

TO: Hawaii Department of Health (DOH)
RE: Public hearing for proposed rules under ACT 116
DATE: December 26, 2018, 10:00 am – 12:00 pm
FROM: Clifton Otto, MD – Private Physician

Dear Rulemaking Committee,

Thank you for this opportunity to provide written testimony for your proposed rules. Unfortunately, my clinic schedule does not allow me to provide testimony in person.

ACT 116 provides the following authorization to DOH to create rules for reciprocity patients:

“Notwithstanding section 329-123, a qualifying out-of-state patient and a caregiver of a qualifying out-of-state patient shall register with the department of health as established by rule.”

Because ACT 116 does not address the fact that existing state law requires that a registered patient have a bone fide relationship with a supervising physician/APRN, and because cannabis is still a Schedule I controlled substance, DOH will need to add rules that explicitly include certification as part of the registration process.

This should include enabling the certifying provider to issue a registration card in the office at the time of certification and registration, so that reciprocity patients could go directly from the certifying provider’s office to a dispensary, as is done for resident patients in the State of Maine.

ACT 116 also requires that DOH create rules that would allow for the extension of certification for resident patients from one to three years, with the consent of the certifying provider, without any change in annual registration. Why would it still be necessary to have yearly registration if certification were only performed on a biennial or triennial basis?

The real issue here is that patients who are using a Schedule I controlled substance under the supervision of a physician or APRN require annual follow-up at a very minimum in order to provide adequate medical care.

Chronic debilitating conditions can go through significant fluctuations in severity and responsiveness due to advancing age, changes in overall physical condition, and natural disease progression. Much can also change over the course of a year in terms of state law, prescription medications, and current cannabis use, all of which need to be reviewed and updated within the doctor-patient relationship as required by state law.

DOH can certainly adopt rules to allow for the extension of a certification if the certifying provider agrees, but I believe this would be quite shortsighted given the unintended medical and legal consequences that could befall the certifying provider. I will not be agreeing to this provision for any of my patients because it does not meet the medical requirements for standard of care.

I believe that as a community we can work together to uphold the intent of our Medical Use of Cannabis Act, and allow for uninterrupted availability to the medical use of cannabis in a safe and effective manner that protects the best interests of our patients, while also preserving the integrity of our certifying providers.

Thank you for considering this testimony.

A handwritten signature in blue ink, appearing to read 'Clifton Otto', with a long horizontal stroke extending to the right.

Clifton Otto, MD
3615 Harding Ave #304
Honolulu, HI 96816
808-233-8267