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TESTIMONY ON HOUSE BILL 673 HD2 SD1
RELATING TO MEDICAL CANNABIS
By
Clifton Otto, MD

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Glenn Wakai, Vice Chair

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Wednesday, April 3, 2019; 10:00 AM
State Capitol, Conference Room 211

Thank you for the opportunity to provide testimony on this measure. Please consider the following comments related to this bill. There are still several critical issues that have yet to be addressed by the Legislature this session:

Comment #1 – A controlled substance with medical use cannot have the "highest degree of danger". Subjecting Medical Use Cannabis to regulation as a state Schedule I undermines the validity of our Medical Use of Cannabis Program, and makes it more difficult for our local law enforcement to distinguish medical from non-medical use.

The way to resolve this situation is to re-harmonize the medical use of cannabis in Hawaii with the scheduling criteria for state Schedule I. The following amendment would provide this remedy:

Section 329-14, Hawaii Revised Statutes, is amended by adding the following subsection:
(f) The enumeration of cannabis, tetrahydrocannabinols or chemical derivatives of these as Schedule I controlled substances does not apply to the medical use of cannabis pursuant to Section 329, Part IX, and Section 329D, Hawaii Revised Statutes.

Hawaii would not be the first to re-harmonize medical use with controlled substance regulation. Guam has already done the same:

Exempt from Guam Schedule I:
Section 2. The following *new* subsection (g) is added to Appendix A of Chapter 67 of Title 9 Guam Code Annotated, to read as follows:
"(g) The enumeration of marihuana, tetrahydrocannabinols or chemical derivatives of these as Schedule I controlled substances **does not apply** to the medical use of cannabis pursuant to the Joaquin Concepcion Compassionate Cannabis Use Act of 2013."

Please note, we are not talking about rescheduling cannabis. We are talking about recognizing that the medical use of cannabis cannot be regulated as a state Schedule I controlled substance.

We even have a precedent for the exemption of specific use of a Schedule I controlled substance at the federal level, so this not something unusual:

Exempt from federal Schedule I:
21 CFR 1307.31 - Native American Church.
"The listing of peyote as a controlled substance in Schedule I **does not apply** to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration."

Comment #2 – The inter-island transportation of cannabis for personal medical use continues to be an issue that is requiring significant amounts of local law enforcement time due to the processing of patients who have been referred by TSA, which is distracting our officers from other duties and threatening the safety of our airports.

Local law enforcement officers are also telling patients that they cannot travel with their medicine because it is against federal law, which is beyond the authority of a state law enforcement agency, and not entirely true because of the federal aviation regulation that specifically exempts the carriage of cannabis aboard aircraft if authorized by state law or state agency.

Therefore, in order to clarify the existing provisions for inter-island transport within Hawaii's Medical Use of Cannabis Act and to protect the right of patients to transport legal amounts of cannabis for personal medical use to other islands under state law, the following amendment needs to be made to the Medical Use of Cannabis section of Hawaii's Uniform Controlled Substances Act:

HRS 329-122(f):

"For purposes of interisland transportation, "transport" of cannabis, usable cannabis, or any manufactured cannabis product, by any means is allowable only by a qualifying patient or qualifying out-of-state patient for their personal medical use, or between a production center or retail dispensing location and a certified laboratory for the sole purpose of laboratory testing pursuant to section 329D-8, as permitted under section 329D-6(m) and subject to section 329D-6(j), and with the understanding that state law and its protections do not apply outside of the jurisdictional limits of the State. The Department of Transportation and the Department of Public Safety shall adopt rules to provide compliance with this section.

Please do not allow this bill to pass out of your committees until these issues have been fully addressed.