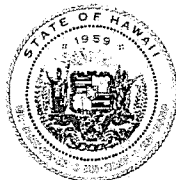


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August 28, 2020

The Honorable Russell E. Ruderman
State Senator, 2nd District
Hawai'i State Capitol, Room 216
415 S. Beretania Street
Honolulu, Hawai'i 96813

Re: Medical use of cannabis in Hawai'i

Dear Senator Ruderman,

On June 17, 2020, you requested solutions be provided "that the State can act upon to end the current application of the federal regulation of the non-medical use of marijuana to the state-authorized medical use of cannabis in Hawaii." You also requested that solutions be provided that "can be initiated at the State level, rather than solutions that require waiting for federal action."

When it created the medical use of marijuana program in 2000, the Legislature acknowledged the conflict that existed between federal and state law as it applied to marijuana:

The legislature is aware of the legal problems associated with the legal acquisition of marijuana for medical use. However, the legislature believes that medical scientific evidence on the medicinal benefits of marijuana should be recognized. Although federal law expressly prohibits the use of marijuana, the legislature recognizes that a number of states are taking the initiative in legalizing the use of marijuana for medical purposes . . . The Purpose of this Act is to ensure that seriously ill people are not penalized by the State for the use of marijuana for strictly medical purposes when the patient's treating physician provides a professional opinion that the benefits of medical use of marijuana would likely outweigh the health risks for the qualifying patient.

2000 Haw. Sess. Laws Act 228, §1. To shield qualifying patients, primary caregivers, and treating physicians from state prosecution for acts related to the medical use of marijuana, the

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Legislature also provided statutory protections in Act 228, SLH 2000, which provided a defense against prosecution. 2000 Haw. Sess. Laws Act 228, §1. These statutory protections continue today. The Legislature has expanded these protections in subsequent years to also shield qualifying out-of-state patients, caregivers of a qualifying out-of-state patient, owners or qualified employees of a licensed medical cannabis dispensary, and advanced practice registered nurses from state prosecution. HRS §§ 329-125 (2018), 329-125.5 (2018), 329-125.6 (2018), 329-126 (2018).

While you have requested that solutions be provided that can be enacted at the State level, we consider this issue to be one of federal policy that must be addressed through federal action. We understand that there are various efforts to change federal policy. In fact, we have recently supported the Secure and Fair Enforcement Banking Act of 2019, H.R. 1595, 116th Cong. (2019), more commonly known as the SAFE Banking Act, which would provide a safe harbor for depository institutions that service a marijuana-related business in a state with robust regulatory controls that ensure accountability in the industry. We note also that Congress has continued an appropriations rider in the recently enacted federal budget act, which protects medical cannabis patients by restricting funding for federal law enforcement actions by the United States Department of Justice against state dispensary participants for the federal fiscal year.


We hope that the foregoing is helpful. If you have any further questions, please do not hesitate to contact me at 587-3050.

Very truly yours,



Diane K. Taft
Deputy Attorney General

APPROVED:



Clare E. Connors
Attorney General