

September 25, 2018

Bruce S. Anderson, PhD
Director, Department of Health
1250 Punchbowl Street
Honolulu, Hawaii 96813

REQUEST FOR RECONSIDERATION OF A PETITION TO AMEND A RULE

Dear Director Anderson,

Thank you for taking the time to consider my recent Petition to Amend a Rule, and for recognizing that Hawaii's Medical Use of Cannabis Act and Registry rules do not specifically state that certified patients must wait for their 329 registration card to arrive before engaging in the medical use of cannabis. Now we just need to marry this finding with an interpretation that eliminates the gap in patient access that your current policy is creating.

In your letter of September 18, 2018, you stated that patients are not authorized to engage in the medical use of cannabis until they have a registration card in their possession because administrative rule §11-160-31(a), HAR, requires that a patient "...carry the registration card on his or her person whenever the person is in possession of medical marijuana [cannabis]."

However, a full quotation of this rule should read: "A person to whom the department has issued a registration card shall carry the registration card on his or her person whenever the person is in possession of medical marijuana", indicating that patients must carry their registration card once it has been received (underline added).

When we combine the statutory requirement to register with the department after being certified, with the rule requiring patients to carry their card once it has been received, we have an administrative process that allows for immediate access to cannabis for medical use, as long as the Written Certification is recognized as a protection for patients until their registration card arrives. The narrow interpretation that your department has adopted only serves to unnecessarily extend the suffering of our patients and does not address the statutory requirement that patients have "uninterrupted availability" of cannabis for medical use.

I'm afraid that the potential confusion that you elude to in your letter already exists for our patients because of the department's policy of downplaying the significance of the Written Certification. Rather than concluding that patients must wait for their registration card in order to avoid running afoul of the law, a better approach would be to proactively insure that law enforcement recognizes the legality of the Written Certification, update the patient Registry database so that law enforcement officers can confirm certification and pending registration approval via the verification hotline, and have certifying providers issue an official Written Certification at the time of certification and submission of the online registration application.

Under ideal circumstances, registration would be approved simultaneously with certification, making it possible for patients to go from their certification examination and registration directly to a nearby dispensary for same day access, if needed. However, since your department has already rejected the prospect of such an arrangement, the next best option for making sure that our patients have "uninterrupted availability" while waiting for their card to arrive is to recognize the authorization that the Written Certification provides.

Speeding up the registration process by having an electronic registration card that will be available within days will certainly help some of our patients, but it will be of no benefit to those who do not have a smart phone or who have limited internet access. Until the department can figure out how to make certification and registration approval occur simultaneously, having certifying providers give all patients a copy of their Written Certification, instead of a self-made verification letter on private letterhead or a copy of the registration application, offers the best protection for patients until their registration card is in hand.

Thank you for reconsidering.

Sincerely,

A handwritten signature in purple ink, appearing to be 'Clifton Otto'.

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