailed notice to the laboratory.

(c) A request for reconsideration shall include an explanation of why the laboratory believes the suspension or revocation was improper and shall include all arguments, authorities, factors,

affidavits, exhibits, and any other matter which the laboratory may deem relevant.

(d) The director shall issue a written final decision to the laboratory within fifteen business days after the receipt of a request for reconsideration, unless the director determines that an extension is necessary and provides written notice of the extended deadline to the laboratory.

(e) The director's final decision shall, at a minimum, determine whether the director is upholding the suspension or revocation and shall contain a statement of the reasons for the final decision, including factual findings.

(f) A request for reconsideration shall not operate as a stay of the suspension or revocation made pursuant to section 11-850-136.

(g) A final decision by the director on a request for reconsideration is a final agency action.
[Eff 12/14/15; §11-850-87; am, ren §11-850-137, and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp

AUG -7 2023] (Auth: §§321-9, 329D-7, 329D-8,
329D-27) (Imp: §§329D-7, 329D-8)

§§11-850-138 to 11-850-140 (Reserved).

SUBCHAPTER 10

SIGNAGE, PACKAGING, LABELING, ADVERTISING, AND
DISPLAYS

§11-850-141 Signage. A dispensary licensee shall not post any signage visible from the exterior other than one or two signs, each no greater than one thousand six hundred square inches, that bear only the business or trade name in text without any pictures or illustrations; provided that if any applicable law or

ordinance restricting outdoor signage is more restrictive, that law or ordinance shall govern. [Eff 12/14/15; \$11-850-91; ren \$11-850-91 and comp 2/24/22; comp 4/29/22; comp 11/17/22; am and comp AUG -7 2023] (Auth: HRS §§321-9, 329D-6, 329D-7, 329D-27) (Imp: HRS §§329D-6, 329D-7)

\$11-850-142 Packaging for retail sale. (a) A dispensary licensee shall use packaging for cannabis and manufactured cannabis products that:

- (1) Meets the requirements for special packaging in Title 16 C.F.R. part 1700, as published by the U.S. Government Publishing Office as of January 1, 2021;
 - (2) Is opaque so that the product cannot be seen from outside the packaging;
 - (3) Protects the product from contamination and does not impart any toxic or harmful substance to the cannabis or manufactured cannabis product;
 - (4) Is not reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the cannabis or manufactured cannabis products as labeled; and
 - (5) For manufactured cannabis products, contains no more than one thousand milligrams of total tetrahydrocannabinol per pack or container.
- (b) All manufactured cannabis products shall be packaged in their final packaging at the original point of manufacture. [Eff 12/14/15; \$11-850-92; am, ren \$11-850-142, and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; am and comp AUG -7 2023] (Auth: HRS §§321-9, 329D-7, 329D-9, 329D-10, 329D-11, 329D-27) (Imp: HRS §§329D-7, 329D-9, 329D-10, 329D-11, 329D-18; SLH 2017, Act 170, §3)

§11-850-143 Labeling for retail sale. (a) Each package of cannabis or manufactured cannabis product shall be labeled using only black lettering on a white background with no pictures or graphics.

(b) Except as provided in subsection (f), every package of cannabis or manufactured cannabis product shall be labeled with the following information displayed prominently and conspicuously, but in no case may the letters or numbers be less than one-sixteenth inch in height:

- (1) Product name;
- (2) Information about the contents and potency of the cannabis and manufactured cannabis product, including but not limited to:
 - (A) Net weight in ounces and grams for solids or volume for liquids;
 - (B) The concentration in milligrams per gram for solids and milligrams per milliliter for liquids of:
 - (i) Total tetrahydrocannabinol;
 - (ii) Delta-9-tetrahydrocannabinolic acid;
 - (iii) Delta-9-tetrahydrocannabinol;
 - (iv) Delta-8-tetrahydrocannabinol;
 - (v) Cannabidiol; and
 - (vi) Any other cannabinoid specifically listed or described in the label or packaging of the cannabis or manufactured cannabis product, including but not limited to cannabigerol (CBG) and cannabinol (CBN).
- (3) An ingredient statement that meets the requirements of section 11-850-144;
- (4) The dispensary licensee's license number and the name of the production center where cannabis in the product was produced;
- (5) The batch number and date of packaging;
- (6) A computer tracking inventory identification number barcode generated by tracking software;

- (7) Date of harvest for cannabis or date of manufacture for manufactured cannabis products;
 - (8) Instructions for use and "use by date";
 - (9) The phrases "For medical use only" and "Not for resale or transfer to another person";
 - (10) The following warnings:
 - (A) "This product may be unlawful outside of the State of Hawaii and is unlawful to possess or use under federal law";
 - (B) "This product has intoxicating effects and may be habit forming";
 - (C) "Smoking is hazardous to your health";
 - (D) "There may be health risks associated with consumption of this product";
 - (E) "This product is not recommended for use by women who are pregnant or breast feeding";
 - (F) "Cannabis can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of cannabis";
 - (G) "When eaten or swallowed, the effects of cannabis may be delayed by two or more hours"; and
 - (H) "Keep out of the reach of children".
 - (11) The name of the laboratory that performed the analysis.
- (c) Except as provided in subsection (f), every package of manufactured cannabis product shall be labeled with the following information displayed prominently and conspicuously, but in no case may the letters or numbers be less than one-sixteenth inch in height:
- (1) The equivalent physical weight of the cannabis used to manufacture the amount of the product that is within the packaging, pursuant to section 329D-9(c), HRS;
 - (2) A disclosure of the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce the manufactured cannabis product; and

- (3) The warning "This product is a medication that contains cannabis and is not a food".
- (d) Except as provided in subsection (f), every edible cannabis product shall be labeled with the following information displayed prominently and conspicuously, but in no case may the letters or numbers be less than one-sixteenth inch in height:
 - (1) The net quantity (in terms of weight, measure, or numerical count) of each serving;
 - (2) The content (in milligrams) per serving of:
 - (A) Total tetrahydrocannabinol;
 - (B) Delta-9-tetrahydrocannabinolic acid;
 - (C) Delta-9-tetrahydrocannabinol;
 - (D) Delta-8-tetrahydrocannabinol;
 - (E) Cannabidiol (CBD); and
 - (F) Any other cannabinoid specifically listed or described in the label or packaging of the cannabis or manufactured cannabis product, including but not limited to cannabigerol (CBG) and cannabinol (CBN); and
 - (3) A statement of the major food allergens the product contains or has protein derived from, to include:
 - (A) Milk;
 - (B) Egg;
 - (C) Fish;
 - (D) Crustacean shellfish;
 - (E) Tree nuts;
 - (F) Wheat;
 - (G) Peanuts; and
 - (H) Soybeans.Highly refined oils derived from any of the eight major food allergens and any ingredient derived from such highly refined oils are exempt from this requirement.
- (e) Except as provided in subsection (f), ointments, skin lotions, and transdermal patches shall be labeled with the following information displayed prominently and conspicuously, but in no case may the

letters or numbers be less than one-sixteenth inch in height: the statement "For external use only.".

- (f) Allowed exceptions.
 - (1) In lieu of being included on the product label, the information in paragraphs (b) (10) (A) to (G), (b) (11), (c) (2), and (c) (3) may be included on labeling attached to or inserted into the package using a type size no smaller than one-sixteenth inch in height.
 - (2) Upon request by a dispensary licensee, the department may authorize certain additional information in subsections (b) to (e) to appear on the package insert based on a finding by the department that the size of the package does not reasonably accommodate all of the information in subsections (b) to (e).

(g) A dispensary licensee shall not label as organic any cannabis or manufactured cannabis product unless permitted by the United States Department of Agriculture in accordance with the Organic Foods Production Act.

(h) A dispensary shall not use the words "candy" and "candies" on product packaging or labeling.

(i) Product packaging or labeling shall not make health or benefit claims that are unsubstantiated, false, or misleading in any particular.

(j) Cannabinoid content and potency labeling required in subsections (b) (2) and (d) (2) shall reflect the amount indicated on the certificate of analysis required in section 11-850-135, except that packages shall not be labeled with an amount greater than the dosage limits in section 11-850-76(f) or 11-850-142(a) (5). [Eff 12/14/15; §11-850-92 (pt); am, ren §11-850-143, and comp 2/24/22; comp 4/29/22; am and comp 11/17/22; am and comp AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-9, 329D-11, 329D-27) (Imp: HRS §§329D-7, 329D-9, 329D-11, 329D-17, 329D-18; SLH 2017, Act 170, §3)

§11-850-144 Ingredient statement. (a) All ingredients shall be listed on the label in order of prominence by weight and shall be preceded by the word "Ingredients".

(b) The common or usual name of ingredients shall be consistent with the names standardized in:

- (1) For ingredients that are botanicals (including fungi and algae): *Herbs of Commerce*, second edition, published by the American Herbal Products Association. The listing of these names on the label shall be followed by statements of:
 - (A) The part of the plant (e.g., root, leaves) from which the ingredient is derived (e.g., "Cannabis flower" or "Cannabis (flower)"), except that this designation is not required for algae; and
 - (B) The Latin binomial name of the plant, in parentheses, except that this name is not required when it is available in *Herbs of Commerce*, second edition, for the common or usual name listed on the label, and, when required, the Latin binomial name may be listed before the part of the plant. Any name in Latin form shall be in accordance with internationally accepted rules on nomenclature, such as those found in the *International Code of Botanical Nomenclature* (Shenzhen Code), 2018 edition, published by the International Association for Plant Taxonomy, and shall include the designation of the author or authors who published the Latin name, when a positive identification cannot be made in its absence.
- (2) For cosmetic ingredients in topical manufactured cannabis products: 21 C.F.R. section 701.3(c), published by the U.S.

Government Publishing Office, as amended as of April 1, 2021. [Eff and comp 2/24/22; comp 4/29/22; comp 11/17/22; comp
AUG - 7 2023] (Auth: HRS §§321-9, 329D-7, 329D-9, 329D-11, 329D-27) (Imp: HRS §§329D-7, 329D-9, 329D-11)

§11-850-145 Advertising and displays. (a) A dispensary licensee shall not engage in advertising in any media including but not limited to:

- (1) Broadcast or electronic media:
 - (A) Radio;
 - (B) Television;
 - (C) Internet; and
 - (D) Social media;
- (2) Print media:
 - (A) Newspaper;
 - (B) Magazine;
 - (C) Billboards; and
 - (D) Placards on public transit vehicles or public transit shelters;

provided that a dispensary licensee may provide only general information on the dispensary licensee's contact information, its retail dispensing location, and a list of products available for dispensing with a description limited to the information specified in section 11-850-143 by means of a website or a private messaging system in which an individual requests such information from the dispensary.

(b) A dispensary licensee shall not display cannabis or manufactured cannabis products in windows or in public view.

(c) A dispensary shall not use the words "candy" and "candies" on advertising, product lists, or product menus.

(d) A dispensary and its employees shall not make health or benefit claims regarding its products that are unsubstantiated, false, or misleading in any particular. [Eff 12/14/15; §11-850-93; am, ren §11-850-145, and comp 2/24/22; comp 4/29/22; am and

comp 11/17/22; comp AUG - 7 2023] (Auth: HRS
§§321-9, 329D-7, 329D-11, 329D-27) (Imp: HRS
§§329D-6, 329D-7, 329D-11; SLH 2017, Act 170, §3)

§§11-850-146 to 11-850-150 (Reserved).

SUBCHAPTER 11

ENFORCEMENT

§11-850-151 Remedies. (a) If the director determines that any person is violating any provision of this chapter, chapter 329D, HRS, or the person's license, the director may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may:

- (1) Require that the alleged violator do any or all of the following:
 - (A) Cease and desist from the violation;
 - (B) Pay an administrative penalty of not less than \$100 nor more than \$1,000 for each separate violation; provided that each day on which a violation occurs or continues shall be counted as a separate violation; and
 - (C) Submit a corrective action plan within ten days and correct the violation at the alleged violator's expense; and
 - (2) Suspend or revoke a dispensary license pursuant to section 11-850-152 and section 329D-21, HRS.
- (b) Subject to subsection (d), the order shall become final twenty days after service unless within those twenty days the alleged violator requests in writing a hearing before the director. When the director issues an order for immediate suspension or

revocation of a dispensary license, the department shall provide an opportunity for a hearing to occur within two days after service of the order; provided that if the second day falls on a Saturday, Sunday, or State holiday, the hearing shall be held on the next day that is not a Saturday, Sunday, or State holiday. No order for suspension or revocation shall be stayed pending a hearing. After a hearing pursuant to this subsection, the director may affirm, modify, or rescind the order as appropriate.

(c) The department may consider multiple factors in assessing a penalty or ordering a remedial action against a dispensary licensee. The factors, any of which may be the basis for assessing a penalty or ordering a remedial action, include but are not limited to:

- (1) Whether the violation violates criminal law or imminently jeopardizes the health or safety of the general public, qualifying patients, or qualifying out-of-state patients;
- (2) Whether the violation creates a risk to the health or safety of the general public, qualifying patients, or qualifying out-of-state patients;
- (3) Whether the violation is a violation of an administrative licensing requirement;
- (4) Any prior violations;
- (5) Actions taken to prevent or correct the violation;
- (6) Whether the violation was deliberate;
- (7) Whether the violation is likely to recur;
- (8) The nature, circumstances, extent, gravity, and history of the violation and any prior violations; and
- (9) Any other factors that may affect the health, safety, or welfare of the public, a qualifying patient, or a qualifying out-of-state patient.

(d) Upon a request for a hearing the director shall specify a time and place for the alleged violator to appear. After a hearing pursuant to this

section, the director may affirm, modify, or rescind the order as appropriate. Any penalty imposed under this chapter shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein request in writing a hearing before the director. Whenever a hearing is requested on a penalty, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Orders for suspension of a dispensary license shall become effective immediately upon service, whether or not a hearing is requested. No order for suspension or revocation shall be stayed pending a final decision. Whenever a hearing is requested on an order for revocation of a dispensary license, the order shall become effective upon completion of all review proceedings and the issuance of a final order confirming the revocation.

(e) When an applicant who has not received a license requests a hearing pursuant to section 329D-21, HRS, the department shall timely post that applicant's request on its website. A successful applicant may intervene as of right in any hearing by an unsuccessful applicant for the same license.

(f) Any hearing conducted under this section shall be conducted as a contested case under chapter 91, HRS, and chapter 11-1. If after a hearing held pursuant to this section the director finds that a violation or violations have occurred, the director shall affirm or modify any penalties imposed, or shall affirm or modify the order for remedial action, or both, or may order any other corrective action that may be appropriate. If, after a hearing on an order for remedial action or penalty contained in a notice, the director finds that no violation has occurred or is occurring, the director shall rescind the order or penalty.

(g) Notices under this section shall be served either by mail, return receipt requested, or in person. Notice shall be served upon the individual applicant or any employee who is present in the

facility, and is effective upon receipt. [Eff 12/14/15; \$11-850-101; am, ren \$11-850-151, and comp 2/24/22; comp 4/29/22; comp 11/17/22; am and comp **AUG - 7 2023**] (Auth: HRS §§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-7, 329D-21)

\$11-850-152 Suspension and revocation of dispensary license. (a) Upon suspension of a dispensary license pursuant to section 329D-21 and this subchapter, the licensee shall immediately do any or all of the following as ordered by the director:

- (1) Cease dispensing or manufacturing cannabis and manufactured cannabis products, or both;
- (2) Cease transporting cannabis and manufactured cannabis products; or
- (3) Cease operations in all applicable dispensary facilities except those operations necessary to maintain the growth of cannabis plants and to maintain security.

(b) Upon revocation of a dispensary license pursuant to section 329D-21 and this subchapter, the licensee shall immediately:

- (1) Cease dispensing and manufacturing cannabis and manufactured cannabis products;
- (2) Cease transporting all cannabis and manufactured cannabis products;
- (3) Cease all operations in dispensary facilities;
- (4) Destroy or dispose of all cannabis and manufactured cannabis products owned, controlled by, or in the possession of the licensee, in accordance with this chapter, and enter that information in its tracking system; and
- (5) Surrender the dispensary license to the department.

(c) Following a suspension, the department may allow a dispensary licensee to resume operations by written notice to the licensee after the licensee has corrected the violations. [Eff 12/14/15; \$11-850-102;

am, ren §11-850-152, and comp 2/24/22; comp 4/29/22;
comp 11/17/22; comp ~~AUG -7 2017~~] (Auth: HRS
§§321-9, 329D-7, 329D-27) (Imp: HRS §§329D-2, 329D-6,
329D-7, 329D-21; SLH 2017, Act 170, §3)

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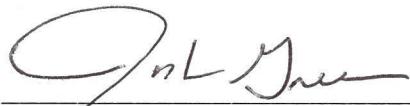
DEPARTMENT OF HEALTH

Chapter 11-850 (Interim Rules), Hawaii
Administrative Rules, on the Summary Page dated July
6, 2023 was amended and compiled on July 6, 2023.

The foregoing rulemaking action shall take effect
ten days after filing with the Office of the
Lieutenant Governor.



Kenneth S. Fink, MD, MGA, MPH
Director of Health



Josh Green, M.D.
Governor of Hawaii

Dated: 7/28/23

APPROVED AS TO FORM:



Andrew D. Goff
Deputy Attorney General

Filed

23 JUL 28 P12:18

LIEUTENANT GOVERNOR'S
OFFICE

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GOV. MSG. NO. 1209

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

June 22, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 22, 2023, the following bill was signed into law:

HB1082 HD3 SD2 CD1

RELATING TO MEDICAL CANNABIS.
ACT 108

Sincerely,

A handwritten signature in black ink that reads "Josh Green M.D."

Josh Green, M.D.
Governor, State of Hawai'i

Approved by the Governor

on JUN 22 2023

HOUSE OF REPRESENTATIVES
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

ACT 108

H.B. NO.

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S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO MEDICAL CANNABIS.

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

1 SECTION 1. 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 one year from the time of signing;
15 provided that the department of health may allow for the
16 validity of any written certification for [up to] three years if
17 the qualifying patient's physician or advanced practice



1 registered nurse states that the patient's debilitating medical
2 condition is chronic in nature."

3 SECTION 2. Section 329D-1, Hawaii Revised Statutes, is
4 amended as follows:

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

7 ~~"Waiting room" means a designated area at the public~~
8 ~~entrance of a retail dispensing location that may be accessed by~~
9 ~~a member of the general public who is waiting for, assisting, or~~
10 ~~accompanying a qualifying patient, primary caregiver, qualifying~~
11 ~~out-of-state patient, or caregiver of a qualifying out-of-state~~
12 ~~patient who enters or remains on the premises of a retail~~
13 ~~dispensing location for the purpose of a transaction conducted~~
14 ~~pursuant to sections 329D-6 and 329D-13; provided that the~~
15 ~~storage, display, and retail sale of cannabis and manufactured~~
16 ~~cannabis products shall be prohibited within the waiting room~~
17 ~~area."~~

18 2. By amending the definition of "manufactured cannabis
19 product" to read:

20 ~~"Manufactured cannabis product" means [any]:~~



- 1 (1) Any capsule, lozenge, oil or oil extract, tincture,
2 ointment or skin lotion, pill, transdermal patch, or
3 pre-filled and sealed container used to aerosolize and
4 deliver cannabis orally[τ] or by inhalation, such as
5 an inhaler [ερ], nebulizer, or device that provides
6 safe pulmonary administration, that has been
7 manufactured using cannabis[τ];
- 8 (2) Edible cannabis products;
9 (3) Pre-rolled cannabis flower products; or [any]
10 (4) Any other products as specified by the department
11 pursuant to section 329D-10(a)(11)."

12 SECTION 3. Section 329D-6, Hawaii Revised Statutes, is
13 amended as follows:

- 14 1. By amending subsection (o) to read:
15 "(o) A dispensary shall not:
16 (1) Display cannabis or manufactured cannabis products in
17 windows or in public view; or
18 (2) Post any signage other than [~~a single sign~~] one or two
19 signs, each no greater than one thousand six hundred
20 square inches bearing only the business or trade name
21 in text without any pictures or illustrations;



1 provided that if any applicable law or ordinance
2 restricting outdoor signage is more restrictive, that
3 law or ordinance shall govern."

4 2. By amending subsection (r) to read:

5 "(r) The department may authorize a dispensary to purchase
6 cannabis and manufactured cannabis products from another
7 dispensary in a manner prescribed by the department by rules
8 adopted pursuant to ~~[this chapter and chapter 91;]~~ section 329D-
9 27; provided that:

10 (1) The purchasing dispensary establishes to the
11 department's satisfaction that:

12 (A) The purchase is necessary to ensure that
13 qualifying patients have continuous access to
14 cannabis for medical use; or

15 (B) The cannabis and manufactured cannabis products
16 are for medical, scientific, or other legitimate
17 purposes approved by the State;

18 (2) The selling dispensary may transport no more than
19 eight hundred ounces, or other amounts with prior
20 approval by the department, of cannabis or



1 manufactured cannabis products to the purchasing
2 dispensary within a thirty-day period;
3 (3) The cannabis and manufactured cannabis products are
4 transported between the dispensaries for medical,
5 scientific, or other legitimate purposes approved by
6 the State; and
7 (4) Nothing in this subsection shall relieve any
8 dispensary of its responsibilities and obligations
9 under this chapter and chapter 329."

10 SECTION 4. Section 329D-7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§329D-7 Medical cannabis dispensary rules.** The
13 department shall establish standards with respect to:
14 (1) The number of medical cannabis dispensaries that shall
15 be permitted to operate in the State;
16 (2) A fee structure, set by rules adopted pursuant to
17 chapter 91, for:
18 (A) The submission of applications and renewals of
19 licenses to dispensaries; provided that the
20 department shall consider the market conditions



1 in each county in determining the license renewal
2 fee amounts;

3 (B) The submission of applications and renewals for
4 each additional production center; and

5 (C) Dispensary-to-dispensary sales authorized by
6 section 329D-6(r);
7 provided that no designated fee shall increase by more
8 than two and one-half per cent annually;

9 (3) Criteria and procedures for the consideration and
10 selection, based on merit, of applications for
11 licensure of dispensaries; provided that the criteria
12 shall include but not be limited to an applicant's:
13 (A) Ability to operate a business;
14 (B) Financial stability and access to financial
15 resources; provided that applicants for medical
16 cannabis dispensary licenses shall provide
17 documentation that demonstrates control of not
18 less than \$1,000,000 in the form of escrow
19 accounts, letters of credit, surety bonds, bank
20 statements, lines of credit, or the equivalent to
21 begin operating the dispensary;



- 1 (C) Ability to comply with the security requirements
2 developed pursuant to paragraph (6);
3 (D) Capacity to meet the needs of qualifying patients
4 and qualifying out-of-state patients;
5 (E) Ability to comply with criminal background check
6 requirements developed pursuant to paragraph (8);
7 and
8 (F) Ability to comply with inventory controls
9 developed pursuant to paragraph (13);
10 (4) Specific requirements regarding annual audits and
11 reports required from each production center and
12 dispensary licensed pursuant to this chapter;
13 (5) Procedures for announced and unannounced inspections
14 by the department or its agents of production centers
15 and dispensaries licensed pursuant to this chapter;
16 provided that inspections for license renewals shall
17 be unannounced;
18 (6) Security requirements for the operation of production
19 centers and retail dispensing locations; provided
20 that, at a minimum, the following shall be required:
21 (A) For production centers:



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- 1 (i) Video monitoring and recording of the
2 premises; provided that recordings shall be
3 retained for fifty days;
- 4 (ii) Fencing that surrounds the premises and that
5 is sufficient to reasonably deter intruders
6 and prevent anyone outside the premises from
7 viewing any cannabis in any form;
- 8 (iii) An alarm system; and
- 9 (iv) Other reasonable security measures to deter
10 or prevent intruders, as deemed necessary by
11 the department; and
- 12 (B) For retail dispensing locations:
- 13 (i) Presentation of a valid government-issued
14 photo identification and a valid
15 identification as issued by the department
16 pursuant to section 329-123 by a qualifying
17 patient or caregiver, or section 329-123.5
18 by a qualifying out-of-state patient or
19 caregiver of a qualifying out-of-state
20 patient, upon entering the premises;



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- 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 cannabis 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 cannabis and
9 manufactured cannabis products for content,
10 contamination, and consistency;
- 11 (12) The quantities of cannabis and manufactured cannabis
12 products that a dispensary may sell or provide to a
13 qualifying patient, primary caregiver, qualifying out-
14 of-state patient, or caregiver of a qualifying out-of-
15 state patient; provided that no dispensary shall sell
16 or provide to a qualifying patient, primary caregiver,
17 qualifying out-of-state patient, or caregiver of a
18 qualifying out-of-state patient any combination of
19 cannabis and manufactured cannabis products that:



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- 1 (A) During a period of fifteen consecutive days,
2 exceeds the equivalent of four ounces of
3 cannabis; or
4 (B) During a period of thirty consecutive days,
5 exceeds the equivalent of eight ounces of
6 cannabis;
7 (13) Dispensary and production center inventory controls to
8 prevent the unauthorized diversion of cannabis or
9 manufactured cannabis products or the distribution of
10 cannabis or manufactured cannabis products to a
11 qualifying patient, primary caregiver, qualifying out-
12 of-state patient, or caregiver of a qualifying out-of-
13 state patient in quantities that exceed limits
14 established by this chapter; provided that the
15 controls, at a minimum, shall include:
16 (A) A computer software tracking system as specified
17 in section 329D-6(j) and (k); and
18 (B) Product packaging standards sufficient to allow
19 law enforcement personnel to reasonably determine
20 the contents of an unopened package;



- 1 (14) Limitation to the size or format of signs placed
2 outside a retail dispensing location or production
3 center; provided that the signage limitations, at a
4 minimum, shall comply with section 329D-6(o)(2) and
5 shall not include the image of a cartoon character or
6 other design intended to appeal to children;
- 7 (15) The disposal or destruction of unwanted or unused
8 cannabis and manufactured cannabis products;
- 9 (16) The enforcement of the following prohibitions against:
- 10 (A) The sale or provision of cannabis or manufactured
11 cannabis products to unauthorized persons;
- 12 (B) The sale or provision of cannabis or manufactured
13 cannabis products to a qualifying patient,
14 primary caregiver, qualifying out-of-state
15 patient, or caregiver of a qualifying out-of-
16 state patient in quantities that exceed limits
17 established by this chapter;
- 18 (C) Any use or consumption of cannabis or
19 manufactured cannabis products on the premises of
20 a retail dispensing location or production
21 center; and



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- 1 (D) The distribution of cannabis or manufactured
2 cannabis products, for free, on the premises of a
3 retail dispensing location or production center;
- 4 (17) The establishment of a range of penalties for
5 violations of this chapter or rule adopted thereto;
6 [and]
- 7 (18) A process to recognize and register patients who are
8 authorized to purchase, possess, and use medical
9 cannabis in another state, a United States territory,
10 or the District of Columbia as qualifying out-of-state
11 patients; provided that this registration process may
12 commence no sooner than January 1, 2018[-]; and
- 13 (19) Security requirements and restrictions regarding
14 waiting rooms, including but not limited to:
- 15 (A) Security measures to prevent unauthorized access
16 to any area within the retail dispensing location
17 outside of the waiting room;
- 18 (B) Restrictions on marketing and advertising within
19 the waiting room;
- 20 (C) Restrictions on signage within the waiting room;
21 and



1 (D) Other reasonable security measures or
2 restrictions as deemed necessary by the
3 department."

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

6 "(a) The types of medical cannabis products that may be
7 manufactured and distributed pursuant to this chapter shall be
8 limited to:

- 9 (1) Capsules;
- 10 (2) Lozenges;
- 11 (3) Pills;
- 12 (4) Oils and oil extracts;
- 13 (5) Tinctures;
- 14 (6) Ointments and skin lotions;
- 15 (7) Transdermal patches;
- 16 (8) Pre-filled and sealed containers used to aerosolize
17 and deliver cannabis orally[^r] or by inhalation, such
18 as [with] an inhaler [~~or~~], nebulizer[^r], or device
19 that provides safe pulmonary administration; provided
20 that [containers]:



1 (A) Containers need not be manufactured by the
2 licensed dispensary but shall be filled with
3 cannabis, cannabis oils, or cannabis extracts
4 manufactured by the licensed dispensary[+] or
5 purchased from another dispensary pursuant to
6 section 329D-6(r); but shall not contain
7 nicotine, tobacco-related products, or any other
8 non-cannabis derived products; and [shall be
9 designed to be used with devices used to provide
10 safe pulmonary administration of manufactured
11 cannabis products;

12 (9) Devices)

13 (B) For devices that provide safe pulmonary
14 administration[+ provided that]:

15 [(A)] (i) The heating element of the device, if any,
16 [is] shall be made of inert materials such as
17 glass, ceramic, or stainless steel, and not of
18 plastic or rubber;

19 [(B)] (ii) The device [is] shall be distributed solely
20 for use with single-use, pre-filled, tamper-



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- 1 cannabis products; provided that the standards, at a minimum,
2 shall require the use of packaging that:
- 3 (1) Is child-resistant and opaque so that the product
4 cannot be seen from outside the packaging;
- 5 (2) Uses only [black] lettering in colors approved by the
6 department on a white background with no pictures or
7 graphics;
- 8 (3) Is clearly labeled with the phrase "For medical use
9 only";
- 10 (4) Is clearly labeled with the phrase "Not for resale or
11 transfer to another person";
- 12 (5) Includes instructions for use and "use by date";
- 13 (6) Contains information about the contents and potency of
14 the product;
- 15 (7) Includes the name of the production center where
16 cannabis in the product was produced, including the
17 batch number and date of packaging;
- 18 (8) Includes a barcode generated by tracking software; and
- 19 (9) In the case of a manufactured cannabis product,
20 includes a:



10 SECTION 7. Section 329D-12, Hawaii Revised Statutes, is

11 amended by amending subsection (a) to read as follows:

12 "(a) The following shall be subject to background checks
13 conducted by the department or its designee, including but not
14 limited to criminal history record checks in accordance with
15 section 846-2.7:

16 (1) Each applicant and licensee for a medical cannabis
17 dispensary license, including the individual applicant
18 and all officers, directors, members of a limited
19 liability corporation; shareholders with at least
20 twenty-five per cent or more ownership interest in a
21 corporation; and managers of an entity applicant;



- 1 (2) Each employee of a medical cannabis dispensary;
 - 2 (3) Each employee of a subcontracted production center or
3 retail dispensing location;
 - 4 (4) All officers, directors, members of a limited
5 liability corporation; and shareholders with at least
6 twenty-five per cent or more ownership interest in a
7 corporate owner of a subcontracted production center
8 or retail dispensing location; and
 - 9 (5) Any person permitted to enter and remain in a
10 ~~dispensary facility~~ retail dispensing location or
11 production center pursuant to section 329D-15(a)(4) or
12 329D-16(a)(3).
 - 13 The person undergoing the background check shall provide written
14 consent and all applicable processing fees to the department or
15 its designee to conduct the background checks."
- 16 SECTION 8. Section 329D-15, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:
- 18 "(a) No person shall intentionally or knowingly enter or
19 remain upon the premises of a medical cannabis retail dispensing
20 location unless the individual is:



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- 1 (1) An individual licensee or registered employee of the
2 dispensary;
- 3 (2) A qualifying patient, primary caregiver, qualifying
4 out-of-state patient, or caregiver of a qualifying
5 out-of-state patient;
- 6 (3) A government employee or official acting in the
7 person's official capacity; or
- 8 (4) Previously included on a current department-approved
9 list provided to the department by the licensee of
10 those persons who are allowed into that [dispensary's
11 facilities] retail dispensing location for a specific
12 purpose for that [dispensary,] retail dispensing
13 location including but not limited to construction,
14 maintenance, repairs, legal counsel, providers of
15 paratransit or other assistive services required by a
16 qualifying patient, primary caregiver, qualifying out-
17 of-state patient, or caregiver of a qualifying out-of-
18 state patient to access a retail [dispensary]
19 dispensing location, or investors; provided that;
20 (A) The person has been individually approved by the
21 department to be included on the list;



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- 1 (B) The person is at least twenty-one years of age,
2 as verified by a valid government issued
3 identification card;
- 4 (C) The department has confirmed that the person has
5 no felony convictions;
- 6 (D) The person is escorted by an individual licensee
7 or registered employee of the dispensary at all
8 times while in the [dispensary facility;] retail
9 dispensing location; provided that construction
10 and maintenance personnel who are not normally
11 engaged in the business of cultivating,
12 processing, or selling medical cannabis need not
13 be accompanied on a full-time basis, but shall be
14 reasonably monitored by an individual licensee or
15 registered employee of the dispensary while in
16 areas not containing any cannabis or manufactured
17 cannabis products;
- 18 (E) The person is only permitted within those
19 portions of the [dispensary facility] retail
20 dispensing location as necessary to fulfill the
21 person's purpose for entering;



- 1 (F) The person is only permitted within the
2 [dispensary facility] retail dispensing location
3 during the times and for the duration necessary
4 to fulfill the person's purpose for entering;
5 (G) The dispensary shall keep an accurate record of
6 each person's first and last name, date and times
7 upon entering and exiting the [dispensary
8 facility,] retail dispensing location, purpose
9 for entering, and the identity of the escort; and
10 (H) The approved list shall be effective for one year
11 from the date of the department approval[-];
12 provided that a member of the general public may enter or remain
13 within the waiting room of a retail dispensing location.
14 (b) No individual licensee or registered employee of a
15 medical cannabis dispensary with control over or responsibility
16 for a retail dispensing location shall intentionally or
17 knowingly allow another to enter or remain upon the premises of
18 the retail dispensing location, unless the other is permitted to
19 enter and remain as specified in subsection (a)[-], except in an
20 emergency situation to repair infrastructure at a retail
21 dispensing location by a person not on the department-approved



1 list; provided that the repair worker shall be escorted at all
2 times, and the licensee shall notify the department of the use
3 of this individual immediately."

4 SECTION 9. Section 329D-16, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) No person shall intentionally or knowingly enter or
7 remain upon the premises of a medical cannabis production center
8 unless the person is:

- 9 (1) An individual licensee or registered employee of the
10 production center;
- 11 (2) A government employee or official acting in the
12 person's official capacity; or
- 13 (3) Previously included on a current department-approved
14 list provided to the department by the licensee of
15 those persons who are allowed into that [dispensary's
16 facilities] production center for a specific purpose
17 for that [dispensary,] production center, including
18 but not limited to construction, maintenance, repairs,
19 legal counsel, or investors; provided that:

- 20 (A) The person has been individually approved by the
21 department to be included on the list;



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- 1 (B) The person is at least twenty-one years of age,
2 as verified by a valid government issued
3 identification card;
- 4 (C) The department has confirmed that the person has
5 no felony convictions;
- 6 (D) The person is escorted by an individual licensee
7 or registered employee of the [dispensary]
8 production center at all times while in the
9 [dispensary facility;] production center;
10 provided that construction and maintenance
11 personnel not normally engaged in the business of
12 cultivating, processing, or selling medical
13 cannabis need not be accompanied on a full-time
14 basis, but shall be reasonably monitored by an
15 individual licensee or registered employee of the
16 production center while in areas not containing
17 any cannabis or manufactured cannabis products;
- 18 (E) The person is only permitted within those
19 portions of the [dispensary facility] production
20 center as necessary to fulfill the person's
21 purpose for entering;



- 1 (F) The person is only permitted within the
2 [dispensary facility] production center during
3 the times and for the duration necessary to
4 fulfill the person's purpose for entering;
5 (G) The [dispensary] production center shall keep an
6 accurate record of each person's identity, date
7 and times upon entering and exiting the
8 [dispensary facility,] production center, purpose
9 for entering, and the identity of the escort; and
10 (H) The approved list shall be effective for one year
11 from the date of department approval.

12 (b) No individual licensee or registered employee of a
13 medical cannabis dispensary with control over or responsibility
14 for a production center shall intentionally or knowingly allow
15 another to enter or remain upon the premises of the production
16 center, unless the other is permitted to enter and remain as
17 specified in subsection (a) [–], except in an emergency situation
18 to repair infrastructure at a production center by a person not
19 on the department-approved list; provided that the repair worker
20 shall be escorted at all times, and the licensee shall notify
21 the department of the use of this individual immediately."



1 SECTION 10. Section 329D-21, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 " (b) Any person who violates any of the provisions of this
4 chapter or the rules adopted pursuant thereto shall be fined not
5 less than \$100 nor more than \$1,000 for each [violation.]
6 separate violation. Each day on which a violation occurs or
7 continues shall be counted as a separate violation."

8 SECTION 11. Section 329D-26, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 " (a) The department, in conjunction with medical cannabis
11 dispensaries and physicians and advanced practice registered
12 nurses who issue written certifications pursuant to section 329-
13 123, shall conduct a continuing education and training program
14 to explain and clarify the purposes and requirements of this
15 chapter or to provide substance abuse prevention and education.
16 The program shall target community partner agencies, physicians
17 and other health care providers, patients and caregivers, law
18 enforcement agencies, law and policy makers, and the general
19 public. The program shall include, at minimum, education and
20 outreach regarding:



- 1 (1) The updated, publicly-available list of medical
2 cannabis dispensaries, physicians, and other health
3 care providers participating in the program under this
4 chapter;
- 5 (2) Lawful activities, unlawful activities, and applicable
6 penalties for a medical cannabis dispensary,
7 qualifying patient, primary caregiver, qualifying
8 out-of-state patient, caregiver of a qualifying
9 out-of-state patient, and other entity performing
10 related activities; and
- 11 (3) The methods and associated requirements for a medical
12 cannabis dispensary, qualifying patient, primary
13 caregiver, or other entity to produce cannabis and
14 manufactured cannabis products, as applicable."

15 SECTION 12. This Act does not affect rights and duties
16 that matured, penalties that were incurred, and proceedings that
17 were begun before its effective date.

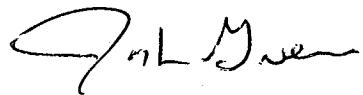
18 SECTION 13. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 14. This Act shall take effect on July 1, 2023.



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C.D. 1

APPROVED this 22nd day of June , 2023



GOVERNOR OF THE STATE OF HAWAII

HB No. 1082, HD 3, SD 2, CD 1

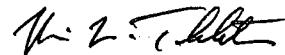
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: May 2, 2023
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2023.



President of the Senate



Clerk of the Senate



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 11, 2017

GOV. MSG. NO. 1284

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 11, 2017, the following bill was signed into law:

SB786 SD1 HD1 CD1

**RELATING TO MEDICAL MARIJUANA
ACT 170 (17)**

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawai'i

Approved by the Governor
on JUL 11 2017
THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

ACT 170
S.B. NO.

786
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO MEDICAL MARIJUANA.

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

1 SECTION 1. The legislature finds that the term "marijuana"
2 originated as a slang term to describe the genus of plants that
3 is scientifically known as cannabis. "Marijuana" has no
4 scientific basis but carries prejudicial implications rooted in
5 racial stereotypes from the early twentieth century era when
6 cannabis use was first criminalized in the United States. The
7 term "cannabis" carries no such negative connotations and is a
8 more accurate and appropriate term to describe a plant that has
9 been legalized for medicinal use in Hawaii, twenty-seven other
10 states, the District of Columbia, and the United States
11 territories of Guam and Puerto Rico.

12 The legislature further finds that all references to
13 "medical marijuana" and "medical use of marijuana" contained in
14 the Hawaii Revised Statutes and Hawaii Administrative Rules
15 should be amended to instead refer to "medical cannabis."

16 SECTION 2. All references to "medical marijuana," "medical
17 use of marijuana," "manufactured marijuana products" and like
18 terms, as the case may be, in chapter 329D, part IX of chapter



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1 329, and sections 46-4, 201-13.9, 209E-2, 235-2.4, 237-24.3,
2 304A-1865, 321-30.1, 329-43.5, 421J-16, 453-1.3, 514A-88.5,
3 514B-113, 521-39, and 846-2.7, Hawaii Revised Statutes, shall be
4 amended to "medical cannabis," "medical use of cannabis,"
5 "manufactured cannabis products" or like terms, as the case may
6 be, as the context requires.

7 SECTION 3. By operation of law, title 11 of the Hawaii
8 Administrative Rules shall be construed as having been amended
9 in conformance with section 2 of this Act; provided that if and
10 when the department of health amends chapter 11-160 or chapter
11 11-850, Hawaii Administrative Rules, it shall conform the
12 wording in those chapters to section 2 of this Act at the time
13 of the amendment.

14 SECTION 4. The department of health shall revise all
15 documents, letterhead, websites, and other necessary items to
16 conform with section 2 of this Act as the documents, letterhead,
17 websites, and other necessary items otherwise require revision,
18 replacement, or reprinting; provided that all conforming
19 revisions shall be completed by December 31, 2019.

20 SECTION 5. This Act shall take effect upon its approval.

APPROVED this 11 day of JUL , 2017



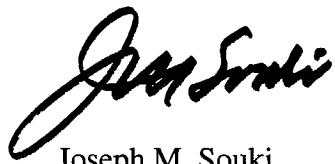
GOVERNOR OF THE STATE OF HAWAII

SB No. 786, SD 1, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives



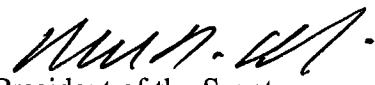
Brian L. Takeshita
Chief Clerk
House of Representatives

S.B. No. 786, S.D. 1, H.D. 1 , C.D. 1

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.



President of the Senate



Clerk of the Senate