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November 24, 2023

## **MEDICAL FRAMEWORK CHANGES**

### **1. Harmonize the state and federal regulation of cannabis:**

Page 5, Line 17:

§A-2 Purpose and intent. The purposes and intent of the Hawaii cannabis law are to:

- (1) Provide a legal safe harbor from state, ~~or~~ county, and federal criminal prosecution and discrimination concerning activities relating to cannabis for those who strictly comply with the provisions of the Hawaii cannabis law;

Page 22, Line 14:

§A-4 General exemptions. (a) Notwithstanding any law to the contrary, including part IV of chapter 329 and part IV of chapter 712, actions authorized pursuant to this chapter shall be lawful if done in strict compliance with the requirements of this chapter and any rules adopted thereunder, provided that the board shall be authorized to expeditiously resolve all real and

perceived threats against harmonizing the state and federal regulation of cannabis.

Page 33, Line 12:

(19) Coordinate with state, ~~and~~ county, and federal law enforcement agencies to effectuate the purposes of this chapter and to harmonize the state and federal regulation of cannabis.

(20) Comply with HCR132 (2021) within thirty (30) days of approval of this chapter.

## **2. Allow certifying providers to determine an adequate supply:**

Page 7, Line 1:

SA-3 Definitions. As used in this chapter, unless the context otherwise requires:

"Adequate supply" means an amount of medical cannabis in the form that is appropriate for the qualifying patient's debilitating medical condition, [including medical cannabis,] jointly possessed between the medical cannabis patient and the patient's caregiver that is not more than is reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of alleviating the symptoms or effects of a medical cannabis patient's debilitating medical condition; provided that an adequate supply shall not exceed: four ounces of cannabis and ten cannabis plants, or an amount determined by the certifying medical professional, at any given time. The adequate supply [~~four ounces~~] of cannabis obtained from a

dispensary shall include any combination of cannabis flower and cannabis products, with the cannabis in the cannabis products being calculated using information provided pursuant to section A-68(d).

### **3. Clarify that certifying providers are not providing cannabis treatment:**

Page 9, Line 17:

"Bona fide physician-patient relationship" or "bona fide advanced practice registered nurse-patient relationship" means a relationship in which the certifying physician or advanced practice registered nurse has an ongoing responsibility for the assessment ~~[,]~~ and care of the qualifying patient's medical use of cannabis ~~[, and treatment of a patient's medical condition]~~.

### **4. Provide a practical definition for cannabis plant:**

Page 11, Line 17:

"Cannabis plant" means a [the] plant of the genus Cannabis that is flowering or is twelve (12) inches or greater in height or width ~~[in the seedling, vegetative, or flowering stages, with readily observable roots and leaves with serrated edges; but does not include a germinated seed, cutting, or clone without readily observable roots and leaves with serrated edges]~~.

### **5. Allow nine patients per caregiver:**

Page 12, Line 12:

"Caregiver" means a person eighteen years of age or older who has agreed to undertake responsibility for managing the well-

being of a [~~medical cannabis~~] qualifying patient with respect to the medical use of cannabis; provided that one caregiver may care for nine (9) qualifying patients. In the case of a minor or an adult lacking legal capacity, the caregiver shall be a parent, guardian, or person having legal custody.

**6. Amend the definition of certifying medical professional:**

Page 12, Line 18:

"Certifying medical professional" means a physician or advanced practice registered nurse who [that] issues written certifications for the medical use of cannabis to qualifying patients pursuant to section A-34, and who has been approved to issue written certifications pursuant to rules adopted by the board.

**7. Amend debilitating medical condition to respect the practice of medicine:**

Page 13, Line 13:

"Debilitating medical condition" means:

Any medical condition for which the certifying medical professional has determined that the medical use of cannabis is appropriate.

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

~~(2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:~~

- ~~(A) Cachexia or wasting syndrome;~~
- ~~(B) Severe pain;~~
- ~~(C) Severe nausea;~~
- ~~(D) Seizures, including those characteristic of epilepsy;~~
- ~~(E) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease; or~~
- ~~(F) Post-traumatic stress disorder; or~~

~~(3) Any other medical condition approved by the board in consultation with the department of health pursuant to administrative rules adopted pursuant to this chapter.]~~

**8. Amend dispense to recognize patient-to-patient transfer:**

Page 14, Line 18:

"Dispense" or "dispensing" means to sell any cannabis to a consumer or medical cannabis patient pursuant to this chapter; provided that dispense shall not include non-commercial patient-to-patient or caregiver-to-patient transfer of an adequate supply.

**9. Amend distribute to recognize patient-to-patient transfer:**

Page 14, Line 20:

"Distribute" or "distribution" means to sell at wholesale any cannabis or hemp to a cannabis business pursuant to this chapter; provided that distribute shall not include non-

commercial patient-to-patient or caregiver-to-patient transfer  
of an adequate supply.

**10. Amend the definition of medical cannabis to include patient grown material:**

Page 17, Line 16:

"Medical cannabis" means cannabis that is dispensed by a medical cannabis dispensary or a retail cannabis dispensary to a medical cannabis patient or the patient's caregiver or cannabis produced by patients, caregivers, or medical cannabis cooperatives [~~for the medical use of cannabis~~] pursuant to this chapter.

**11. Amend the definition of medical use to include processing and transfer:**

Page 18, Line 11:

"Medical use" means the acquisition, possession, cultivation, processing, use, transfer, or transportation of cannabis or cannabis accessories relating to the administration of cannabis to alleviate the symptoms or effects of a qualifying [~~medical cannabis~~] patient's debilitating medical condition.

**12. Amend the definition of smoking to allow the use of dry herb vaporizers:**

Page 21, Line 13:

"Smoke" or "smoking" means [~~inhaling, exhaling,~~] burning, or carrying any lighted or heated cannabis intended for inhalation, including cannabis E-liquids [~~in any manner or in any form~~].

Smoking does not include the use of a dry herb vaporizer [~~includes the use of an electronic smoking device~~].

Page 56, Line 20:

(b) For medical purposes only, it shall be lawful for a [~~medical cannabis~~] qualifying patient to inhale [~~smoke~~], ingest, or consume cannabis in any manner that is appropriate for the qualifying patient's debilitating medical condition.

**13. Provide a definition of transfer to protect patient-to-patient exchange:**

Insert at Page 22, Line 5:

"Transfer" means the non-commercial exchange of cannabis between patients or their caregivers that does not exceed a qualifying patient's adequate supply and for which there may be an exchange of compensation for the reasonable costs of production.

**14. Include a Cannabinoid Medicine specialist on the Cannabis Control Board:**

Page 26, Line 6:

§A-7 Cannabis control board; members and terms; organization; expenses.

(c) The members of the board shall be appointed by the governor, subject to confirmation by the senate pursuant to section 26-36. The composition of the board shall be as follows:

(1) The chair who shall have a professional background in public health, mental health, substance use treatment, or toxicology;

(2) The vice chair who shall have a professional background in public safety or law enforcement;

(3) One member who shall have professional experience in corporate management or a professional background in finance;

(4) One member who shall have professional experience in oversight or industry management, including commodities, production, or distribution in a regulated industry; ~~and~~

(5) One member who shall have a professional background in legal, policy, or social justice issues related to a regulated industry ~~[-];~~  
and

(6) One member who shall have a professional background in Cannabinoid Medicine.

**15. Allow public input on all cannabis rules from the beginning:**

Page 38, Line 19:

SA-10 Administrative rules; authority.

(a) No later than December 31, 2024, the board shall adopt rules pursuant to [chapter 91](#) to effectuate the purposes of this chapter, which the board may amend as necessary pursuant to Chapter 91.

~~[(a) No later than December 31, 2024, the board shall adopt interim rules, which shall be exempt from chapters 91 and 201M, to effectuate the purposes of this chapter; provided that the interim rules shall remain in effect until December 31, 2029, or until rules are adopted pursuant to subsection (c), whichever occurs sooner.~~

~~(b) The board may amend the interim rules to effectuate the purposes of this chapter, and the amendments shall be exempt from chapters 91 and 201M; provided that any amended interim~~

~~rules shall remain in effect until December 31, 2029, or until rules are adopted pursuant to subsection (c), whichever occurs sooner.~~

~~(c) No later than December 31, 2029, the board shall adopt rules pursuant to chapter 91 to effectuate the purposes of this chapter.]~~

**16. Allow patient-to-patient transfer with compensation for production costs:**

Page 56, Line 10:

§A-26 Possession of cannabis for medical use.

(a) Notwithstanding any law to the contrary, except as limited by this chapter, it shall be lawful for a medical cannabis patient or the patient's caregiver to:

- (1) Purchase, transport, or possess jointly between the medical cannabis patient and the patient's caregiver, an adequate supply of cannabis for medical use; and
- (2) Transfer an adequate supply of cannabis for medical use ~~[, without compensation of any kind,]~~ from a caregiver to the caregiver's medical cannabis patient, or from a patient to another patient, provided that patients may compensate their caregiver and other patients only for the reasonable costs of production with the understanding that such transfer does not constitute a commercial transaction.

**17. Avoid patients having arbitrary amounts of cannabis at home:**

Page 57, Line 1:

~~[(c) Notwithstanding any law to the contrary, in addition to an adequate supply of cannabis for medical use, a qualifying patient or the patient's caregiver may lawfully possess jointly between them, in their private residence or at the licensed premises of a medical cannabis cooperative to which the qualifying patient is a member, up to one pound of cannabis produced by their cultivation of cannabis for medical use pursuant to section A-27; provided that no more than two pounds of cannabis in total, whether for medical or personal adult use, shall be stored at any private residence, regardless of the number of people residing there.]~~

**18. Allow small scale patient cultivation without cooperative licensure:**

Page 58, Line 6:

SA-27 Cultivation of cannabis for medical use.

(a) Notwithstanding any other law to the contrary, a qualifying patient or the patient's caregiver may:

- (1) Possess, plant, or cultivate not more than ten cannabis plants, whether mature or immature, for medical use only; and
- 2) Harvest, dry, and process the cannabis produced by the plants cultivated under paragraph (1) for medical use only;

(b) The personal cultivation of cannabis for medical use shall only be permitted within, or on the grounds of, the private residence of a qualifying patient or the patient's caregiver, or on the licensed premises of a medical cannabis cooperative to which the qualifying patient is a member; provided that up to nine (9) patients may grow together at the same residence without having to obtain a medical cannabis cooperative license [~~no more than ten plants, whether mature or immature and whether for medical use or personal adult use, shall be cultivated at a private residence at any time regardless of the number of qualifying patients, caregivers, or other people residing at the private residence~~].

**19. Allow true reciprocity for out-of-state patients:**

Page 61, Line 12:

§A-29 Reciprocity with other states.

(a) Notwithstanding any law to the contrary, the medical use of cannabis by a qualifying out-of-state patient aged eighteen years or older shall be authorized only if the qualifying out-of-state patient:

- (1) Is legally authorized to use cannabis for medical purposes in another state, a United States territory, or the District of Columbia, and possesses a valid registration card from that state; and

~~[(2) Attests under penalty of law pursuant to section 710-1063 that the condition for which the qualifying out-of-state patient is legally authorized to use cannabis for medical purposes is a debilitating medical condition;~~

~~(3) Provides consent for the authority to obtain 4 information from the qualifying out-of-state patient's certifying medical provider and from the entity that issued the medical cannabis authorization for the purpose of allowing the authority to verify the information provided in the registration process;~~

~~(4) Pays the required fee for out-of-state registration;~~

~~(5) Registers with the authority pursuant to section A-33 for the medical use of cannabis in the State;~~

~~(6) Receives a medical cannabis registry card from the authority; and]~~

(2) ~~[(7)]~~ Abides by all laws relating to the medical use of cannabis, including not possessing amounts of cannabis that exceed an adequate supply.

(b) The medical use of cannabis by a qualifying out-of-state patient under eighteen years of age shall be permitted only if:

(1) The caregiver of the qualifying out-of-state patient is legally authorized to be a caregiver for the out-of-state

patient in another state, a United States territory, or the District of Columbia, and possesses a valid caregiver registration card from the same state in which the qualifying out-of-state patient also possess a valid registration card; and

~~[provides the information required pursuant to subsection (a); and]~~

(2) Abides by all laws relating to the medical use of cannabis, including not possessing amounts of cannabis that exceed an adequate supply.

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

~~(A) Allow the qualifying out-of-state patient's medical use of cannabis;~~

~~(B) Undertake the responsibility for managing the well-being of the qualifying out-of-state patient who is under eighteen years of age with respect to the medical use of cannabis; and~~

~~(C) Control the acquisition, dosage, and frequency of the medical use of cannabis by the qualifying 11 out-of-state patient.]~~

**20. Make written certifications valid for only one year:**

Page 65, Line 4:

(b) The board shall adopt rules pursuant to this chapter to establish procedures and requirements for a written certification; provided that a written certification shall:

(1) Include the name, address, patient identification number, and other identifying information of the qualifying patient;

(2) Be valid for one year from the time of signing; [~~provided that the board may allow for the validity of any written certification for up to three years if the qualifying patient's certifying medical professional states that the patient's debilitating medical condition is chronic in nature;~~]

**21. Allow caregiving for up to nine patients:**

Page 67, Line 10:

(b) The caregiver of a qualifying patient shall register with the authority. The board shall adopt rules to establish procedures and requirements for registration of caregivers; provided that:

(1) Every caregiver shall provide sufficient identifying information to establish their personal identity;

(2) Every [~~No~~] caregiver may [~~shall~~] be registered for up to nine (9) [~~more than one~~] qualifying patients at any given time; provided that the authority may permit the

parent, guardian, or person having legal custody of more than one qualifying patient who is under eighteen years of age to be the caregiver for each of the qualifying patients who are under eighteen years of age and in their legal custody; and

(3) Every qualifying patient may [~~shall have only~~] share one caregiver with up to eight (8) other qualifying patients; provided that the authority may permit the parents, guardians, or persons having legal custody of a qualifying patient who is under eighteen years of age to each register as caregivers.

## **22. Remove the local registration requirement for out-of-state patients:**

Page 68, Line 19:

~~§A-33 Registration; qualifying out-of-state patients; caregivers.~~

~~(a) A qualifying out-of-state patient shall register with the authority. The board shall adopt rules to establish procedures and requirements for registration of qualifying out-of-state patients; provided that:~~

~~(1) Every qualifying out-of-state patient shall:~~

~~(A) Provide a valid government-issued medical cannabis card or any equivalent certificate issued by another state, United States territory, or the District of Columbia;~~

~~(B) Provide a valid photographic identification card or driver's license issued by the same jurisdiction that issued the medical cannabis card; and~~

~~(C) Have a debilitating medical condition as defined in this chapter;~~

~~(2) The registration shall be effective for no more than sixty days and may be renewed for no more than one additional sixty-day period that begins no later than twelve months after the preceding registration date; provided that the authority shall not register any qualifying out-of-state patient for a period that exceeds the term of validity of the qualifying out-of-state patient's authority for the medical use of cannabis in their home jurisdiction; and~~

~~(3) Each qualifying out-of-state patient shall pay a fee in an amount established by rules adopted by the board for each registration and renewal.~~

~~(b) The caregiver of a qualifying out-of-state patient shall register with the authority. The board shall adopt rules to establish procedures and requirements for registration of caregivers; provided that:~~

~~(1) Every caregiver shall provide sufficient identifying information to establish their personal identity; and~~

~~(2) In the case of any qualifying out-of-state patient who is under eighteen years of age, the authority shall register the qualifying out-of-state patient and the patient's caregiver; provided that the authority may register two caregivers for a qualifying out-of-state patient if each caregiver is the parent, guardian, or person having legal custody of the qualifying out-of-state patient who is under eighteen years of age.~~

~~(c) Upon inquiry by a law enforcement agency, the authority shall immediately verify whether a person who is the subject of the inquiry has registered with the authority and may provide reasonable access to the registry information for official law enforcement purposes. An inquiry and verification under this subsection may be made twenty-four hours a day, seven days a week.~~

~~(d) The board may temporarily suspend the registration of qualifying out-of-state patients or their caregivers for a period of up to thirty days if the board determines that the registration process for qualifying patients or their caregivers is being adversely affected or the supply of cannabis for medical use available in medical cannabis dispensaries and~~

~~retail cannabis dispensaries is insufficient to serve both qualifying patients and qualifying out-of-state patients. A temporary suspension may be extended by thirty-day periods until the board determines that:~~

~~(1) Adequate capacity exists to register qualifying out-of-state patients and their caregivers in addition to qualifying patients and their caregivers; and~~

~~(2) The medical cannabis dispensaries and retail cannabis dispensaries are able to meet the demands of both qualifying patients and qualifying out-of-state patients.]~~

### **23. Allow initial patient visits to be conducted via tele-health:**

Page 72, Line 20:

(b) For purposes of this part, a bona fide physician-patient relationship may be established via telehealth, as defined in section 453-1.3(j), and a bona fide advanced practice registered nurse-patient relationship may be established via telehealth, as defined in section 457-2 [~~; provided that certifying a patient for the medical use of cannabis via telehealth shall be allowed only after an initial in-person consultation between the certifying physician or advanced practice registered nurse and the patient~~].

**24. Expand the scope of laboratory quality assurance:**

Page 97, Line 10:

(d) The board shall [~~may~~] adopt rules to establish other quality assurance mechanisms that shall [~~may~~] include the designation or creation of a reference laboratory within the department of health state laboratories division, creation of a secret shopper program, round-robin testing, or any other mechanism to ensure the accuracy of product testing and labeling.

(e) The board shall establish prep-labs on each island that does not have a certified testing facility to allow the preparation of "de minimis" samples that can be legally transported to an island that does have a certified testing facility.

**25. Require standardized protocols for commercial production and remediation:**

Insert at Page 101, Line 10:

(c) The board shall adopt rules to establish standardized protocols for the commercial production and remediation of all cannabis and hemp products, shall independently verify the effectiveness of these protocols, and shall make these protocols available to the public.

**26. Allow medical cannabis cooperatives to consist of ten or more patients:**

Page 130, Line 21:

(b) A medical cannabis cooperative shall be comprised of ten or more [~~up to five~~] qualifying patients. A cooperative member

~~[shall be a natural person and]~~ shall not be a member of more than one medical cannabis cooperative. An out-of-state qualifying patient shall not be a member.

Insert at Page 132, Line 12:

(k) A medical cannabis cooperative may obtain cannabis seeds and plants from other qualifying patients and other medical cannabis cooperatives.

## **27. Remove cannabis E-liquids from the list of exempt medical products:**

Page 241, Line 20:

SECTION 29. Section 245-1, Hawaii Revised Statutes, is amended by amending the definition of "e-liquid" to read as follows:

"E-liquid" means any liquid or like substance, which may or may not contain nicotine, that is designed or intended to be used in an electronic smoking device, whether or not packaged in a cartridge or other container. "E-liquid" does not include:

(1) Prescription drugs; or

~~[(2) Cannabis, cannabis products, or cannabis accessories pursuant to chapter A; or~~

~~(3)]~~ (2) Medical devices used to aerosolize, inhale, or ingest prescription drugs."

## **28. Protect medical cannabis tenants:**

Page 254, Line 17:

"§521-39 Medical cannabis; tenant use; eviction. A provision in a rental agreement allowing for eviction of a tenant who has a valid certificate for the medical use of cannabis as provided in section A-31 in any form is void, unless the rental agreement allows for eviction for smoking tobacco and the medical cannabis is used by means of smoking [~~; provided that this section shall not apply where the articles of incorporation, declaration, bylaws, administrative rules, house rules, association documents, or a similar document of a condominium property regime or planned community association prohibits the medical use of cannabis~~]."

## **29. Protect patient employment:**

Insert at Page 255, Line 6:

SECTION 37. Section [329-125.5](#), Hawaii Revised Statutes, is amended to read:

(a) No school shall refuse to enroll or otherwise penalize, and no landlord shall refuse to lease property to or otherwise penalize, a person solely for the person's status as a qualifying patient or primary caregiver in the medical cannabis program under this part, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation; provided that the qualifying patient or primary caregiver strictly complied with

the requirements of this part; provided further that the qualifying patient or primary caregiver shall present a medical cannabis registry card or certificate and photo identification, to ensure that the qualifying patient or primary caregiver is validly registered with the department of health pursuant to section 329-123.

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

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

(d) Unless a failure to do so would cause the employer to lose a monetary or licensing-related benefit under a contract or

federal law, an employer shall not discriminate against a person in hiring, termination, or any term or condition of employment, other than that contained in a collective bargaining agreement, if the discrimination is based upon either of the following:

(1) The person's status as a cardholder; or

(2) A registered qualifying patient's positive drug test for cannabis components or metabolites, unless the registered qualifying patient was impaired by cannabis during the hours of employment; provided that nothing in this subsection shall abridge any existing right of an employer to send an employee for medical evaluation when the employer has safety concerns about the impairment of the employee; provided further that an employer may take adverse action or discipline an employee who uses or possesses medical cannabis in the workplace and is impaired.

(e) In a potentially dangerous occupation, an employer may use a fit-for-duty test as a risk-based assessment tool for a registered qualifying patient.

(f) No employer shall have any liability to any employee who is injured or killed during the performance of the employee's job if the employee's impairment by medical cannabis was the sole contributing factor to the employee's death or injury.

(g) [~~(d)~~] This section shall apply to qualifying patients, and primary caregivers who are validly registered with the department of health, and qualifying out-of-state patients, and caregivers of qualifying out-of-state patients who are recognized [~~validly registered with the department of health~~] pursuant to this part and the administrative rules of the department of health.

**30. Add a Chief Medical Officer to the Hawaii Cannabis Agency:**

Page 286, Line 16:

SECTION 57. The following positions are established within the Hawaii cannabis agency:

- (1) Executive director;
- (2) Executive secretary to the director;
- (3) Chief financial officer;
- (4) Chief equity officer;
- (5) General counsel;
- (6) Chief public health and environment officer;
- (7) Chief technology officer;
- (8) Chief compliance officer [~~;~~];
- (9) Chief medical officer.

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