

**REPORT AND RECOMMENDATIONS OF THE
MEDICAL MARIJUANA DISPENSARY SYSTEM
TASK FORCE TO THE 2015 LEGISLATURE OF THE
STATE OF HAWAI'I**

JANUARY 2015

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TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	i
I. BACKGROUND.....	1
II. PROCESS AND PROCEDURE.....	5
III. DISCUSSION AND RECOMMENDATIONS.....	8
A. NUMBER AND LOCATION OF DISPENSARIES.....	9
B. FRAMEWORK FOR CULTIVATING AND MANUFACTURING MEDICAL MARIJUANA PRODUCTS.....	10
1. PRODUCERS.....	10
2. RANGE OF PRODUCTS.....	12
3. MANUFACTURING REGULATIONS.....	14
C. RESTRICTIONS ON ADVERTISING.....	15
D. REGULATIONS TO ENSURE SECURITY AND PUBLIC SAFETY.....	15
1. SECURITY.....	15
2. INSPECTIONS.....	16
E. LOCATION AND RESTRICTION ISSUES: ZONING.....	17
F. FEES AND DESIGN OF A TAX STRUCTURE.....	18
G. METHODOLOGY FOR ENSURING SAFETY OF SUPPLY.....	19
1. QUALITY/LABORATORY SCREENING.....	19
2. EDUCATION AND TRAINING.....	20
H. FEDERAL INTERFACE AND PROTECTIONS.....	20
I. TRANSPORTATION.....	21
J. DEPARTMENT OF HEALTH RESOURCES AND STAFFING.....	21
IV. ITEMS FOR CONTINUED DISCUSSION AND NEXT STEPS.....	22
V. CONCLUSION.....	23

APPENDICES

- A. House Concurrent Resolution No. 48, H.D. 2, S.D. 1, Hawai‘i State Legislature, Regular Session of 2014 (“HCR 48”)
- B. HCR 48 Medical Marijuana Dispensary Task Force Members
- C. HCR 48 Medical Marijuana Dispensary Task Force Meeting Minutes
- D. Hawaii Dispensary Task Force Questions for State Medical Marijuana and Dispensary Program Administrators
- E. Policy Subcommittee Recommendations
- F. Federal Interface Subcommittee Recommendations
- G. Working Group Recommendations
- H. Resources Required to Establish the Medical Marijuana Dispensary Program Recommendations
- I. Suggested Items for Annual Medical Marijuana Dispensary Program’s Report to the Legislature
- J. Addendum to Task Force Recommendations Related to Patient Dispensing Limits and Patient Possession Limits

EXECUTIVE SUMMARY: FINAL RECOMMENDATIONS OF THE 2014 MEDICAL MARIJUANA DISPENSARY TASK FORCE

The 2014 Medical Marijuana Dispensary Task Force, convened pursuant to House Concurrent Resolution 48, House Draft 1, Senate Draft 1 (2014), believes that the final recommendations contained in this Report represent the best way forward for Hawaii's Medical Marijuana Program. The establishment of a medical marijuana dispensary system is long overdue. With passage of legislation based on these recommendations, the Task Force believes that the Legislature and the Department of Health can vastly improve the lives of medical marijuana patients in Hawai'i.

The Task Force voted upon and approved the following thirty-eight recommendations after examining existing medical marijuana dispensary systems in other states, gathering input from experts and members of the public, reviewing comprehensive and updated reports by the Legislative Reference Bureau and the State Auditor, engaging in extensive discussions among members of the Task Force, and relying on the collective experience of the various stakeholder serving on the Task Force.

A. NUMBER AND LOCATION OF DISPENSARIES:

RECOMMENDATION 1: The Department of Health shall determine the number of dispensary licenses based on a guideline of 1 for every 500 patients, adjusted annually, based on the patients' residency.

RECOMMENDATION 2: There shall be at least one dispensary on every county with the exception of Kalawao County.

RECOMMENDATION 3: The Department of Health may begin offering licenses for dispensaries and producers on January 1, 2017, and dispensaries may begin operations on July 1, 2017. The Department shall offer no fewer than twenty-six licenses by January 1, 2019.

RECOMMENDATION 4: In the event that an island or a county in the State lacks a single licensed dispensary by July 1, 2017, a dispensary that is licensed and established on another island or in another county may petition the Department of Health to allow an owner or employee of such dispensary to deliver medical marijuana products to a qualified patient or caregiver of the island or county that lacks a dispensary. The owner or employees shall at all times retain possession of the medical marijuana products until the products are delivered to the patient or caregiver.

B. FRAMEWORK FOR CULTIVATING AND MANUFACTURING MEDICAL MARIJUANA PRODUCTS:

1. PRODUCERS

RECOMMENDATION 5: The Legislature shall preserve the right of qualifying patients to continue to cultivate their own medication if they wish to do so.

RECOMMENDATION 6: The Department of Health shall determine the number of medical marijuana production center licenses to issue based on a ratio that producers will have up to 1,000 plants at any one time.

RECOMMENDATION 7: Producers may acquire, possess, cultivate, manufacture, and transport no more than 1,000 plants at any one time.

RECOMMENDATION 8: Beginning on January 1, 2017, the Department of Health may offer a minimum of 30 producer licenses.

RECOMMENDATION 9: Medical marijuana production centers shall distribute only to dispensaries or other production centers licensed pursuant to this section.

2. RANGE OF PRODUCTS

RECOMMENDATION 10: All products distributed by a dispensary must be distributed in opaque, child-resistant packaging. These products must be labeled clearly with the phrase “FOR MEDICAL USE ONLY.” The label must include information about the potency and contents of the product.

RECOMMENDATION 11: No dispensary or producer shall produce or distribute any candy with medical marijuana; provided that lozenges shall be permitted. “Lozenge” is defined as a small tablet intended to be dissolved slowly in the mouth.

RECOMMENDATION 12: Lozenges, capsules, and pills containing medical marijuana shall be packaged in such a way so that one dose/serving – a single wrapped item – contains no more than 10mg of active THC.

RECOMMENDATION 13: Oils and extracts are permitted, provided that they are clearly labeled with the potency and contents of the product.

3. MANUFACTURING REGULATIONS:

RECOMMENDATION 14: “Manufacture” means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use.

RECOMMENDATION 15: Any individual or entity with a license to dispense and/or produce medical marijuana shall be permitted to manufacture medical marijuana; provided that any dispensary and/or producer must also obtain necessary licenses from the appropriate regulatory agency if engaged in the manufacturing of medical marijuana or any other activity that, independent of the medical marijuana program, would require a license.

RECOMMENDATION 16: The Department of Health shall conduct inspections and audits of facilities where medical marijuana is manufactured. The Department of Health shall enforce all applicable regulations.

C. RESTRICTIONS ON ADVERTISING

RECOMMENDATION 17: The Department of Health shall promulgate rules limiting the size and format of any sign(s) outside the dispensary itself.

RECOMMENDATION 18: Dispensaries and production centers shall be prohibited from using cartoon characters or other designs intended to appeal to children.

D. REGULATIONS TO ENSURE SECURITY AND PUBLIC SAFETY:

1. SECURITY:

RECOMMENDATION 19: The Department of Health shall promulgate regulations mandating the following security measures to ensure that medical marijuana is provided only to patients and is not diverted for non-medical use:

- (1) For dispensaries:
 - (a) Video surveillance;
 - (b) Inventory tracking software (“seed to sale”);
 - (c) Alarm system; and
 - (d) Exterior lighting.

- (2) For producer grow sites:
 - (a) Video surveillance;
 - (b) Inventory tracking software (“seed to sale”);
 - (c) Alarm system; and
 - (d) Black-out fencing for open, outdoor growing facilities

RECOMMENDATION 20: The Department of Health may place additional security restrictions on dispensaries and production centers.

RECOMMENDATION 21: Applicants for licenses to operate and prospective employees of dispensaries and production centers shall submit to criminal background checks. Those with felony convictions shall be prohibited from being operators or employees of dispensaries or production centers; provided that the Department of Health may promulgate regulations to allow individuals with felony convictions related to marijuana more than 10 years ago to own or work at a dispensary or production center.

2. INSPECTIONS:

RECOMMENDATION 22: Licensed medical marijuana dispensaries and production centers shall be subject to announced and unannounced inspections and audits of its operations by the Department of Health at least annually.

RECOMMENDATION 23: Requirements for annual reports and audits for licensed medical marijuana dispensaries and production centers shall be determined by the Department of Health.

E. LOCATION AND RESTRICTION ISSUES - ZONING:

RECOMMENDATION 24: Dispensaries, producers and manufacturers shall comply with County zoning ordinances, provided that counties cannot enact zoning laws that target/discriminate against dispensaries or producers.

RECOMMENDATION 25: No dispensary or producer shall be located within 500 feet of public schools.

F. FEES AND DESIGN OF A TAX STRUCTURE:

RECOMMENDATION 26: The fee for an application for a license to operate a dispensary shall be \$20,000, with \$18,000 refunded to unsuccessful applicants.

RECOMMENDATION 27: The fee for an application for a license to produce medical marijuana up to 500 plants shall be \$2,000, with \$1,000 refunded to unsuccessful applicants. The fee for an application for a license to produce medical marijuana between 501 plants and up to 1,000 plants shall be \$4,000, with \$2,000 refunded to unsuccessful applicants.

RECOMMENDATION 28: The existing Department of Health Medical Marijuana Registry Special Fund shall be amended and renamed the Medical Marijuana Registry and Regulation Special Fund with subaccounts for the medical marijuana registry program and the medical marijuana dispensary program. Fees from qualified patients and caregivers shall be deposited into the medical marijuana registry program subaccount. Fees from applicants and licensees of medical marijuana production centers and medical marijuana dispensaries shall be placed into the dispensary program subaccount.

RECOMMENDATION 29: Annual renewal licensing fees for dispensaries shall be \$30,000, subject to review and revision by the Department of Health. Annual renewal licensing fees for medical marijuana production centers are to be determined by the Department of Health. Application and licensing fees shall be sufficient to cover the costs to administer the Medical Marijuana Dispensary Program.

RECOMMENDATION 30: Sales of medical marijuana shall be subject to the Hawai'i General Excise Tax.

G. METHODOLOGY FOR ENSURING SAFETY OF SUPPLY

1. QUALITY/LABORATORY SCREENING:

RECOMMENDATION 31: The Department of Health shall promulgate rules to provide for screening of medical marijuana for content (e.g. THC, CBD, and/or other cannabinoid concentrations), contamination and consistency.

2. EDUCATION AND TRAINING:

RECOMMENDATION 32: The Department of Health shall employ a staff person to provide medical marijuana health education. The Department of Health shall also establish a training or certification program for dispensary employees.

H. FEDERAL INTERFACE AND PROTECTIONS:

RECOMMENDATION 33: The Department of Health shall initiate ongoing dialog among relevant state and federal agencies to identify processes and policies that ensure privacy of patients and compliance of patients, caregivers, producers, and dispensaries with state laws and regulations related to medical marijuana.

I. TRANSPORTATION:

RECOMMENDATION 34: Producers and dispensaries shall be permitted to transport medical marijuana within Hawaii and between the Hawaiian islands in accordance with security requirements to be established by the Department of Health that may include but are not limited to: use of seed-to-sale tracking software and labeling of medical marijuana; limitations of amounts to be transported based upon whether it is a producer or dispensary; utilization of additional security measures for transport of medical marijuana plants and/or manufactured products between producers and dispensaries.

RECOMMENDATION 35: The Legislature shall enact provisions that comply with the State v. Woodhall, 129 Hawai'i 397, 301 P.3d 607 (2013) decision.

J. DEPARTMENT OF HEALTH RESOURCES, STAFFING & REPORTING:

RECOMMENDATION 36: The Legislature should provide sufficient resources each year FY16 (July 1, 2015, through June 30, 2016) and FY17 (July 1, 2016, through June 30, 2017) to establish the Medical Marijuana Dispensary Program. Based on Department of Health projections, the Legislature should allocate \$510,000 in general funds for FY16 and \$510,000 in general funds for FY17 to the Medical Marijuana Registry and Regulation Special Fund in order to set up the Medical Marijuana Dispensary Program. The General Fund shall be reimbursed for the monies allocated in FY16 and FY17. After these fiscal years, the Dispensary Program should be funded with dispensary and production center application and licensing fees.

RECOMMENDATION 37: The Legislature should direct the Department of Health to establish 5 FTE exempt positions to facilitate implementation of the Medical Marijuana Dispensary Program.

RECOMMENDATION 38: The Department of Health shall develop an annual medical marijuana program report to the Legislature.

These recommendations are discussed in greater detail in this Report, along with background information on Hawaii's current medical marijuana laws and the process and procedure followed by the Task Force.

I. BACKGROUND

A. Hawaii's Medical Marijuana Program

During the 2000 legislative session, with the enactment of Senate Bill 862, Hawai'i became the first state to recognize and establish medical marijuana laws through legislation versus a ballot initiative process. Both supporters and opponents for Senate Bill 862 expressed support for the idea that patients with medical need for marijuana ought to be able to use it without fear of penalty under State law;¹ while opponents to Senate Bill 862 expressed concerns that Senate Bill 862 as drafted failed to provide a way for patients to safely obtain their medicine.² Since then, the percentage of the population supporting medical use of marijuana has continued to grow, both in Hawai'i and around the country.

There are approximately 13,000 patients currently registered with the Hawai'i Medical Marijuana Program. As set forth in HRS §329-121, qualifying conditions include:

- (1) Cancer, glaucoma, 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; or
 - (e) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis or Crohn's disease; or
- (3) Any other medical condition approved by the department of health pursuant to administrative rules in response to a request from a physician or potentially qualifying patient.

¹ Senator Matthew M. Matsunaga, speaking in support of Senate Bill 862, stated, "The goal is to protect from arrest and imprisonment the tens of thousands of patients who are already using marijuana, as well as their doctors." March 7, 2000, S.Journal, p.284. Speaking in opposition to Senate Bill 862, Senator David Matsuura referred to Senator Matsunaga's remarks and explained, "I oppose only one part of this bill and that is on cultivation. I do support the Senator who just spoke about removing the criminal penalties for people who are using medical marijuana for medicinal purposes. Id. Representative Alexander C. Santiago, speaking in support of Senate Bill 862 as it was passed by the House of Representatives on Third Reading, stated inter alia, "The vast majority of marijuana possession arrests occur under state and county law. It is our intent to solely provide protection from arrest for bona fide patients by amending our state law to do so."

² Senator Norman Sakamoto, speaking in opposition of Senate Bill 862, questioned, inter alia, "How will we dispense this drug? There are other questions of planting, cultivation, distribution, and how one acquires marijuana since it's illegal to grow." March 7, 2000, S.Journal, p.283.

Since 2000, Hawaii's medical marijuana laws have covered certifying physicians, qualifying patients, and patient caregivers, but have not provided for dispensaries. Fifteen states and the District of Columbia currently have systems of medical marijuana dispensaries that provide for the cultivation and dispensing of medical marijuana products. All of these states, with the exception of Vermont, place their medical marijuana programs under the jurisdiction of their respective departments of health.

Under Hawaii's existing use of medical marijuana laws, patients have two options for obtaining their medication. The patient may cultivate up to seven plants for personal use.³ Alternatively, the patient may designate one caregiver to cultivate up to seven plants on the patient's behalf.⁴ No caregiver may cultivate for more than one patient, and no patient may have more than one caregiver.⁵ Patients or designated caregivers may possess up to four ounces of usable marijuana at one time.⁶

The current medical marijuana laws do not work as well as they could for the majority of patients. Qualifying conditions include several debilitating diseases, and the notion that patients afflicted with such conditions are able to cultivate their own medical marijuana or find someone willing to cultivate it for them is unrealistic. Even many patients who are physically capable of growing their own medicine simply lack the horticultural knowledge and skill to produce usable marijuana on a consistent basis. Furthermore, a disproportionate percentage of Hawaii's population live in rented accommodations. These patients find it difficult or impossible to grow their own medicine either because it is prohibited or they lack space.

In addition to these concerns, there is no legal way for patients or their caregivers to obtain medical marijuana seeds or clones to begin cultivating on their own. Under the current laws, even the transfer of seeds without exchanging money is unlawful. Thus, not only are many patients constrained by lack of space, physical fitness, the necessary skill and horticultural knowledge about cultivating, and time required to obtain medication, but all patients are initially forced to violate the law or find a caregiver willing to violate the law for them.

Patients with ailments who respond best to medical marijuana concentrates or oils have no way to obtain those products legally or safely. Many patients resort to purchasing these products through online retailers, and have no real recourse if they find that these products are impure, ineffective, or even harmful.

³ HRS §329-121, as of January 2, 2015, defines "[a]dequate supply" as "an amount of marijuana jointly possessed between the qualifying patient and the primary caregiver that is not more than is reasonably necessary to assure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of a qualifying patient's debilitating medical condition; provided that an "adequate supply" shall not exceed seven marijuana plants, whether immature or mature, and four ounces of usable marijuana at any given time."

⁴ HRS §329-123 limits a qualifying patient to "only one primary caregiver at any given time."

⁵ *Id.*

⁶ *See, supra*, HRS §329-121's definition of "[a]dequate supply." *See also* HRS §329-121 that defines "usable marijuana" as the "dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana. "Usable marijuana" does not include the seeds, stalks, and roots of the plant."

Hawaii’s current medical marijuana laws also set forth contradictory requirements for transporting medical marijuana throughout the State. There is a notable discrepancy in the allowable behaviors related to transporting medical marijuana set forth in HRS Chapter 329. On one hand, HRS §329-121 defines “medical use” as:

[t]he acquisition, possession, cultivation, use, distribution, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a qualifying patient's debilitating medical condition. For the purpose of “medical use,” the term distribution is limited to the transfer of marijuana and paraphernalia from the primary caregiver to the qualifying patient.

At the same time, HRS §329-122(c)(E) states “[t]he authorization for the medical use of marijuana in this section shall not apply to the medical use of marijuana at any . . . place open to the public.” Taken together, these sections seem to say that a qualifying patient may transport medical marijuana for medical use, but may not transport it in any place open to the public (e.g., sidewalks, roads, or airports).⁷ This creates uncertainty for the patient and will continue to create uncertainty for any dispenser who will need to transport medical marijuana if it is produced at a location other than the physical location of the retail establishment where the medical marijuana product is dispensed.

Ultimately, Hawaii’s medical marijuana laws are flawed. These laws require that patients who are acting in good faith become criminals—exactly what the Legislature attempted to curtail by authorizing the Medical Marijuana Program in 2000.

B. House Concurrent Resolution 48, HD1, SD1 (2014) and the Medical Marijuana Dispensary Task Force

Recognizing that Hawaii’s medical marijuana laws are flawed, the Hawai‘i Legislature passed House Concurrent Resolution 48 (“HCR 48”) during the 2014 legislative session, establishing a task force (“the Task Force”) to “develop recommendations for the establishment of a regulated statewide dispensary system for medical marijuana.” HCR 48 received broad support in the Legislature with only one lawmaker voting against adoption of the resolution in its final form.

Similar to lawmakers’ concerns in 2000, testifiers in support of HCR 48 questioned the legitimacy of legalizing possession of medical marijuana without providing a legal way to obtain it by qualifying patients. Thus, the essence of the Task Force’s mission is to make recommendations to provide a safe, legal method whereby certified patients can obtain medical marijuana.

⁷ See, e.g., State v. Woodhall, 129 Hawaii 397, 409, 301 P.3d 607, 619 (Haw. App. 2013)(noting State’s argument that Chapter 329, Part IX would permit a qualified patient to transport medical marijuana on foot (*i.e.*, not utilizing any moving vehicle like an automobile, airplane, ship, etc.), within the confines of one’s private residence, on private roads, or through the backyards of one’s neighbors (*i.e.*, not in any place open to the public).”

The Task Force was charged with “develop[ing] recommendations for the establishment of a regulated statewide dispensary system for medical marijuana to provide safe and legal access to medical marijuana for qualified patients.” Specifically, the Legislature requested the Task Force to consider issues and develop recommendations for the following eight categories:

- A. Appropriate number and location of dispensaries statewide;
- B. A framework for cultivating and manufacturing medical marijuana products;
- C. Restrictions on advertising;
- D. Regulations to ensure security and public safety;
- E. Location and restriction issues;
- F. Fees and design of a tax structure;
- G. Methodology for ensuring safety of supply; and
- H. Federal interface and protections.

As set forth in HCR 48, the Task Force was comprised of twenty-one members representing various stakeholder groups including qualifying patients, caregivers, physicians, community advocacy groups, law enforcement, legislators, and representatives of various state agencies. These Task Force members included:

- 1. The Attorney General, or the Attorney General's designee;
- 2. The Director of Health, or the Director's designee;
- 3. The Director of Public Safety, or the Director's designee;
- 4. The Director of Taxation, or the Director's designee;
- 5. The Director of Commerce and Consumer Affairs, or the Director's designee;
- 6. The Director of the Public Policy Center, or the Director's designee;
- 7. The Prosecuting Attorney of the City and County of Honolulu, or the Prosecuting Attorney's designee;
- 8. A police chief chosen by the Law Enforcement Coalition, or the police chief's designee;
- 9. The Chairperson of the Senate Committee on Health;

10. The Chairperson of the House Committee on Health;
11. A state senator who is selected by the Senate President to serve on the Task Force;
12. A state representative who is selected by the Speaker of the House of Representatives to serve on the Task Force;
13. A representative from the University of Hawai'i College of Tropical Agriculture and Human Resources;
14. A representative of the Drug Policy Forum of Hawai'i;
15. A physician participating in Hawaii's Medical Marijuana Program;
16. Two participants in Hawaii's Medical Marijuana Program, one of whom is a patient who is over the age of 18, and one of whom is a parent or guardian of a patient who is under the age of ten;
17. A caregiver participating in Hawaii's Medical Marijuana Program;
18. A representative from the American Civil Liberties Union of Hawai'i;
19. A representative from the Hawai'i Medical Association; and
20. A representative from the Coalition for a Drug-Free Hawai'i.

II. PROCESS AND PROCEDURE

The goal of the Task Force was to achieve consensus on concrete recommendations to provide to the Legislature for passage of a bill to establish medical marijuana dispensaries in Hawai'i.

The Policy Subcommittee, a subcommittee created by the Task Force, met nine times, between scheduled meetings of the Task Force, to continue discussing policy issues related to the development of dispensaries. There was no formal membership of the Subcommittee and meetings were open to all Task Force members who wished to attend and participate. No formal decision-making or voting was conducted during meetings of the Policy Subcommittee; rather, attendees focused on achieving consensus on recommendations to bring to the full Task Force for its collective consideration and decision-making.

On November 3, 2014, the Policy Subcommittee issued its “Policy Subcommittee Report to HCR 48 Medical Marijuana Dispensaries Task Force”⁸ that included numerous policy recommendations⁹ related to the number and location of dispensaries; design of a tax structure; location and restriction issues; methodology for ensuring safety of supply; a framework for cultivating and manufacturing medical marijuana; regulations to ensure security and public safety; restrictions on advertising; and preventing federal interference.

The Policy Subcommittee had the following individuals from outside the Task Force participate in its discussions and provide expertise in specific areas:

1. Dr. Mark Hagadone, a chemist with Technical Experts, Inc., gave a presentation about laboratory screening for medical marijuana;
2. Dr. Mark Tomita, Dean of Hawai‘i Pacific University’s College of Nursing and Health Sciences, provided input on a health certification program for dispensary employees, physicians, and other health professionals, and the general public;
3. James Anthony, Esq., an attorney specializing in California land use laws, provided insights to the Subcommittee about land use and zoning laws for dispensaries; and
4. Peter Oshiro, Hawai‘i Department of Health, provided information on state regulations related to commercial food production.

The Federal Interface Subcommittee, a second committee created by the Task Force, exchanged information on the likely conflicts between state licensed dispensaries and the enforcement of federal laws by the federal government. This Subcommittee communicated on three separate occasions via email to exchange and share information and finalize a list of recommendations. The recommendations of the Federal Interface Subcommittee are attached hereto as Appendix F.

In addition to the work of the Policy and Federal Interface Subcommittees, the Task Force reviewed the Legislative Reference Bureau’s report “Is the Grass Always Greener? An Updated Look at Other State Medical Marijuana Programs,”¹⁰ the State Auditor’s “Sunrise Analysis: Regulation of Medical Marijuana Dispensaries,”¹¹ and Deputy Attorney General James

⁸ A complete copy of the “Policy Subcommittee Report to HCR 48 Medical Marijuana Dispensaries Task Force,” November 3, 2014, with attached minutes of the Subcommittee’s meetings and updates to the Task Force, is available at <http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html> (last visited January 12, 2015).

⁹ Attached hereto as Appendix E is the Executive Summary of the “Policy Subcommittee Report to HCR 48 Medical Marijuana Dispensaries Task Force” that includes the numerous recommendations of the Policy Subcommittee to the Task Force.

¹⁰ A complete copy of the Legislative Reference Bureau’s report, “Is the Grass Always Greener? An Updated Look at Other State Medical Marijuana Programs” is available at <http://lrbhawaii.org/> (last visited January 12, 2015).

¹¹ A complete copy of the State Auditor’s “Sunrise Analysis: Regulation of Medical Marijuana Dispensaries” is available at <http://auditor.hawaii.gov/> (last visited January 12, 2015).

M. Cole's August 29, 2013, Memorandum for All United States Attorneys, "Guidance Regarding Marijuana Enforcement" ("the Cole Memorandum").

The Legislative Reference Bureau's report was required by HCR 48 and is a comprehensive, "updated report on the policies and procedures for access, distribution, security, and other relevant issues related to the medical use of cannabis in all states that currently have a medical cannabis program[.]"

The State Auditor's "Sunrise Analysis" was prepared in response to House Concurrent Resolution 74 of the 2014 legislative session that requested the Auditor to examine proposed medical marijuana dispensary regulations in House Bill No. 1587 that was introduced, but not passed, in the 2014 legislative session. The State Auditor concluded, inter alia, that "the regulation of a distribution system for medical marijuana is warranted to protect Hawai'i's qualifying patients and the wider community." The State Auditor also made the following recommendations with respect to future legislation related to medical marijuana dispensaries:

1. A system of medical marijuana dispensaries should be regulated in Hawai'i.
2. The Legislature may wish to consider amending HB No. 1587 to:
 - a. Require dispensaries to be licensed;
 - b. Grant authority to the Department of Health to determine the number of dispensaries to be allowed in Hawaii, and where the dispensaries are to be located;
 - c. Assign revocation and suspension powers regarding medical marijuana dispensary licenses and dispensary agent registrations to the Department of Health;
 - d. Provide start-up funding to the Department of Health for the medical marijuana dispensaries regulatory program; and
 - e. Extend the effective date of the act to allow the Department of Health time to implement the program.
3. The Legislature may wish to consider amending Section 321-30.1, HRS, to specify that the Medical Marijuana Registry Special Fund may be used to administer the regulation of medical marijuana dispensaries.

Facilitated by the Department of Health, Task Force members participated in two conference calls with officials involved in the administration of medical marijuana dispensary programs in Arizona and New Mexico. Task Force members were able to ask questions¹² of these officials, with the goal of learning from other state regulators who had gone through the process of setting up a statewide dispensary system in states of similar size to Hawai‘i.

Lastly, pursuant to HCR 48, the Task Force conducted two public hearings—one on the island of Hawai‘i and the other on O‘ahu—to receive public input and testimony on issues and concerns regarding dispensaries in Hawai‘i and on the updated report received from the Legislative Reference Bureau. Both public hearings were well attended by members of the public, and the Task Force received written and verbal testimony from 79 members of the public that overwhelmingly supported the establishment of a well-regulated statewide dispensary system for medical marijuana.

The Task Force met eight times: June 24, 2014; August 12, 2014; September 9, 2014; October 14, 2014; November 6, 2014; November 18, 2014; December 16, 2014; and December 30, 2014. After receiving the Policy Subcommittee’s recommendations, the Task Force, at its November 18, 2014, meeting, split up into five smaller working groups that discussed and further refined recommendations¹³ related to the eight issue categories identified in HCR 48. In its December 16, 2014, and December 30, 2014, meetings, the Task Force engaged in frank discussions, continued to amend and refine recommendations, and voted upon and approved thirty-eight recommendations¹⁴ as discussed further in this Final Report.

Task Force meetings and materials were open and available to the public in order to foster transparency and encourage public participation in the deliberation process. The Task Force reserved time for public comment at each meeting. Minutes, reports, and other documents from the Task Force meetings are available at <http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html> (last visited on January 12, 2015).

III. DISCUSSION AND RECOMMENDATIONS

As the Task Force and Policy Subcommittee met throughout the summer and fall of 2014, it became clear that the eight issue categories identified in HCR 48 are not self-contained issue areas, but rather pose intertwined policy questions with recommendations that cross issue areas. Accordingly, the Task Force has attempted to separate its final recommendations into the eight issue categories, with the caveat that several recommendations fall into more than one category.

¹² A series of pre-selected “Questions for State Medical Marijuana and Dispensary Program Administrators” developed by Department of Health Division Chief Peter Whitarcar was forwarded to participating state administrators Ken Groggel of New Mexico and Harmony Duport of Arizona in preparation for these conference calls. A copy of these Questions is attached hereto as Appendix D.

¹³ Following the working groups discussions on November 18, 2014, working groups compiled their further recommendations to the Task Force. These recommendations were circulated to Task Force members via e-mail in advance of the December 16, 2014, and December 30, 2014 Task Force meetings. A copy of these working group recommendations is attached hereto as Appendix G.

¹⁴ A copy of the Task Force’s Final Recommendations is attached herein as the Executive Summary to this Report.

A. NUMBER AND LOCATION OF DISPENSARIES:

To determine the number and location of dispensaries appropriate for a regulated statewide system of dispensaries sufficient to serve patient populations on each island, the Task Force took into account the current number of 13,000 registered patients in Hawai‘i, the anticipated approximate need of these patients, the average production capacity of a single medical marijuana plant, and the anticipated increase in the number of registered patients as medical marijuana becomes available via licensed dispensaries. Based on these considerations, the Task Force recommendations are as follows.

RECOMMENDATION 1: The Department of Health shall determine the number of dispensary licenses based on a guideline of 1 for every 500 patients, adjusted annually, based on the patients' residency.

Recommendation 1's ratio of one licensed dispensary to 500 patients is based on a review of other states' dispensary systems. The Policy Subcommittee noted that most other states with dispensaries allow for one dispensary for every 500 to 1,000 registered patients, though this range appears to be the practical outcome of how other dispensary systems have developed, rather than the result of any particular legislative mandate. The Policy Subcommittee further noted that using this proposed 1:500 or 1:1,000 dispensary to patient ratio would result in a range of 15 to 30 licensed dispensaries statewide.

RECOMMENDATION 2: There shall be at least one dispensary in every county with the exception of Kalawao County.

Recommendation 2 requires that there shall be at least one dispensary in every county with the exception of Kalawao County. Task Force members discussed concerns that, at a minimum, each county should have at least one medical marijuana dispensary for patients residing in each particular county. Based on the most recent data provided by the Department of Public Safety, there are qualifying patients residing in every county in the State of Hawai‘i.

RECOMMENDATION 3: The Department of Health may begin offering licenses for dispensaries and producers on January 1, 2017, and dispensaries may begin operations on July 1, 2017. The Department shall offer no fewer than twenty-six licenses by January 1, 2019.

With input from the Department of Health, the Task Force determined that, if the Legislature passes a bill establishing a statewide medical marijuana dispensary system during the 2015 legislative session, a two-year time frame for implementing the legislation would allow the Department to engage in the required departmental rule-making process, establish dispensary and production center application procedures, and permit the Department to issue the first dispensary and production center licenses by January 1, 2017.

This time frame would also allow medical marijuana production centers to be established, licensed, and begin cultivating medical marijuana to supply to licensed dispensaries for operations of dispensaries to begin on July 1, 2017.

The 2019 date is intended to ensure that the Department will offer a sufficient number of dispensary licenses by a fixed date so that patients statewide will be served by dispensaries accessible throughout the State.

RECOMMENDATION 4: In the event that an island or a county in the State lacks a single licensed dispensary by July 1, 2017, a dispensary that is licensed and established on another island or in another county may petition the Department of Health to allow an owner or employee of such dispensary to deliver medical marijuana products to a qualified patient or caregiver of the island or county that lacks a dispensary. The owner or employees shall at all times retain possession of the medical marijuana products until the products are delivered to the patient or caregiver.

Recommendation 4 addresses the concern that smaller islands lack the patient population to sustain a dispensary, especially because dispensaries will be required to maintain minimum levels of security that will be cost-prohibitive for these smaller islands. The Task Force recommends the above delivery system in order to ensure that all patients in the State are able to access medication equally while maintaining measures to prevent diversion outside of the anticipated regulated system of dispensaries on the more populous islands.

Discussion among task force members noted that any inter-island delivery system will expose dispensary owners and employees to risk insofar as transport of goods and travel between islands is considered travel through international waters and is governed by federal laws. The Task Force recommends that the Department make clear that any petition granted by the Department allowing interisland delivery of medical marijuana – like dispensary and production center licenses or patient certifications – in no way eliminates the risk of federal prosecution for possession of a federal Schedule I controlled substance. Dispensary owners and employees will be required to weigh and assume the risks and liabilities associated with delivery and cannot expect any protections from federal law while engaged in interisland delivery of medical marijuana to patients.

B. FRAMEWORK FOR CULTIVATING AND MANUFACTURING MEDICAL MARIJUANA PRODUCTS

1. PRODUCERS:

RECOMMENDATION 5: The Legislature shall preserve the right of qualifying patients to continue to cultivate their own medication if they wish to do so.

A common patient concern expressed at numerous Task Force meetings and at the public hearings conducted by the Task Force was the need to retain qualifying patients' ability to continue cultivating medical marijuana on their own. After fourteen years of individual cultivation, many patients have developed particular strains that are especially effective for their medical conditions. The establishment of a dispensary system should not require that patients use dispensaries and should not prohibit qualified patients and their caregivers from cultivating

medical marijuana for their own personal use as currently allowed by Hawai‘i’s medical marijuana laws.

RECOMMENDATION 6: The Department of Health shall determine the number of medical marijuana production center licenses to issue based on a ratio that producers will have up to 1,000 plants at any one time.

RECOMMENDATION 7: Producers may acquire, possess, cultivate, manufacture, and transport no more than 1,000 plants at any one time.

RECOMMENDATION 8: Beginning on January 1, 2017, the Department of Health may offer a minimum of 30 producer licenses.

Recommendations 6 through 8—similar to Recommendations 1 and 3—are based on the current number of 13,000 registered patients and require medical marijuana production centers to be licensed and registered with the Department to ensure that growers will be subject to regulation by the State. The Task Force believes that compliance with licensing by the Department—like the certification process for qualified patients—will protect production centers from prosecution under State laws, and will be a foundational piece for a “strong and effective regulatory and enforcement system” that addresses the priorities and concerns expressed by the Department of Justice.

The 1,000 plant limitation for medical marijuana production centers and the minimum of 30 producer licenses was reached based upon: (i) calculations that these numbers would satisfy current patient demand; (ii) considerations of administrative burden and flexibility for the Department of Health in overseeing fewer versus larger numbers of production centers; and (iii) discussions about federal penalties connected to possession of specific numbers of plants.

The recommended minimum number of producer licenses is based on the current number of 13,000 registered patients statewide. If all 13,000 patients visit a dispensary for their medication, the required supply would be approximately 39,000 plants. Thus, the 30 producer license minimum, presuming each of these licensed production centers cultivated up to 1,000 plants, can be expected to satisfy current patient demand. In determining the minimum number of production centers, Task Force members also discussed the need for enough production centers to effectively supply a dispensary system with a diversity of strains of medical marijuana required by patients with different medical conditions.

Both Working Group No. 1 of the Task Force on November 18, 2014, and the Policy Subcommittee noted that the lower the number of plants allowed per producer, the more producer licenses must be issued in order to satisfy patient demand. The Task Force was cognizant of the increasing administrative burden that would be placed on the Department to monitor and oversee increasing number of production centers if the plant limitation per production center was set too low. On the other hand, assuming that not all patients will use dispensaries regularly and many patients may continue to cultivate their own medical marijuana, the Task Force believes that the permissive wording of allowing 30 production licenses provides

flexibility to the Department of Health to offer additional producer licenses as the number of registered patients increases.

Finally, discussions about federal penalties connected to possession of specific numbers of plants were also considered in setting the 1,000 plant limitation on medical marijuana production centers. The Controlled Substances Act imposes harsher penalties for possession of increasing numbers of marijuana plants. For example, possession of more than 99 marijuana plants would place production centers in a higher tier of punishment by the federal government.

RECOMMENDATION 9: Medical marijuana production centers shall distribute only to dispensaries or other production centers licensed pursuant to this section.

Recommendation 9 allows production centers to sell and distribute products to dispensaries and other production centers to ensure that patients have access to a wide variety of medical marijuana as different strains work better for certain conditions. This recommendation, however, prohibits production centers from selling or distributing medical marijuana directly to patients. The Task Force recommends this prohibition as a means to further control and prevent diversion of medical marijuana to unauthorized users.

2. RANGE OF PRODUCTS:

Recommendations 10 through 13 required the Task Force to weigh and balance accessibility to medicine by patients against public health and public safety concerns about the diversion of medical marijuana products to unauthorized persons and, in particular, to unauthorized minors.

RECOMMENDATION 10: All products distributed by a dispensary must be distributed in opaque, child-resistant packaging. These products must be labeled clearly with the phrase “FOR MEDICAL USE ONLY.” The label must include information about the potency and contents of the product.

The Task Force recommends specific packaging and labeling restrictions to address and mitigate the concern that medical marijuana may be used by unauthorized persons and, especially, by unauthorized minors.

RECOMMENDATION 11: No dispensary or producer shall produce or distribute any candy with medical marijuana; provided that lozenges shall be permitted. “Lozenge” is defined as a small tablet intended to be dissolved slowly in the mouth.

Recommendation 11—similar to Recommendation 18—is intended to minimize medical marijuana’s appeal to children. While recognizing that many medicines are artificially sweetened, processed into syrups, or some medicines have been incorporated into candy-like products (e.g., fentanyl lollipops), Task Force members believe that reasonable limitations can be placed upon the production of the range of medical marijuana products, at this time, without significant impact to patients or caregivers. By adopting Recommendation 11, patients will be

able to obtain and use lozenges as defined above, and still retain the ability to incorporate medical marijuana into other products and whatever form is most effective for them.

Although the definition of “lozenge” and the use of the term “candy” were criticized as too vague, no other definitions were offered either at the Task Force meetings or during the Policy Subcommittee meetings. The majority of Task Force members believe that the definition for “lozenge” set forth above applies an appropriate, common-sense definition to medical marijuana products that can be taken orally.

RECOMMENDATION 12: Lozenges, capsules, and pills containing medical marijuana shall be packaged in such a way so that one dose/serving – a single wrapped item – contains no more than 10mg of active THC.

Recognizing the benefits of orally consuming medication versus smoking medical marijuana, Recommendation 12 provides further guidance for orally consumed medical marijuana. As originally drafted by the Policy Subcommittee, Recommendation 12 included “lozenges and other edible items” in the range of products allowable in Hawai‘i’s medical marijuana dispensaries.

Some Task Force members expressed reservations about the difficulties being faced in other jurisdictions with overseeing and minimizing the diversion of edible marijuana products to unauthorized users and some Task Force members advocated for more stringent limitations on the range of medical marijuana products. After much discussion by the Task Force, consensus on Recommendation 12 was reached by balancing patients’ needs with public health and public safety concerns. The Task Force amended Recommendation 12 by replacing “capsules and pills” to this recommendation in lieu of “other edible items.”

Thus, Recommendation 12, as finally approved by the Task Force, requires that lozenges, capsules and pills containing medical marijuana be packaged and labeled appropriately based upon uniform doses. The Task Force recognizes that a benefit of labeling includes patients being better informed about the content and dosage of their medical marijuana. This should lead to greater confidence in the administering of patients’ medications, especially if lozenges, capsules, or pills are incorporated into food products and consumed by patients. Task Force members also discussed how packaging of these products as a single wrapped item may come in different forms (e.g. blister packs containing several individually wrapped capsules or pills) to prevent accidental or unauthorized use of medical marijuana.

RECOMMENDATION 13: Oils and extracts are permitted, provided that they are clearly labeled with the potency and contents of the product.

Recognizing the benefits of topical application of medical marijuana, the Task Force recommends oils and extracts be allowed in the range of products manufactured and distributed by medical marijuana dispensaries. Like lozenges, capsules, pills and all other medical marijuana products, oils and extracts must also be labeled indicating their potency and contents, and are subject to the packaging and labeling requirements in Recommendation 10.

3. MANUFACTURING REGULATIONS:

RECOMMENDATION 14: “Manufacture” means the production, preparation, propagation, compounding, conversion, or processing of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of marijuana by an individual for the individual's own use.

RECOMMENDATION 15: Any individual or entity with a license to dispense and/or produce medical marijuana shall be permitted to manufacture medical marijuana; provided that any dispensary and/or producer must also obtain necessary licenses from the appropriate regulatory agency if engaged in any activity that, independent of the medical marijuana program, would require a license.

By subsuming the manufacturing process into the recommended dispensary and production center licenses, the Task Force aims to simplify the administrative process, for both the Department of Health and for future applicants for dispensary and production center licenses. As discussed with Recommendations 10 through 13, Task Force members recognize that while medical marijuana can be ingested by smoking, other methods of consumption may be safer and/or more effective, depending on the patient. For this reason, the Task Force recommends providing a legal way for production centers and dispensaries to alter the dried plant into other forms for consumption by patients.

The Task Force anticipates dispensaries and production centers will be subject to all applicable state food safety standards and that these regulations will be enforced by the Department of Health, as they would be enforced at any facility that produces food.

RECOMMENDATION 16: The Department of Health shall conduct inspections and audits of facilities where medical marijuana is manufactured. The Department of Health shall enforce all applicable regulations.

Similar to the annual inspections and audits of dispensaries and production centers, the Task Force recommends inspections and audits of medical marijuana manufacturing facilities on an annual basis.

C. RESTRICTIONS ON ADVERTISING:

RECOMMENDATION 17: The Department of Health shall promulgate rules limiting the size and format of any sign(s) outside the dispensary itself.

RECOMMENDATION 18: Dispensaries and production centers shall be prohibited from using cartoon characters or other designs intended to appeal to children.

The Task Force was concerned with the unauthorized use of medical marijuana by minors and the potential negative effects of the marketing of medical marijuana using tactics and strategies that appeal to children. While recognizing that the audience for medical marijuana is not a target audience that may be susceptible to this type of marketing, the Task Force believes this prohibition from using cartoon characters or other designs intended to appeal to children is an important statement of policy that needs to be established as the State embarks on the cultivation, manufacturing, distribution and retail sale of medical marijuana.

D. REGULATIONS TO ENSURE SECURITY AND PUBLIC SAFETY:

1. SECURITY:

RECOMMENDATION 19: The Department of Health shall promulgate regulations mandating the following security measures to ensure that medical marijuana is provided only to patients and is not diverted for non-medical use:

- (1) **For dispensaries:**
 - (a) **Video surveillance;**
 - (b) **Inventory tracking software (“seed to sale”);**
 - (c) **Alarm system; and**
 - (d) **Exterior lighting.**
- (2) **For producer grow sites:**
 - (a) **Video surveillance;**
 - (b) **Inventory tracking software (“seed to sale”);**
 - (c) **Alarm system; and**
 - (d) **Black-out fencing for open, outdoor growing facilities.**

The Task Force recognizes the importance of addressing concerns related to physical security related to dispensary sites and production center growing facilities. Most states require specific, minimum security precautions. State requirements are, generally, similar in this area with most states requiring alarms, video surveillance, and exterior lighting at a minimum; while some states require additional security measures. Based on these requirements, the Task Force recommends the above as requirements for dispensaries and production centers, with black-out fencing being specifically required for open outdoor grow sites.

RECOMMENDATION 20: The Department of Health may place additional security restrictions on dispensaries and production centers.

The Task Force recommends that as Hawai'i's dispensary system evolves, the Department of Health should retain the ability to place additional regulations on dispensaries and production centers to ensure patient and public safety. The Department may use the departmental rule-making process to institute such regulations.

RECOMMENDATION 21: Applicants for licenses to operate and prospective employees of dispensaries and production centers shall submit to criminal background checks. Those with felony convictions shall be prohibited; provided that the Department of Health may promulgate regulations to allow individuals with felony convictions related to marijuana more than 10 years ago to own or work at a dispensary or production center.

The Task Force discussed concerns that dispensary and production center owners and staff be required to undergo criminal background checks and those with felony convictions, notwithstanding any length of time, should be prohibited from ownership or work at any dispensary or production center. While recognizing the public safety concerns addressed by these suggestions, Task Force members also recognized the need for lenity especially for those individuals whose convictions may be related to marijuana more than ten years ago. At the suggestion of a public member, the Task Force recognizes that the United States Equal Employment Opportunity Commission ("EEOC") may have applicable guidance pertaining to the consideration of arrest and conviction records in employment decisions¹⁵ that should be considered in drafting any legislation or regulations that impose limitations to employment based on prior drug-related or non-drug-related offenses. The Legislature should consider the relevant EEOC guidelines as legislation is drafted to impose limitations on employment by dispensaries and medical marijuana production centers.

2. INSPECTIONS:

RECOMMENDATION 22: Licensed medical marijuana dispensaries and production centers shall be subject to announced and unannounced inspections and audits of its operations by the Department of Health at least annually.

RECOMMENDATION 23: Requirements for annual reports and audits shall be determined by the Department of Health.

Announced and unannounced inspections, as well as annual reports and audits, of medical marijuana dispensaries and production centers are essential to a strong and effective regulatory system for the production and distribution of medical marijuana. The Task Force

¹⁵ See United States Equal Employment Opportunity Commission, "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," No. 915.002, April 25, 2012, available at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm (last visited January 12, 2014).

recommends that these audits and inspections occur annually, at a minimum, and as part of the license renewal process for dispensaries and production centers.

As part of these annually scheduled audits and reports, the Department of Health should have access to the “seed to sale” inventory tracking systems of dispensaries and production centers so that the Department is able to recognize instances of possible medical marijuana diversion. As part of unannounced inspections, the Department should have access to a dispensary’s customer database that includes all patient purchases made within the last thirty days. Any sale by a dispensary to a patient that exceeds the patient’s monthly limit of medical marijuana shall trigger civil and/or criminal penalties.

Task Force members discussed whether the Department of Health should be tasked solely with inspections and audits of licensed dispensaries and production centers. Following the transition of the oversight of the medical marijuana program from the Department of Public Safety to the Department of Health and in alignment with this transition, one perspective shared was that the Department of Health was better situated to be the agency tasked with oversight of inspections and audits of dispensaries and production centers. A contrasting perspective advocated for empowering the Department of Public Safety to also be responsible for overseeing the inspections and audits of dispensaries and production centers. The representative of the Department of Health noted that if designated as the agency responsible for inspections and audits, indications of noncompliance with the requirements of the law and the Department of Health’s regulatory requirements would trigger reporting by the Department to appropriate law enforcement agencies.

E. LOCATION AND RESTRICTION ISSUES: ZONING:

RECOMMENDATION 24: Dispensaries, producers and manufacturers shall comply with County zoning ordinances, provided that counties cannot enact zoning laws that target/discriminate against dispensaries or producers.

With Recommendation 24, the Task Force aims to allow counties to retain their traditional authority over zoning areas for commercial, residential, or other use, while prohibiting counties from enacting zoning ordinances that pertain only to medical marijuana dispensaries or production centers. The Task Force believes that this type of exclusionary zoning should be clearly prohibited from the outset so as to: (i) ensure qualifying patients' access to medical marijuana; and (ii) not allow county governments to undermine a statewide dispensary program and effectively eliminate or zone dispensaries or production centers out of existence within particular counties.

RECOMMENDATION 25: No dispensary or producer shall be located within 500 feet of public schools.

The Task Force discussed numerous bases for: (i) virtually no buffer zone (i.e., medical marijuana dispensaries should be allowed anywhere pharmacies are allowed); or (ii) more expansive and stringent buffer zones such as the 1,000 foot zone adopted by the federal Drug-Free Zone law that encompasses numerous facilities including “public or private elementary,

vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility.” After considering the multiple bases for buffer zones, the majority of the Task Force believes that a buffer zone of 500 feet around public schools is a reasonable restriction to place upon dispensaries and production centers that will minimize access to unauthorized minors and still make medical marijuana accessible statewide in both rural and urban communities in Hawai‘i.

F. FEES AND DESIGN OF A TAX STRUCTURE:

RECOMMENDATION 26: The fee for an application for a license to operate a dispensary shall be \$20,000, with \$18,000 refunded to unsuccessful applicants.

RECOMMENDATION 27: The fee for an application for a license to produce up to 500 medical marijuana plants shall be \$2,000, with \$1,000 refunded to unsuccessful applicants. The fee for an application for a license to produce between 501 and up to 1,000 medical marijuana plants shall be \$4,000, with \$2,000 refunded to unsuccessful applicants.

RECOMMENDATION 28: The existing Department of Health Medical Marijuana Registry Special Fund shall be amended and renamed the Medical Marijuana Registry and Regulation Special Fund with subaccounts for the medical marijuana registry program and the medical marijuana dispensary program. Fees from qualified patients and caregivers shall be deposited into the medical marijuana registry program subaccount. Fees from applicants and licensees of medical marijuana production centers and medical marijuana dispensaries shall be placed into the dispensary program subaccount.

RECOMMENDATION 29: Annual renewal licensing fees for dispensaries shall be \$30,000, subject to review and revision by the Department of Health. Annual renewal licensing fees for medical marijuana production centers are to be determined by the Department of Health. Application and licensing fees shall be sufficient to cover the costs to administer the Medical Marijuana Dispensary Program.

The Task Force recognizes that the establishment of a medical marijuana dispensary system will require substantial financial and staff resources to ensure successful implementation of a dispensary system. The Task Force is also keenly aware of the Department of Justice’s directive, in its August 29, 2013, “Guidance Regarding Marijuana Enforcement,” that any jurisdiction that implements systems that provide for regulation of marijuana activity “must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.”

Accordingly, the Task Force recommends that fees from the applications and the renewal of licenses for dispensaries and production centers be set at rates sufficient to cover the costs to effectively and sufficiently administer the medical marijuana dispensary program. Most states

charge application fees to any person who wants to open a dispensary and/or production center, regardless of whether their applications are eventually approved, and refund a portion of those application fees to unsuccessful applicants.

After reviewing the range of application and renewal fees adopted by other states and recognizing the Department of Health's projections¹⁶ of between \$410,000 to \$510,000 in recurring operating expenses and the necessity to establish 5 FTE positions, the Task Force recommends initial application fees of \$20,000 for dispensary applicants and \$30,000 annual renewal licensure fees for operating dispensaries. No objections were raised to the setting of annual renewal fees at \$30,000 for dispensaries, but the Task Force also recommends that statutory language be crafted to allow review and revision of fees by the Department.

The Task Force also recommends a tiered fee structure for medical marijuana production centers based on plant limits of up to 500 and between 501 and 1,000 plants. For smaller operations that choose to cultivate up to 500 plants, the Task Force recommends a \$2,000 application fee. For larger operations that choose to cultivate between 501 and 1,000 plants, the Task Force recommends a \$4,000 application fee. The Task Force recommends that the Department be allowed to determine the annual renewal licensing fees for medical marijuana production centers, keeping in mind that dispensary and production center fees must be sufficient to cover the costs to effectively administer the Medical Marijuana Dispensary Program.

RECOMMENDATION 30: Sales of medical marijuana shall be subject to the Hawaii General Excise Tax.

The Task Force recommends application of the existing general excise tax (GET) structure to the production and distribution of medical marijuana insofar as adherence to this taxation scheme is the simplest and easiest tax structure to administer at this time. Thus, the Task Force recognizes that all tax revenue collected through the GET will escheat to the State's general fund and the City and County of Honolulu as is the current practice.

G. METHODOLOGY FOR ENSURING SAFETY OF SUPPLY

1. QUALITY/LABORATORY SCREENING:

RECOMMENDATION 31: The Department of Health shall promulgate rules to provide for screening of medical marijuana for content (e.g. THC, CBD, and/or other cannabinoid concentrations), contamination and consistency.

Laboratory screening of medical marijuana is crucial to ensure that patients are accessing and using safe medication. Laboratories may become accredited to screen medical marijuana through a national accrediting body. Rules promulgated by the Department will determine how often medical marijuana is screened, how much of the product is screened, and the type of screening that shall be done. Several laboratories in Hawai'i have the capacity to become accredited for this work, and many in other states are already accredited.

¹⁶ Attached hereto as Appendix H is guidance by the Department of Health entitled "Resources Required to Establish the Medical Marijuana Dispensary Program Recommendations," dated December 29, 2014.

2. EDUCATION AND TRAINING:

RECOMMENDATION 32: The Department of Health shall employ a staff person to provide medical marijuana health education. The Department of Health shall also establish a training or certification program for dispensary employees.

The Task Force recognizes that adequate education is crucial to the success of the medical marijuana dispensary program. To that end, the Department of Health plans to conduct educational outreach to patients, physicians, dispensary owners and employees, medical marijuana producers, youth, and the general public. Recommendation 32 aligns with the goals of preventing substance abuse and furthering public knowledge about medical marijuana.

H. FEDERAL INTERFACE AND PROTECTIONS:

RECOMMENDATION 33: The Department of Health shall initiate ongoing dialog among relevant state and federal agencies to identify processes and policies that ensure privacy of patients and compliance of patients, caregivers, producers, and dispensaries with state laws and regulations related to medical marijuana.

The Task Force is keenly aware of the critical challenges in implementing a statewide medical marijuana dispensary while marijuana continues to be listed as a Schedule I controlled substance by the federal government. From the conversations with other state administrators about how they grapple with the numerous issues raised by the interface of conflicting federal and state laws, one lesson learned was about the value of ongoing dialog between the numerous state and federal agencies involved in enforcement of laws and policies related to marijuana.

While Task Force members discussed the need for a recommendation stronger than the encouraging of interagency dialog, other suggestions would have required the establishment and formalization of “memoranda of understanding” or written policies that are highly unlikely to develop because federal agencies would likely not enter into or promulgate these types of agreements or policies. Thus, the Task Force recommends that, as an initial step, the Department of Health, as the primary agency to be charged with oversight and implementation of Hawaii’s medical marijuana dispensary system, be responsible for initiating ongoing dialog with relevant state and federal agencies, including but not limited to the Department of Justice, Homeland Security, the Coast Guard, the Transportation Security Administration, the State Department of Transportation, and the State Department of Public Safety.

I. TRANSPORTATION:

RECOMMENDATION 34: Producers and dispensaries shall be permitted to transport medical marijuana within Hawai‘i and between the Hawaiian islands in accordance with security requirements to be established by the Department of Health that may include but are not limited to: use of seed-to-sale tracking software and labeling of medical marijuana; limitations of amounts to be transported based upon whether it is a producer or dispensary; utilization of additional security measures for transport of medical marijuana plants and/or manufactured products between producers and dispensaries.

RECOMMENDATION 35: The Legislature shall enact provisions that comply with the State v. Woodhall, 129 Hawai‘i 397, 301 P.3d 607 (2013) decision.

The Task Force recognizes that Hawai‘i law as related to the transportation of medical marijuana is unsettled. In order to eliminate the ambiguities and discrepancies as pointed out by the Hawai‘i Supreme Court in State v. Woodhall, 129 Hawai‘i 397, 301 P.3d 607 (2013), the Task Force recommends that legislation be enacted to comply with Woodhall.

The Task Force further recommends with Recommendation 34 that medical marijuana production centers and dispensaries be explicitly permitted to transport medical marijuana within Hawai‘i, including intra-island and inter-island transport, subject to various regulatory measures to control and prevent the diversion of medical marijuana products outside of the medical marijuana dispensary system. These measures can include, but are not limited to, “seed-to-sale tracking” of products, labeling, and limits on the amounts of medical marijuana that are allowed to be transported at any one time, depending upon the status of the transporter as a production center or a dispensary.

J. DEPARTMENT OF HEALTH RESOURCES AND STAFFING:

RECOMMENDATION 36: The Legislature should provide sufficient resources each year FY16 (July 1, 2015, through June 30, 2016) and FY17 (July 1, 2016, through June 30, 2017) to establish the Medical Marijuana Dispensary Program. Based on Department of Health projections, the Legislature should allocate \$510,000 in general funds for FY16 and \$510,000 in general funds for FY17 to the Medical Marijuana Registry and Regulation Special Fund in order to set up the Medical Marijuana Dispensary Program. The General Fund shall be reimbursed for the monies allocated in FY16 and FY17. After these fiscal years, the Dispensary Program should be funded with dispensary and production center application and licensing fees.

RECOMMENDATION 37: The Legislature should direct the Department of Health to establish 5 FTE exempt positions to facilitate implementation of the Medical Marijuana Dispensary Program.

The Task Force recognizes that the process to establish the medical marijuana dispensary system is complex and has many components. Some of the key components will require establishing and managing several expert working groups to develop program implementation details based on the legislation. For example, implementing the dispensary system will require establishing: laboratory and testing standards; certification processes; all licensing and regulatory standards and requirements; dispensary procurement/selection process; monitoring and auditing policies and procedures; standards for edible medicine, labeling, packaging and required patient information; medical marijuana training certification; curriculum and standards for dispensary managers and staff; continued medical education training for physicians; new dispensary administrative rules, and a new online database for dispensary use. All of these tasks will require fiscal and staffing resources that are reflected in Recommendations 36 and 37 and are based upon the recommendations and projections of the Department of Health.¹⁷

RECOMMENDATION 38: The Department of Health shall develop an annual medical marijuana program report to the Legislature.

Successful implementation of the medical marijuana dispensary system envisioned by the Task Force's recommendations will require continued dialogue and partnership between the Department of Health and the Legislature, particularly as there may be a need to further amend laws in light of unanticipated developments or challenges that emerge during implementation or it becomes clear that further improvements need to be made to the dispensary program. The Task Force believes an annual report to the Legislature that provides legislators with important data and information collected from and during the implementation process will be an important tool to further this dialogue and partnership. In consultation with the Department of Health, the contents¹⁸ of this report to the Legislature can be developed to ensure certain baseline information is provided to allow the Legislature to effectively oversee and make further amendments to any medical marijuana or medical marijuana dispensary laws.

IV. ITEMS FOR CONTINUED DISCUSSION AND NEXT STEPS

A. Items for Continued Discussion

The Task Force discussed patient dispensing limits and patient possession limits, but ran out of time at its last meeting to come to consensus on these issues. However, the Policy Subcommittee has provided guidance in these areas that is attached as Appendix J to this Report. These are not official Task Force recommendations, but may be useful in drafting legislation.

¹⁷ See Appendix H.

¹⁸ Attached hereto as Appendix I is the "Suggested Items for Annual Medical Marijuana Dispensary Program Report to the Legislature" developed by the Department of Health on January 6, 2015.

B. Next Steps

These final recommendations, if enacted, will establish a comprehensive regulatory system that can effectively oversee the safe and lawful production and distribution of medical marijuana in Hawai'i consistent with the guidance outlined in the Department of Justice's August 29, 2013, memorandum. Thus, the Task Force recommends the drafting and introduction of a bill to enact these recommendations.

V. CONCLUSION

The Task Force is confident that the recommendations contained in this Report represent the best way forward for Hawai'i's Medical Marijuana Program. The establishment of a dispensary system is long overdue. These recommendations are built on existing state medical marijuana dispensary systems as a guide, input from experts, analysis by the Legislative Reference Bureau and the State Auditor, input from members of the public, and the collective experience of the various stakeholders serving on the Task Force. With passage of legislation based on these recommendations, the Legislature and the Department of Health can vastly improve the lives of medical marijuana patients in Hawai'i.

APPENDIX A

**HOUSE CONCURRENT RESOLUTION NO. 48, H.D. 2, S.D. 1,
HAWAI'I STATE LEGISLATURE, REGULAR SESSION OF 2014 ("HCR 48")**

HOUSE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A TASK FORCE TO DEVELOP
RECOMMENDATIONS FOR THE ESTABLISHMENT OF A REGULATED
STATEWIDE DISPENSARY SYSTEM FOR MEDICAL MARIJUANA.

1 WHEREAS, Hawaii's Medical Use of Marijuana Law was enacted
2 on June 14, 2000, as Act 228, Session Laws of Hawaii 2000, to
3 provide medical relief for seriously ill individuals in the
4 State; and

5
6 WHEREAS, implementation of Act 228, Session Laws of Hawaii
7 2000, recognizes the beneficial use of marijuana in treating or
8 alleviating pain or other symptoms associated with certain
9 debilitating illnesses, and recognizes the medical benefits of
10 marijuana; and

11
12 WHEREAS, Hawaii's Medical Use of Marijuana Law is silent on
13 how patients can obtain medical marijuana if they or their
14 caregivers are unable to grow their own supplies of medical
15 marijuana; and

16
17 WHEREAS, many of the State's almost 13,000 qualifying
18 patients lack the ability to grow their own supply of medical
19 marijuana due to a number of factors, including disability,
20 limited space to grow medical marijuana, and an inadequate
21 supply of medical marijuana to take care of their medical needs;
22 and

23
24 WHEREAS, a regulated statewide dispensary system for
25 medical marijuana is urgently needed by qualifying patients in
26 the State; and

27
28 WHEREAS, 20 states and Washington, D.C., have medical
29 marijuana laws, and 13 of these 20 jurisdictions have an active
30 regulated system of dispensaries; and



1 WHEREAS, several other states are in the process of
2 implementing laws relating to the establishment of dispensaries
3 for medical marijuana; and

4
5 WHEREAS, a regulated statewide dispensary system for
6 medical marijuana will enable qualifying patients to obtain an
7 inspected, safe supply of medical cannabis that is labeled as to
8 the composition, strain, and strength of the cannabis to be most
9 helpful to each patient's condition; and

10
11 WHEREAS, in response to Act 29, First Special Session Laws
12 of Hawaii 2009, the Legislative Reference Bureau published a
13 report entitled, "Access, Distribution, and Security Components
14 of State Medical Marijuana Programs," which discussed the
15 policies and procedures for access, distribution, security, and
16 other relevant issues related to the medical use of marijuana in
17 all states that had a medical marijuana program; and

18
19 WHEREAS, establishment of a tightly regulated statewide
20 dispensary system was the number one recommendation of the 2010
21 Medical Marijuana Working Group; and

22
23 WHEREAS, the transfer of Hawaii's Medical Marijuana Program
24 from the Department of Public Safety to the Department of Health
25 in 2015 is an acknowledgement by the Legislature that the
26 program is a public health program; and

27
28 WHEREAS, a tightly regulated dispensary system for medical
29 marijuana will comport with the spirit and intent of the Medical
30 Use of Marijuana Law: compassion for Hawaii's suffering
31 patients and the provision of safe, legal, and reliable access
32 for qualifying patients; and

33
34 WHEREAS, there are many models of medical marijuana
35 dispensary systems available in other state jurisdictions,
36 including models that were enacted after the passage of Hawaii's
37 Medical Use of Marijuana Law; and

38
39 WHEREAS, to provide equitable access to medical marijuana,
40 the unique geography of the State with its four counties on
41 different islands must be considered in the design and
42 implementation of a regulated statewide dispensary system for
43 medical marijuana; now, therefore,

1 BE IT RESOLVED by the House of Representatives of the
 2 Twenty-seventh Legislature of the State of Hawaii, Regular
 3 Session of 2014, the Senate concurring, that the Public Policy
 4 Center in the College of Social Sciences at the University of
 5 Hawaii at Manoa (Public Policy Center) is requested to convene a
 6 Medical Marijuana Dispensary System Task Force (Task Force) to
 7 develop recommendations for the establishment of a regulated
 8 statewide dispensary system for medical marijuana to provide
 9 safe and legal access to medical marijuana for qualified
 10 patients; and

11
 12 BE IT FURTHER RESOLVED that the Task Force be assigned to
 13 the Public Policy Center for administrative purposes and is
 14 requested to make recommendations and propose legislation on the
 15 design and structure of a regulated statewide dispensary system
 16 for medical marijuana; and

17
 18 BE IT FURTHER RESOLVED that the Task Force shall be
 19 comprised of:

- 20
- 21 (1) The Attorney General, or the Attorney General's
- 22 designee;
- 23
- 24 (2) The Director of Health, or the Director's designee;
- 25
- 26 (3) The Director of Public Safety, or the Director's
- 27 designee;
- 28
- 29 (4) The Director of Taxation, or the Director's designee;
- 30
- 31 (5) The Director of Commerce and Consumer Affairs, or the
- 32 Director's designee;
- 33
- 34 (6) The Director of the Public Policy Center, or the
- 35 Director's designee;
- 36
- 37 (7) The Prosecuting Attorney of the City and County of
- 38 Honolulu, or the Prosecuting Attorney's designee;
- 39
- 40 (8) A police chief chosen by the Law Enforcement
- 41 Coalition, or the police chief's designee;
- 42
- 43 (9) The Chairperson of the Senate Committee on Health;
- 44



- 1 (10) The Chairperson of the House Committee on Health;
- 2
- 3 (11) A state senator who is selected by the Senate
- 4 President to serve on the Task Force;
- 5
- 6 (12) A state representative who is selected by the Speaker
- 7 of the House of Representatives to serve on the Task
- 8 Force;
- 9
- 10 (13) A representative from the University of Hawaii College
- 11 of Tropical Agriculture and Human Resources;
- 12
- 13 (14) A representative of the Drug Policy Forum of Hawaii;
- 14
- 15 (15) A physician participating in Hawaii's Medical
- 16 Marijuana Program;
- 17
- 18 (16) Two participants in Hawaii's Medical Marijuana
- 19 Program, one of whom is a patient who is over the age
- 20 of 18, and one of whom is a parent or guardian of a
- 21 patient who is under the age of ten;
- 22
- 23 (17) A caregiver participating in Hawaii's Medical
- 24 Marijuana Program;
- 25
- 26 (18) A representative from the American Civil Liberties
- 27 Union of Hawaii;
- 28
- 29 (19) A representative from the Hawaii Medical Association;
- 30 and
- 31
- 32 (20) A representative from the Coalition for a Drug-Free
- 33 Hawaii; and
- 34

35 BE IT FURTHER RESOLVED that the issues to be addressed by
36 the Task Force include the appropriate number and location of
37 dispensaries statewide; the design of a tax structure (state and
38 county); location and restriction issues; methodology for
39 ensuring safety of supply; a framework for cultivating and
40 manufacturing medical marijuana products; regulations to ensure
41 security and public safety; restrictions on advertising; issues
42 raised and compliance with any guidelines and/or directives
43 issued by federal agencies with respect to medical marijuana;
44 and



1
 2 BE IT FURTHER RESOLVED that no later than September 1,
 3 2014, the Legislative Reference Bureau is requested to complete
 4 and submit to the Task Force an updated report on the policies
 5 and procedures for access, distribution, security, and other
 6 relevant issues related to the medical use of cannabis in all
 7 states that currently have a medical cannabis program; and

8
 9 BE IT RESOLVED that, as part of its report, the Legislative
 10 Reference Bureau is requested to examine and include information
 11 concerning the policies and procedures adopted by other states
 12 relating to the growth and cultivation of medical marijuana and
 13 the regulation of medical marijuana dispensaries; and

14
 15 BE IT FURTHER RESOLVED that the Task Force is requested to
 16 hold at least one public hearing to receive public input on the
 17 updated report received from the Legislative Reference Bureau
 18 containing the policies and procedures for access, distribution,
 19 security, and other relevant issues related to the medical use
 20 of cannabis in all states that currently have a medical cannabis
 21 program; and

22
 23 BE IT FURTHER RESOLVED that the Task Force is requested to
 24 submit a report of its findings and recommendations, including
 25 any proposed legislation, to the Legislature no later than 20
 26 days prior to the convening of the Regular Session of 2015; and

27
 28 BE IT FURTHER RESOLVED that certified copies of this
 29 Concurrent Resolution be transmitted to the Governor, President
 30 of the Senate, Speaker of the House of Representatives, Attorney
 31 General, Director of Health, Director of Public Safety, Director
 32 of Taxation, Director of Commerce and Consumer Affairs, Director
 33 of the Public Policy Center in the College of Social Sciences at
 34 the University of Hawaii at Manoa, Prosecuting Attorney of the
 35 City and County of Honolulu, Executive Director of the American
 36 Civil Liberties Union of Hawaii, Executive Director of the Drug
 37 Policy Forum of Hawaii, Dean of the University of Hawaii College
 38 of Tropical Agriculture and Human Resources, Executive Director
 39 of the Hawaii Medical Association, Law Enforcement Coalition,
 40 Executive Director of the Coalition for a Drug-Free Hawaii, and
 41 Acting Director of the Legislative Reference Bureau.



APPENDIX B

HCR 48 MEDICAL MARIJUANA DISPENSARY TASK FORCE MEMBERS

- Jill Nagamine, Esq. and alternate Lance Goto, Esq., Attorney General's Office, State of Hawai'i
- Peter Whitar, Chief, STD/AIDs Prevention Branch, Department of Health, State of Hawai'i
- Ted Sakai, Director, Department of Public Safety, State of Hawai'i
- Jonathan White, Department of Taxation, State of Hawai'i
- Lee Ann Teshima, Department of Commerce and Consumer Affairs
- Susan Chandler, PhD., Director, University of Hawai'i Public Policy Center
- Jon Riki Karamatsu, Esq. and alternate Tricia Nakamatsu, Esq., Department of the Prosecuting Attorney, City and County of Honolulu
- Harry Kubojiri, Chief, County of Hawaii, Law Enforcement Coalition
- Senator Joshua Green, District 3 (Kona, Ka'u), Chairperson, Senate Committee on Health
- Representative Della Au Belatti, District 24 (Makiki, Tantalus, Papakolea, McCully, Pawaa, Manoa), Chairperson, House Committee on Health
- Senator Rosalyn Baker, District 6 (South and West Maui), Chairperson, Senate Committee on Commerce and Consumer Protection
- Representative Gregg Takayama, District 34 (Pearl City, Waimalu, Pacific Palisades), Chairperson, House Committee on Public Safety
- Jensen Uyeda, University of Hawai'i Tropical Agriculture and Human Resources
- Rafael Kennedy and alternate Pamela Lichty, Drug Policy Forum of Hawai'i
- Dr. Clif Otto, Physician participating in Hawai'i's Medical Marijuana Program
- Karl Malivuk, Patient over the age of 18 and a Participant in Hawai'i's Medical Marijuana Program
- Jari S. K. Sugano, Guardian of a Patient under the age of 10 who is a Participant in Hawai'i's Medical Marijuana Program
- Dana Ciccone, Caregiver participating in Hawai'i's Medical Marijuana Program
- Dan Gluck, Esq., American Civil Liberties Union of Hawai'i
- Dr. Christopher Flanders, Hawai'i Medical Association
- Alan Shinn, Coalition for a Drug Free Hawai'i

APPENDIX C

HCR 48 MEDICAL MARIJUANA DISPENSARY TASK FORCE MEETING MINUTES

Minutes for Task Force Meetings:

June 24, 2014;

August 12, 2014;

September 9, 2014;

October 14, 2014;

November 6, 2014;

November 18, 2014;

December 16, 2014; and

December 30, 2014.

HCR 48 Task Force Meeting #1
June 24, 2014
Hawaii State Capitol, Room 325
9:00-11:00am

Agenda

I. Welcome and Introductions of Task Force Members (Susan Chandler)

- House Concurrent Resolution 48 requested that the University of Hawaii's College of Social Sciences Public Policy Center convene and facilitate the Task Force. The director of the Public Policy Center, Susan Chandler, is the facilitator for the Task Force.
- Task Force members introduced themselves by stating their name, agency and title.

Task Force Members Present:

Jill Nagamine, Attorney General's Office
Linda Rosen and Peter Whitarcar, Department of Health
Ted Sakai, Department of Public Safety
Jonathan White, Department of Taxation
Celia Suzuki (alternate for Lee Ann Teshima), Department of Commerce and Consumer Affairs
Susan Chandler, University of Hawaii Public Policy Center
Jon Riki Karamatsu, Department of the Prosecuting Attorney
Harry Kubojiri, Law Enforcement Coalition
Representative Della Au Belati, House Committee on Health
Representative Gregg Takayama
Jensen Yoshihide Uyeda, University of Hawaii Tropical Agriculture and Human Resources
Michael Attocknie, Drug Policy Forum
Dr. Clif Otto, A physician participating in Hawaii's Medical Marijuana Program
Karl Malivuk, A patient who is over the age of 18 and is a participant in Hawaii's Medical Marijuana Program
Jari S. K. Sugano, A guardian of a patient who is under the age of 10 and is a participant in Hawaii's Medical Marijuana Program
Dana Ciccone, A caregiver participating in Hawaii's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawaii
Dr. Christopher Flanders, Hawaii Medical Association
Alan Shinn, Coalition for a Drug Free Hawaii

Absent:

Senator Rosalyn Baker and Senator Josh Green, Senate Committee on Health
(Senator Will Espero, attended as an alternate)

II. Overview of HCR 48, HD2, SD1 (Della Au Belatti)

- The impetus for the recommendation to convene the HCR 48 Task Force is due to three main reasons:
 1. Several medical marijuana dispensary bills were introduced last year, but there was insufficient discussion about the specifics of how dispensaries would be established or specific regulations related to dispensaries;
 2. The transfer of the medical marijuana program from the Department of Public Safety to the Department of Health, which will be effective January 1, 2015; and
 3. The development of medical marijuana policies in other states that Hawaii could utilize when developing a model suitable for Hawaii.
- HCR 48 tasked the Legislative Reference Bureau (LRB) to present an updated report of their review of dispensaries by other states by September 1, 2014. After the presentation of the LRB report, the task force will develop recommendations. LRB and the Task Force will work independently of one another.
- All of the Task Force meetings are open to the public. The resolution also calls for one public hearing after the completion of the LRB report and prior to the 2015 legislative session.
- By January 20, 2015, there will be three reports submitted to the legislature:
 1. The Legislative Reference Bureau Report;
 2. The Auditor's Sunrise Analysis pursuant to HCR 74; and
 3. The HCR 48 Task Force Report.
- One question that the Task Force may want to consider is if a public hearing could be scheduled on the Big Island. The details of the location and date of the public hearing will need to be determined by the Task Force. It was also suggested that there be an "early" public hearing perhaps in July to get input from the public.

III. Update on transfer of medical marijuana program from the Department of Public Safety to the Department of Health (Peter Whitarcar)

- The Department of Health (DOH) will be administering the medical marijuana program starting in January 2015. The medical marijuana program has been administered by the Department of Public Safety since 2000 when medical marijuana became legal in Hawaii.
- He described the items in the packet given to the Task Force members and outlined the history of the legalization of medical marijuana in Hawaii. He stated that Hawaii was one of the first states to have a medical marijuana program in 2000 and it has grown steadily over the years. In 2013, Act 177

was signed into law that moved the medical marijuana program from the Department of Public Safety to DOH. The intention of the legislature and the governor is to move the medical marijuana program from an enforcement issue to a public health issue. Nationwide, there are 21 jurisdictions that have medical marijuana programs. Of these 21 programs, only Vermont has the program in the department of public safety.

- In addition, Act 178 was also signed into law in 2013 and updated aspects of the Hawaii medical marijuana law particularly about the number of plants and quantity of medical marijuana patients or caregivers are permitted to possess. Act 178 also has a provision mandating that the patient's primary care physician be the one to certify the patient for medical use of marijuana.
- The current Hawaii Law articulates that a patient in the program can grow seven plants or can designate a caregiver to grow the plants on their behalf. This term of caregiver perhaps can be confusing; it denotes the caring and growing of marijuana plants for another person. The current law states that this can only be a one to one relationship between caregiver and patient. The only other option patients currently have is grow it themselves or to procure marijuana illegally.
- Additional overview of current program includes that a patient must visit a doctor and must have one of the 10 statutorily defined debilitating conditions in order to obtain certification for medical marijuana.
- The DOH intends to examine additional medical conditions that might be appropriate to add to the list since there is a provision for this process.
- Currently, a patient must provide identifying information such as an ID, license or passport and then can get certification by submitting an application to the Department of Public Safety. There is an application fee of \$25.00 which may increase later with the DOH regulations to \$35.00.
- The patient must also designate the grow site, since this is important that Public Safety is made aware of the grower and the location. Public safety inputs this information into a database. It is not an online system. The DOH is hoping to make this an online system so that law enforcement can have access to this information 24/7.
- Once the patient and caregiver are mailed the certification card, they can legally possess medical marijuana for up to one year.
- There are 13,000 patients or 1% of the population who are currently enrolled in this program. One third of these patients have caregivers.
- The majority of patients utilize medical marijuana for pain, which is consistent with the data nationwide.
- Medical Marijuana is legal in 22 states and Washington D.C. Hawaii is one of only two states of these 23 jurisdictions with a medical marijuana program that does not have a dispensary system. Alaska is the other state that does not have a dispensary system.

Questions from Task Force Members:

How is confidentiality ensured?

Peter: Confidentiality about patients is crucial especially since this information contains their medical conditions.

How is marijuana transferred from caregiver to patient?

Peter: The caregiver can transfer marijuana to the patient as long as they possess less than 4 oz. at any time and have their certification card. The patient and caregiver need to be on the same island as interisland transportation of marijuana is problematic and possibly illegal.

Issues the Task Force may want to consider:

- Quality Control and Laboratory Standards: This is a major issue since there are concerns related to mold and pesticides.
- Restrictions on number of Dispensaries: This varies from state to state with very different approaches in terms of restricting numbers.
- Data System: There needs to be a secure data system and it would need to be statewide in Hawaii.
- Security
- State Residency Requirement: There is a question of whether patients accessing dispensaries or those running the dispensaries have to be Hawaii residents or would it be open to visitors from other states?
- Education: There is also the issue of whether continuing medical education on this topic should be recommended or mandatory for physicians.
- Quantification and labeling of ingredients: There are several issues related to the need for clear measurements for products containing medical marijuana. This includes how much THC etc. is in an item and if it is evenly distributed. Also, there must be food safety concerns for edible medical marijuana items. In addition, the product should not be packaged or in form that would be attractive to children.

IV. Explanation of the role of the facilitator and Task Force Ground Rules (Susan Chandler)

- The ground rules were outlined and Task Force members agreed upon these rules. Please see the Appendix 1 for the Ground Rules for the Task Force.

Information and handouts (Susan Chandler)

- There will be a website with updated information and the audience can receive handouts if you provide an email. The website information was added after the meeting. Please refer to the following website:
<http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html>

- Representative Belatti provided several additional documents to the folder including a copy of HRS 329 and several federal memos which will have bearing on this issue. She reminded the task force that the states are still functioning under the federal system.

V. Roles of Task Force members, proposed meeting schedule, objectives and work plan. (Susan Chandler)

It was agreed that having meetings on the second Tuesday, 9:00-11:00 in room 325 at the Capitol from August to December would work for all Task Force members. (Please note that all dates are on the second Tuesday except for November due to a holiday. The schedule is listed below). There will not be a Task Force meeting in July. Members may want to meet in July to familiarize themselves with the issues.

The HCR 48 Task Force Meeting Schedule

1. Tuesday, June 24, 2014
2. Tuesday, August 12, 2014
3. Tuesday, September 09, 2014
4. Tuesday, October 14, 2014
5. Tuesday, November 18, 2014
6. Tuesday, December 16, 2014

* All meetings are from 9:00 am-11:00 am and will be held at the State Capitol, Room 325.

- Senator Espero suggested that perhaps there should be a public meeting in July to gather information from the public early in the process. Members agreed that the involvement of other patients and other interested stakeholders would be important. The Task Force agreed to have an open forum on issues presented by the public soon. Senator Espero also recommended that the Task Force should leave time at the end of each meeting for public input.
- Another member recommended that there could be conferencing by Skype or phone with the neighbor island stakeholders to ensure participation.
- The consensus from the group was that there should be an early public hearing prior to the LRB report and then a public hearing after the findings of the LRB report.

VI. Brainstorm Issues for Task Force consideration:

- The Task Force members were asked to share the main issues that they would like to have discussed related to medical marijuana dispensaries. The following issues were generated by individual members.

- ✚ Where would the dispensaries be located? On an island or multiple islands? Should there be a pilot project first?
- ✚ What will the medical marijuana cost? Will there be certification fees? How else could revenue be raised?
- ✚ Will the dispensary programs be privately owned, state run or a hybrid?
- ✚ There is a need to have well-educated and experienced staff in the dispensaries who can discuss accurate information with the patients.
- ✚ Physicians need to be sure that they can legally prescribe marijuana and perhaps the Attorney General needs to give a formal opinion about the legality of Hawai'i's current law before moving forward with dispensaries.
- ✚ The structure of the dispensing entity is important to consider (whether private or state run) and its tax implications.
- ✚ It is important to consider the physical location and security at all levels of the supply chain and sale of medical marijuana.
- ✚ There are issues of how we can monetize this since this program will be introducing new commerce into the state.
- ✚ There is a question of if or how to preserve the system if people want to continue to grow medical marijuana themselves.
- ✚ The Task Force should contact administrators from other states to see what has worked effectively and what has not. It was also noted that the Department of Public Safety has run this program for years and has a lot of information they could share from the administrator who had run the program.
- ✚ Physicians need to be sure that the program is run with integrity. Perhaps calling dispensaries "pharmacies" reframes the issue to highlight the medical issues.
- ✚ There are several new medications coming onto the market and perhaps the Task Force should advocate for those to become more available to patients.
- ✚ Affordability is a concern. Perhaps there should be a cap on the price of medical marijuana so those who need it can afford it.
- ✚ Could the dispensaries test the quality of marijuana from the outside for quality control purposes?

Task Force Member Question:

Are there any resources to bring in some experts to meet with the Task Force?

Representative Belatti said that the Task Force does not have any general funding from the legislature. The Task Force could approach community partners, advocates or other agencies to provide funding for such purposes.

Questions and Comments from the Audience:

1. How will these meetings and hearings be made public in terms of when and where they will occur?

Representative Belatti: This is not a legislative task force. Press releases will be made through her office and information about the Task Force will be posted on the Public Policy Center website. Information about the Program will be posted on the DOH website.

2. It is important to note that some patients cannot go to dispensaries due to being ill. The Task Force needs to think about this and remember that this program should prioritize the patients.

- The members began to discuss next steps. How should the Task Force proceed? Should the group move into committees? There is expertise in specific areas such as law enforcement, health or agriculture. We could separate into groups based on particular themes.
- Peter Whitarcar stated that a conference call with other state administrators could be arranged in early August. He also emphasized that it was important that everyone has done their research in order to ask informed questions prior to this conference call.
- Dan Gluck of the ACLU said he and his organization would be willing to research the relevant policy issues and how these issues have impacted other states.

3. Are subcommittees open to the public?

The ACLU member stated that he was happy to have public involvement in his work. However, since formal subcommittees have not been formed yet, it will be discussed at the next meeting how to structure subcommittees and if they will be open to the public.

Susan Chandler summarized some of the recommendations made by Task Force members:

- Director Ted Sakai of the Department of Public Safety be invited to make a 15 minute briefing about the program in the Department of Public Safety.
- Have a conference call with other states' administrators in August.
- Representative Belatti will coordinate with Senator Green to have a public hearing in late July. The information and sentiments from the public will be collected and presented in August.
- The next Task Force meeting is Tuesday August 12, 2014 at the State Capitol, Room 325 from 9:00-11:00am. Please check your emails for information

about the upcoming public hearing in July, information on subcommittee meetings and other announcements.

DRAFT MINUTES dated July 3, 2014.

Appendix 1:

GROUND RULES for the HCR 48 Task Force

The Facilitator will:

- Develop a draft of an agenda for meetings and obtain agreement on the agenda; Distribute the final agenda to members ahead of time.
- Ensure agenda is followed; Facilitate and manage the meetings so that they are productive.
- Record all ideas and provide a “Group Memory.”
- Keep the discussion relevant to the tasks assigned to the Task Force.
- Encourage the members to give feedback directly and openly; Ensure that the focus will be on evaluating ideas not people.
- Circulate the minutes and drafts of the reports in a timely manner.

The Group Process:

- Meetings will start and end on time.
- One person speaks at a time. (There will be no side talking or interrupting)
- Everyone is expected to participate and to respect other member’s comments.
- Disagreements and conflict are OK, but our goal is to work constructively toward a solution.
- No cell phones. (If you must take a call, please go outside)

Expectations of the Task Force Members:

- Attend all meetings. Alternates may attend, if they have been briefed and this has been agreed upon previously.
- Make an effort to consider all ideas, and keep an open mind.
- Make specific suggestions rather than generalities.

- Define acronyms and try to avoid jargon.
- Practice active listening (e.g. make it clear you understand the other person's point of view, even if you don't agree with it).
- Share your knowledge and expertise.
- Keep up-to-date on all assignments and activities of the Task Force.
- The success of each meeting is the responsibility of all members; Help, critique and evaluate each meeting so the next meeting is better.
- You are responsible for what the Task Force will achieve.

HCR 48 Task Force Meeting #2
August 12, 2014
Hawaii State Capitol, Room 325
9:00-11:00am

Task Force Members Present:

Jill Nagamine, and Lance Goto, Attorney General's Office
Peter Whiticar, Department of Health
Jacob Herlitz (alternate for Jonathan White, Department of Taxation)
May Ferrer (alternate for Lee Ann Teshima), Department of Commerce and Consumer Affairs
Susan Chandler, University of Hawaii Public Policy Center
Jon Riki Karamatsu, Department of the Prosecuting Attorney
Major Samuel Thomas (alternate for Harry Kubojiri, Law Enforcement Coalition)
Senator Josh Green, Senate Committee on Health
Representative Della Au Belatti, House Committee on Health
Representative Gregg Takayama
Jensen Yoshihide Uyeda, University of Hawaii Tropical Agriculture and Human Resources
Michael Attocknie, Drug Policy Forum
Dr. Clif Otto, A physician participating in Hawaii's Medical Marijuana Program
Karl Malivuk, A patient who is over the age of 18 and is a participant in Hawaii's Medical Marijuana Program
Jari S. K. Sugano, A guardian of a patient who is under the age of 10 and is a participant in Hawaii's Medical Marijuana Program
Dana Ciccone, A caregiver participating in Hawaii's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawaii
Dr. Christopher Flanders, Hawaii Medical Association
Alan Shinn, Coalition for a Drug Free Hawaii

Absent:

Senator Rosalyn Baker
Ted Sakai

August Agenda Approval

Request for an addition to agenda topics – philosophical and legal disconnect

Request to create a formal agenda for follow-up meetings at meeting closing

Question: Are the meetings under sunshine laws? No.

- This is not a legislative Task Force

* The agenda was approved

Announcements

Medical Marijuana Information session – August 12th 11:15 Rm 225

The Public Policy Center's website has a tab called Hawai'i Medical Marijuana

<http://www.publicpolicycenter.hawaii.edu/projects-programs>

June Minutes Approval

* Approved

Plans for Public Hearings

There will be two public meetings in September, One on each Oahu & Big Island- In Capitol auditorium (Oahu) and Big Island TBD

- Proposed dates – September 3, 10, 24 @ 4:30-6:00 pm
- Legislative Reference Bureau (LRB) will present a 10 min presentation of their Medical Marijuana Dispensary report

Question: Should the September Task Force meeting be postponed until after the public hearings?

Agreement: No, the Task Force should meet as scheduled on September 9th since the LRB report due out on September 1st – the meeting is needed to discuss the report's findings

Question: Should the Big Island public hearing be held prior to the September 9th Task Force meeting and prior to the Oahu public hearing?

Agreement: Yes

Agreed upon dates (Rep. Belatti and Senator Green will organize)

- Sep 10th – Big Island (Hilo)
- Sep 24th – Oahu
- Proposal to have 'Ōlelo film the Public Hearing raised by Representative Belatti

Follow-ups

Department of Public Safety will be asked to provide a briefing to provide the PSD perspective on the issues related to establishing an appropriate regulatory system on medical marijuana for dispensaries at the September Task Force meeting

ACLU Report - Policy sub-committee (Dan Gluck)

The ACLU subcommittee is open to the public. Anyone who would like to participate please see Dan or Holly to get on the list to attend or check the ACLU website for updates. The issues discussed are presented below:

- 1) What will be the appropriate number of dispensaries statewide – retail storefronts?
 - Need to answer questions about producers
 - If use the criteria of 500-1000 patients per dispensary – Hawai'i would need 30 dispensaries using this standard
- 2) What would be the appropriate location of dispensaries?
 - Geographical locations for dispensaries
 - Issues of access on each island
 - Inter-island issues need to be clarified

This subcommittee feels that they should not set the geographic recommendations for dispensaries.
- 3) What would be the best structure of dispensaries (non-profit, for-profit, government-run?)

- Government run – not favored
- Non-profit / for profit (shareholders)

4) What would be the best framework for manufacturing the product?

- May need 39,000 plants for 13,000 patients
- Growers would provide product to dispensaries

Discussion: Are dispensaries the only form of access?

- assumption is that the dispensary is the model Hawai'i will use
- potentially review other models of distribution – focus on manufacturing

Question: Are there other models with delivery that don't include dispensaries?

Answer: (not in any other state)

Have you looked at the patients' preference for dispensaries, self-cultivation or both?

- should be addressed at the public hearings
- could potentially poll current patients – establish understanding of demand
- physicians could poll their patients
- current database not sophisticated (access issues)
- potentially could mail a survey to current patients using the Department of Public Safety's database?

Issues about the cost of the medical marijuana product

- overhead cost of production/distribution
- affordability of product

Issues and Themes

Language from HCR48

- the appropriate number and location of dispensaries statewide;
- the design of a tax structure (state and county);
- location and restriction issues;
- methodology for ensuring safety of supply;
- a framework for cultivating and manufacturing medical marijuana products;
- regulations to ensure security and public safety;
- restrictions on advertising;
- issues raised and compliance with any guidelines and/or directives issued by federal agencies with respect to medical marijuana

Question: Are sub-committees established for the duration of the process – Yes

Intent of these subcommittees

- to generate a list of questions to ask medical marijuana administrators in other states.
- conduct a conference call with Task Force members to hear from these state administrators

Question: Do we need to define the term Dispensary?

Federal interface Issues

- banking concerns including ability to deposit and utilize the banking system for operation of the dispensaries
- transport – inter-island movement of the medicine and the people who need it is problematic thus dispensary access would be needed on all islands
- reciprocity for medical marijuana patients from other states?

The Six sub-committees were established and met for thirty minutes during the meeting and then reported back to the group. Members from the public also joined the subcommittees. Each subcommittee was asked to generate three key questions that could be posed to dispensary program administrators in other states;

Subcommittee Generated Questions:

1. Appropriate Number and Location of dispensaries

Structure of Dispensaries (Nonprofit? For-profit? State?)

- What is the right fit (#, location) in year 1 for our patient population (economic feasibility, medical necessity)?
- What’s the percentage of patients that use dispensaries in other states?
- Should DOH be provided the flexibility to adjust the number of dispensaries for the first 1-3 years based on the need and roll-out?
- How do we deal with geographical discrepancies (rural areas)?

2. Manufacturing Issues (Cultivation, Quality control; types of product, testing, labeling, security, environmental issues)

- What’s the best method for cultivating in-house or external source?
- Who will test the medicine? Dispensaries or state-run department?
- How do you handle regulation structure at different levels (growing, security, point of sale)?
- Is indoor growing more secure than outdoor?

3. Administration (registration, staffing, regulatory issues, evaluation)

Database, Data needs, Privacy concerns

- What is the process to become an operator? How do we select the applicants?
- Do we want the retailers to be the growers (vertical integration)? What cultivation practice works best (indoor vs outdoor)?
- How do we ensure medical marijuana (MMJ) is not cost prohibitive for patients?
- What kind of regulatory structure do they (the other state) have in place?

4. Education and Training (consumers, physicians, public; protection of minors)

- Do states have education/training experts that can educate and inform doctors, patients, and the general public?
- How does your state educate and inform dispensaries/operators about the legal and safety best practices, community involvement, and sensitivity?
- Does your state have educational resources for minors on medicine and drugs in the DOE, private, or community resources?

5. Taxes/revenue/costs

- To what degree did your state utilize your current tax system to the medical cannabis industry? (Hawai'i is specifically interested in contacting New Mexico because they have a similar GET system)
- What are the ranges of tax rates applicable to different points of the industry? (import of seeds → use up to 4%; grower→manufacturer wholesale tax ½ %; manufacturer → retailer ½ %; etc)
- Are taxes earmarked for particular uses? What are those uses?
- Lessons learned/best practices – If you could design your tax system based on what you now know, what would you do and not do?
- Does your state collect any revenue not in the form of a tax (i.e. application or registration fees)?

6. Federal interface

- How do we protect state licensed dispensaries from Federal intervention? How do you enlist the support of local/state law enforcement?
- Are there steps that the state can take to pre-emptively protect the patient population from federal intervention?
- How do we allow for intra-state transport of product?

Public input

Will there be reciprocal benefits for out of state or outer island patients to purchase medical marijuana during a visit in Hawai'i?

How would this also work with International tourists?

Should review the information from the states with existing dispensary systems

- take best practices to develop HI model
- LRB report will help address this

Kat Brady had visited two California dispensaries and reported on what she learned

- She visited both a rural and an urban location.
- She wrote up a report which she distributed to task force members and which will be posted on the HCR 48 website.

Patient rights and protections

- fed/state issues
- potential evictions for growing MMJ
- concerns about CPS taking children from parents who are growing and/or using
 - concerns about asset forfeiture with use of this medicine

Banking issues with medical marijuana are also important to consider

Next steps

ACLU will add their report to website.

The ACLU Policy sub-committee will announce to the Task Force what topics they will be covering next

- Their next meeting will be on August 27th in Room 325 (meeting details including the time will be posted on the ACLU website)

Teleconference/webinar with other states will be scheduled and announced to task force members

- The states that will be included in teleconference is TBD

Education & Training sub-committee

- open to increased participation (currently 2 members)

The Meeting Adjourned: 11:00

**The next Task Force meeting is September 9th at the State Capitol, Room 325
from 9:00-11:00am**

HCR 48 Task Force Meeting #3
Tuesday, September 9, 2014
Hawai'i State Capitol, Room 325
9:00-11:00am

Task Force Members Present:

Jill Nagamine, Attorney General's Office
Peter Whiticar, Department of Health
Ted Sakai, Director Department of Public Safety
Jonathan White, Department of Taxation (via phone)
Susan Chandler, University of Hawaii Public Policy Center
Harry Kubojiri, Law Enforcement Coalition
Representative Della Au Belatti, House Committee on Health
Kelly Hooser (alternate for Senator Rosalyn Baker)
Karen Kawamoto (alternate for Representative Gregg Takayama)
Jensen Yoshihide Uyeda, University of Hawaii Tropical Agriculture and Human Resources
Rafael Kennedy, Drug Policy Forum
Dr. Clif Otto, A physician participating in Hawaii's Medical Marijuana Program
Karl Malivuk, A patient who is over the age of 18 and is a participant in Hawaii's Medical Marijuana Program
Jari S. K. Sugano, A guardian of a patient who is under the age of 10 and is a participant in Hawaii's Medical Marijuana Program
Dana Ciccone, A caregiver participating in Hawaii's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawai'i
Dr. Christopher Flanders, Hawaii Medical Association
Alan Shinn, Coalition for a Drug Free Hawai'i

TF Members Absent:

Lee Ann Teshima, Commerce and Consumer Affairs
Jon Riki Karamatsu, Department of the Prosecuting Attorney
Sen. Josh Green, Senate Committee on Health

Review of ground rules
September Agenda Approval
* Agenda approved
August Meeting Minutes Approval
* Minutes approved

LRB Report

Powerpoint presentation is available at: <http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html>
Presented by Lance Ching

Questions by the Task Force Members:

Why did report not address access of marijuana to youth?

LRB task was to provide information to TF for recommendations on dispensary model based on the Resolution based on the Resolution

Did not differentiate by age group

How did states address licensing fees?

Great variation among states, ranging up to \$75,000

What types of marijuana products were sold at dispensaries?

Various types of products are available, including topicals, edibles

Subject to health code similar to food regulations

Did research uncover any states' actions to address Federal scheduling of marijuana?

No, aside from official requests for Federal government to revisit the classification

What is the difference between permitting/licensing and registration?

Licensing process more stringent than registration

Was there a difference between warehouse growers vs. greenhousing (open-air)?

Concern about corporatizing cultivation in enclosed facilities

No difference noted

What did research show about awareness and education programs?

Information on dangers of abuse, addiction, and rehab programs

Some states use income from dispensary program for prevention

Do dispensaries operate on a cash-only basis?

Not sure if states have resolved banking issues

Are blue card holders registered for one dispensary?

Some states allow for multiple dispensaries

In HI, it would depend on number of available dispensaries

How do states set market price?

Administrative agency regulates pricing

Taxation varies among states – sales tax, marijuana tax, no tax

Did you see examples of inter-state movement?

No, but any travel by air or sea considered “interstate” travel and federally-regulated

Interisland transport would fall under this category

Look to Oakland for airport regulations example

Did you find provisions to handle access in rural areas?

Not addressed in research

Did other states handle this as an agricultural product?

No state addressed it solely as an agricultural issue

At least one state had a Dept of Agriculture concurrent program

Did any state rise to the top for quality assurance?

Please refer to the report

Public Hearings/Meeting Dates

1 public hearing was required by HCR 48. Task Force will have 2.

Hawai'i Island (Hilo) – 5:00 pm, Wednesday, September 10, 2014 at Aupuni Center

O'ahu – 5:00 pm, Wednesday, September 24, 2014 in the Capitol Auditorium

Testimony (written, in-person, and anonymous) will be collected and will be distributed to TF

Task force invited – if attending, inform Rep. Bellatti

Open to public for input on dispensary system and LRB report

Will attempt to record session for distribution to TF and public access television

Follow-ups

Department of Public Safety Briefing

Presented by DPS Director Ted Sakai

Law Enforcement Concerns

Access

- Who gets the product?
- How do we ensure the product only gets to certified users?
- Concerns about minors getting easier access

Security and safety

- Dispensaries may be targets for criminals due to volume of product and cash

Labeling accuracy

- Perhaps should be treated like a pharmaceutical
- Dosage, directions, dispensary name, physician name, patient name, THC content
- Concern about diversion of product to other markets
- Does it promote recreational/youth use of medicine

Pricing – How? Who?

Cultivation limitations

- Can patients access dispensaries and also grow their own medical marijuana?
- How do we ensure that limits are enforced?

Edibles and Topical

- Manufacturing concerns; dispensaries and personal
- Home labs and potential associated dangers
- New area of regulation for processing, and manufacturing

Banking

- Cash sales – reporting and large amounts stored in dispensary

Monitoring

- How to handle physicians, patients, caregivers?
- Who can revoke the card of patients, caregivers
- Unannounced inspections, audits for physicians
- Difficult to regulate “go-to” physicians – top 10 physicians issued 10,000 permits
- Legislature could impose harsher sanctions (fines) for abuser
- Should probably be administrative, not criminal penalties

Slow certification process

- Anecdotal: 8-13 weeks; DPS Report: 7-10 days
- The delays experienced may potentially be due to physicians stacking patients’ applications and submitting in bulk?

Additional Questions/Concerns

What would happen if Hawai‘i removed medical marijuana as Schedule 1 drug?

- Federal law still would be paramount.
- Symbolic, no loss of funding

Does PSD recognize the medical use of Marijuana in Hawaii?

- Yes, it is the law.

Was a medical board considered to review medical conditions?

- Not considered; too difficult for DPS
- Possible for DOH (Peter said he liked the idea)

Recommended to approach DEA to address Federal/State classification conflict – state recognizes medical marijuana use

How to and who gets to set pricing?

- Law enforcement concerned about price gouging – if state-run, should maintain costs below the street value
- Other states have been under street value, *need further review*

Mentioned that the certification has been issued mostly to 20-30 age range

- If they meet the criteria determined by a physician, then it would be honored
- Generational change / perspective change
- Study by Dr. Charles Webb (Hawai‘i Island) - mean age: 51

Advancement of program relies heavily on physicians, so what protections are in place?

- Federal threats are a real concern
- Physicians are scared
- Medicare/Medicaid reserves right to sanction them. Has this ever happened?
- Can’t “recommend” product, only certify that “patients meet the state’s criteria for use”

Defined dispensary system

- Clear points of access for law enforcement, patients, caregivers – reduced uncertainty
- 13,288 in program; 291 “caregivers” (on Oahu)

New Mexico Program Administrator Teleconference

Presented by DOH Peter Whiticar

New Mexico Program seems similar to what Hawai‘i is thinking about

Program flexibility

- Evolved overtime, dynamic entity
- Need to be hands-on to adapt to cultural and legal changes

Focus on *Public Health Perspective*

- Built into all aspects of program
- Funded education and training program (patients, physicians, program staff, etc.)

Dedicated regulatory body

- Establish a separate program with a dedicated staff for implementation
- Monitoring and evaluation of program from the beginning
- Use data (patient location, level of use, number of patients, etc.) to better inform program

Barriers

- Rural access
- Abuse
- Incorporate *objective measures* in admission tied to qualified conditions
 - e.g., Chronic pain required additional certification by a specialist in NM
 - No additional strain on patient
- Lab testing
- Only dispensaries in NM
- NM dispensaries accept credit cards

Interview other states for more perspectives?

Oregon – coordination between dispensaries and cultivation sites

Policy Subcommittee Update

Presented by Dan Gluck

Working report circulated

Subcommittee welcomes participation, new members

Department of Taxation input

- Recommend that Hawai‘i follow the current GE tax structure

Substantial licensing fee may not be a big issue

- Help to ensure dispensary has financial wherewithal to start a well-functioning dispensary

Location and restriction issues

- No evidence that conforming to drug-free school zone laws would improve public safety, but there are political considerations to conform

Safety and security of supply – quality assurance

Next sub-committee meeting: **October 1; 2:30 - 4pm; Room 325**

Federal Interface Subcommittee

Current climate of cooperation between state, local, and federal law enforcement not conducive to medical marijuana program, review MOUs

Steps already taken

-Letter from Gov. Abercrombie to DEA to remove marijuana from schedule 1

-Senate Resolution 37

Describes state's authority and how State/Federal conflict can be resolved

Continue researching options to enable interisland transport

Concerns about subcommittee when they interact with other entities

-Sub committee's actions may not be considered representative of entire TF

-Purely information gathering for TF

-Vetting process needed for external RFIs on behalf of TF

-Questions for other entities need to be cleared through TF via Susan Chandler

Public Input

The TF should consider recreational use of marijuana

Price gouging concerns not applicable here

Not in CA – abundance of product

Get UH involved in cultivation process

Concerns of lack of certifying doctors in the State

State departments, hospitals (Straub) scaring away the doctors

Have there been any studies on the amount of money saved by using medical marijuana (i.e., reducing hospitalization, emergency room visits, etc?)

Concerns about labeling, testing sites NOW for individuals

- Types of testing

- Edibles

Accuracy is difficult

Product can vary widely

Different people react differently (dosage concern)

Create a short list of dispensary owners/growers

What steps can be taken to use credit and debit cards?

-Safety concerns for individual carrying cash and dispensaries

Need better, more accurate labeling system

How have dispensaries impacted other states' law enforcement?

–Program is new, don't have many expectations, depend on program set-up
Seed-to-sale software for marijuana as has been used in agriculture
–Addresses diversion concerns
Remember to localize our plans
Complaint about the lack of public notification about task force meetings
–The T.F. is NOT a legislative task force; notices on PPC website
Federal interface -- Would the TF be interested in contacting the DEA or DOJ to attend the
October meeting?

Next Steps

Include DEA/DOJ in task force information gathering and meetings

Research more issues

Cost-offsets of medical marijuana program

Seed-to-sale software for monitoring

State protection options for physicians

Price gouging prevention

Interisland transportation

Schedule teleconferences with other state program administrators (e.g., Oregon)

Subcommittees:

Submit questions to Susan Chandler for Task Force approval before contacting external agencies

Add *Energy usage in cultivation process* to next meeting agenda

Upcoming meetings

Public Hearing: Wednesday, September 24, 2014; 5:00 pm in the Capitol Auditorium

Policy Subcommittee: October 1; 2:30 - 4pm in Room 325

**The next Task Force Meeting is Tuesday, *October 14, 2014* at the State Capitol, *Room 325*
from *9:00am – 11:00am***

HCR 48 Task Force Meeting #4
Tuesday, October 14, 2014 9:00-11:00am
Hawai'i State Capitol, Room 325

Task Force Members Present:

Jill Nagamine, Attorney General's Office
Peter Whitar, Department of Health
Ted Sakai, Director Department of Public Safety
Jonathan White, Department of Taxation (via phone)
Susan Chandler, University of Hawaii Public Policy Center
Harry Kubojiri, Law Enforcement Coalition
Representative Della Au Belatti, House Committee on Health
Sen. Josh Green, Senate Committee on Health
Karen Kawamoto (alternate for Representative Gregg Takayama)
Jensen Yoshihide Uyeda, University of Hawaii Tropical Agriculture and Human Resources
Rafael Kennedy, Drug Policy Forum
Dr. Clif Otto, A physician participating in Hawaii's Medical Marijuana Program
Karl Malivuk, A patient who is over the age of 18 and is a participant in Hawaii's Medical Marijuana Program
Jari S. K. Sugano, A guardian of a patient who is under the age of 10 and is a participant in Hawaii's Medical Marijuana Program
Dana Ciccone, A caregiver participating in Hawaii's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawai'i
Dr. Christopher Flanders, Hawaii Medical Association
Alan Shinn, Coalition for a Drug Free Hawai'i
Alternate for Lee Ann Teshima, Commerce and Consumer Affairs

TF Members Absent:

Jon Riki Karamatsu, Department of the Prosecuting Attorney
Sen. Rosalyn Baker

Announcements

DVDs of the public hearings are available via Rep. Belatti's office
DOH has scheduled a teleconference with Arizona MMP Administrators
- Wednesday, October 22 from 9:00 to 10:30am – call-in number TBA

Review of ground rules (Susan Chandler)

Timeline

- Does the TF want to schedule an additional meeting in November to discuss the decision making process? Potential dates: Nov 5 or 6
 - Nov 6 (further details TBA)

Approval of September 9th Minutes

* Approved

Updates and Follow-ups

Recap of public events

- The public is supportive of the medical marijuana program and the proposal to establish dispensary systems
- The need to expand and improve the medical marijuana program was expressed
- There was less of a turn out on Oahu than Hilo
- Major concerns expressed in Hilo were patient needs and the need for safe access to medicine
- Patients want to retain the right to grow their own medicine as well as have the option to use a dispensary system
- Concerns expressed about 'big business'

DOJ update

Rep. Belatti has made contact with the US Attorney's Office District of Hawai'i to participate in a Q&A discussion at a TF meeting

- Open to presenting questions to DOJ point of contact to discuss at the next TF meeting
- Providing questions in advance is helpful to focusing the discussion and it provides the ability to address specific concerns
 - TF members should forward questions for DOJ to Rep. Belatti

Subcommittee Reports

Policy SC Update

- They have had 2 meetings since the last TF meeting (topics discussed numbered below)
- They have had 7 meetings up to this point
- All meetings are open to the public

1. Quality assurance – lab testing was the focus

- A subject matter expert presented at the last meeting
 - Provided insight on general guidelines to testing and screening of medicine
- How eventual screening guidelines will develop - start simple, sophistication will develop naturally
 - Who does screening? Accredited? By whom?
 - What is the sample screened for? Which impurities? Dirt or deeper (Pesticide, mold?)
- Basic screening – 3 Cs
 - content, contamination, and consistency
 - allows flexibility

2. Physical security

Basics

- Where is it held? Alarm system requirements?
 - Alarms and cameras are consistently required by other states
 - Regulation not legislation

- Basic statement – "security is provided for, and details will come from the managing agency"
 - Background checks required for all employees
3. Inventory tracking
- It's important to track that none of the inventory "escapes" out of the system and that black market products don't make it into the system
 - fidelity of system – addressed in regulation not legislation
4. Training and education of staff
- Mark Comida (Professor from HPU) presented on this topic at the meeting
 - This is a process that will develop over time
 - These concerns should be addressed in DOH regulations not legislation

Q&A:

Do we have the capacity within the state to screen marijuana? Is the infrastructure in place?

- We have the mechanical capacity, the equipment exists, it's used in agricultural products, there is expertise, labs have done this historically, we don't have a regulatory framework (the process and regulatory body needs to be developed)
 - Mark Haggadone (Technical Experts) - has performed the tests before
- Currently, DOH does not have the capability to do this; they are looking to commercial labs to develop this capacity
 - Need to develop standards – then looking at who can do it
 - We must be practical about testing and standards – in terms of affordability of medicine
- The Dept. of Agriculture should be involved

Concerns with testing and inventory control

- Who is responsible for both? Will the DoH be responsible for both testing and inventory control?
 - Policy committee - Yes

Who can regulate?

- Open question
- Who in the state government currently has the capacity to regulate?
 - DPS – has the system of tracking already in place (pharmacy and substance control) – they are already set up to regulate pharmacies, so the capacity currently exists

Will testing facilities be available on the outer islands? If testing facilities are not available on all islands, could medicine be transported inter-island? How small can a sample be for inter-island transport?

- It has to be big enough to test up to the standards, but not too large to be prosecuted for flight
 - De minimis sample: 1mg/ml – standard for testing; not a controlled substance: can be shipped
 - For testing – as an ingested medicine, it needs to be pure (how do test? Need for

- agriculture people to understand the pharmaceutical concerns)
- No international standards for analyzing cannabis
 - State can develop these standards
 - Potentially establish a central lab for extensive testing and satellite labs for testing for mold, etc
 - Need decontamination labs on each island (because you need a larger sample)
 - Could not be the whole batch – random sample because of cost issue
 - Mild, pesticide, quality -- expensive even though we have the equipment and expertise but we don't have the money for it
 - Does the capability, capacity currently exist? Where?
 - Dept. of Agriculture and Pharmacy -- need to be included
 - Third party reviewers may be more economical
 - Randomly screening agricultural products (food safety) in market
 - Cost picked up by the department (public/private coop)

Cost for testing

- Random sampling with third party
- Capacity/technology exists at university
- Expertise exists in state but third party may be more cost efficient
 - Third party testing available at farmers expense
- DOH does random sampling of other products – food safety
- 2 systems in place currently for anything edible

Federal Interface SC Update

1. Rescheduling of marijuana – opens more resources

- There is a rich network of regulatory enforcement -- resources are available if marijuana was properly scheduled
- Steps the state can take – Senate resolution 37: reschedule proceeding
 - The AG supports the state's right to support medical marijuana

2. Transport of medicine

- We need a medical cannabis program that addresses transport – we are an island state – there are concerns with transport in terms of being geographically dispersed
 - The patient should have the ability to move within state with medicine
 - Ability to carry/transport medicine in intra-state travels – or dispensaries available on outer islands
- Interstate transportation
 - 2010 Cannabis working group
- CA has county to county policies
 - Alameda County at Oakland International Airport – allows for the transport of medical cannabis
 - The county established policies with TSA to allow patients to transport medicine
 - TSA refers cases to Sheriff's Office
 - Certified patients with no extenuating circumstances can keep their product and board their planes

- Dept of Transportation – responsible to establish protocol for transport of medical cannabis
 - Provided example of guidelines/definition of medical cannabis allowing patient to travel with medicine
 - Legislation should define "transportation" to clarify
 - Connect with TSA and DEA to protect patients during transportation
 - Dispensaries and companies could be problematic b/c of scale
- DPS, TSA, DOT coordinate transport issue – establish guidelines/regulations
 - What would legal transport look like?
 - 1 – Certified patient with blue card on their person
 - 2 – DOT, TSA, & DPS would need to establish these guidelines/standards on how to transport (e.g., must be packaged in airtight container, concealed, carry-on luggage)
 - 3 – Establish a specific agreement with TSA

Ms Sugano took a trip to CO to learn about their medical marijuana program

- Met with growers and dispensers to learn about their program
- The TF can look to CO to answer some of the questions that were brought up
- An informative brief of trip to CO is posted on the UH Public Policy website
 - <http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html>

Decision-making process for Task Force Report

We need to:

- Open dialogue about various policy topics identified
- Identify the components of report
- Establish the decision making process – what is the decision making process?
- Move forward on drafting the recommendation report

Way forward:

- TF will discuss the major topics
 - A subcommittee will volunteer to flush out and provide feedback on the topic
- TF will express standing on topic and work toward consensus
 - Gradient of agreement
 - Vote: majority rules
- The report will be drafted based on recommendations from TF
 - Responsible person will incorporate the edits (submit to Rep. Belatti/Susan)
 - TF will review/approve the report
- The PPC or Rep. Belatti's office will write the recommendation report
- The LRB will help with legislative language and draft for legislature based on the TF recommendation/report

Think about how the TF will vote on this

Core issues discussion

1. Appropriate Number of Dispensaries

2. Appropriate Location of Dispensaries

The TF must consider dispensaries from the point of view of the patient

- How do patients access medicine?

We need to move forward with language to address major topics that will be included in the report

Talking about dispensaries themselves (storefront)? Where are the dispensaries getting the supply/inventory from?

- Are the dispensaries growing their own or contracting out?
 - Vertical integration?
 - Are producers and retailers different entities?

An informal survey at Kapiolani public meeting (approx. 200 attendees) found there is a need for public education on the issue

- Approximately 50/50 understand dispensaries
- Education and information on the medical marijuana program and dispensary system is needed
- What is a dispensary? What does it look like?

What is the appropriate number of dispensaries? What is the criterion for determining the number & location of dispensaries?

- 'X' number of dispensaries per number of patients
- Is a patient allowed to register at multiple dispensaries?
- Key it to where the patients are registered - look at patient distribution – that information we'll know from program data
- What is safe and what we can manage?
 - Knowing what patterns are going to be – can we produce the right amount for communities and balance with what providers are able to manage as part of their health profile
 - Should we have a discreet number? We cannot answer these questions at this time
- Treat as a pharmacy – provides access to medicine
 - Ensure medicine is clean and safe
 - Testing of medicine and quantity is important
- Numbers are difficult to determine at this point – what is the basis for determining this?
- Different concerns on different islands – BI wants the ability to grow their own medicine, Oahu may want dispensaries unable to grow or limited space to grow
- Anticipate a flux in the program upon approval/implementation of dispensary system
 - More people will likely register for the program once dispensaries (access points) are available

- If specific number of dispensaries is identified, it doesn't allow the demand to be addressed – anticipating flux in patients in program upon approval of dispensary system

This is a dynamic process

- Consider flexibility in drafting legislation that provides the ability to adjust as the program evolves
- Identify a way to assess the true need (What is the demand?)
- The numbers are not balanced across state – we need to assess the medical needs of the community in order to provide an accurate scope of the issue
- Currently, nothing is in place to be able to assess this
 - There are ways to obtain the information if that is what's needed

Look to other states for lessons learned to establish a model appropriate to our needs

- A regulatory body is needed
- Base decision on patient needs – ask the patients what their needs are
 - We need the metrics
- Historically in Hawaii, marijuana has been viewed as a criminal issue, not a medical issue (so registered patients would be reluctant)
 - At this point you won't see the true opinion of patients because of the stigma/legal concerns surrounding the program
 - Patients are reluctant to expose themselves or provide information
 - As the program evolves patients will feel more comfortable providing information
- Experience of other states: about 90% of patients are using dispensary
 - DOH should have flexibility to provide correct number of dispensaries
- Communicate with cardholders; providers know who their patients are
 - Use an analytical approach: talk to the current patients
- Get the information, design the formula to set minimum standard per island (keying it to the residents – geographically); then allow DoH the flexibility to adjust as the program evolves
- Understanding of which patients and the number of patients that would like to participate in the dispensary system is needed (how many people need/will use dispensaries)
 - DOH has no way to contact 13,000 patients (no direct communication); they don't have full list of doctors
 - Doctors should have knowledge of patient behavior -- assumption is that they grow their own or have a caregiver
 - Patients are not willing to expose themselves due to potential repercussions
 - Assumption in current program is patients grow themselves or a caregiver grows for them
- Concern that there are too many or too few dispensaries
 - too many: market will eliminate them
 - too few: give the DOH flexibility to adjust
- Cautious approach is needed

Do we have the data to justify the numbers?

- What is the appropriate formula?
- Allow the market to regulate itself – provide flexibility in legislation to allow this
- The medical marijuana program will expand once dispensary system is in place
- Current stats on medical marijuana program – ability for patients to access medicine (grow their own, caregiver, ?)

3. Cultivation/Production/Manufacturing Issues

4. Business Requirements for Licensed Dispensary

It is important to define dispensary

- What is a dispensary?
 - retailer, grower, etc – one in the same or different entities?

Licensing process with DoH

Nonprofit - form 990: distribute money in forms of bonuses
 element of transparency

The business structure of dispensaries (for-profit/nonprofit) seems arbitrary in this situation

- Nonprofit is a corporate law (gives more structure, regulations)
- The structure should be identified in legislation
 - Looking at identifying one type of entity to make it easier to regulate/manage
- Trying to keep it local with nonprofit recommendation
- Natural regulation from corporate structure
- Concerns about instant millionaires
- Establish criteria for the licensing of dispensaries
- There is an opportunity to regulate license structure vs business structure
- Determine licensing fees
- NPO – spend profits within corporation – other structures distribute to investors
- Transparency in the program is vital
- Residency key – permit filers and owners should be HI residents
 - Can you restrict business to residency? DCCA – not sure

James Anthony

- NPOs are not tax exempt
- Form 990 won't apply to dispensary nonprofits
- Number of dispensaries difficult to determine
- Many states try to control as corporations owned by local residents
 - When dispensary system is here, patient base will expand
 - Currently, HI numbers are low compared to other states (within a year or two, number of patients will increase)
- Consider reciprocity
- Outdoor growers/black market – patients not willing to expose information
- Dispensary system will behave as a market
 - Look at what is currently in place adapt to needs
 - Learn from HI past and learn from other states

- What to do with excess medicine from prolific growers? Are they able to sell into dispensary system?
 - Reality based system
 - Oregon's model: caregivers grow for some patients, grew too much – they are able to sell to dispensaries
- Don't force indoor/outdoor growing
 - advantage here – outdoor growing
 - provide option

Division of responsibilities for Report Recommendations

- Rep. Belatti – will draft recommendations for the number and location of dispensaries
- Mr. White – will draft the recommendations regarding structure

Next meeting

- Possible additional meeting – November 5 or 6
- Nov 6 – will confirm details (time, location, etc)
 - Parking passes are available upon request

Public Input

Comment on the number of dispensaries – current cardholders

- The program will flux with ease of access
- Mistake to open up more dispensaries on Big Island than O'ahu
 - Population concerns when considering location (Oahu has 4 times the population of BI)
- Quality and strain of medicine is an important factor
 - Availability of specific strains – to treat specific ailments/symptoms
 - ICBD - top quality strain of special cannabis for epilepsy

Number of dispensaries

- 250 – 500
- currently 13,0000 patients in medical marijuana program and the number of patients will increase within the next few years

Task Force doesn't know the quantity of product needed each month for medicinal purposes

- She is currently using 4oz per month for her condition
- Take into consideration the amount of time it takes to grow cannabis in terms of establishing supply/inventory of medicine
 - It takes about 4 months for a plant to grow
 - 50 pts at 4 oz per month would be 200oz needed per month – availability of supply is a concern
- A dispensary must produce a lot! Who can grow 1000 oz/month on this island?
 - Federal average - 16 oz./month

- The state may have to remain open to accessing supply from other locations
- The market will drive the minimum (not a requirement) or maximum: 1/50 patients
 - Allow the market to regulate itself rather than dictating the minimum number of dispensaries
- DoH growing license - 1 grower per 'X' patients per island
 - Regulating the supply, while allowing them to continue to grow at home – to avoid a monopoly

To address the concerns about spores and mold

- Make concentrates or tinctures

Consider increasing the number of legal plants for each patient

- Currently – 7 plants, 4 mature/3 immature

Issue of reciprocity

- Visitor driven industry; how would we accommodate patients from other states with cards?

Delivery issue - how would we provide to people who cannot physically go to dispensary?

- Safe delivery method for those who can't leave the house

Careful about cap on growing facilities and delivery facilities

- Caution with specifying exact number – flexibility for program to evolve

Schedule 1 drug

- Why not treat like every other prescription drug
 - Pharmacy are already there - why a whole new regulatory structure?
 - There are systems already in place

Cultivation/production - for health reasons

- Consider centralized dispensaries that provide oils
- Standardized way is product oil, distribute the *oil*?
 - With that product – transportation, testing is more standardized, easier to regulate, dispersed in quantifiable amounts

How do dispensaries 'get' their inventory?

- Contract with vendors
- Restricting location of growers will restrict medicine

Patients retain right to grow

- Don't take power of patients to grow their own - if they can grow their own, let them grow still
- Empower them to grow for themselves and help other patients

Medical research

- Look at CBDs
- medically tested
- funding for research is needed

Relationship between growers and dispensaries

- Number of dispensaries to growers
- TF to determine if vertically integrated or not?
 - Do we say it **MUST** be vertical or not vertical: let that be silent so that it can be
 - Hybrid model – allows for individual growers, excess medicine to be provided to dispensary
- Parallel systems? Dispensary and individual growers (and cross-fertilization?)
 - Ability to track through system
 - Licensing as caregivers already exist
 - Grower would have to get medicine tested, then they could sell into dispensary system
- Need for outside growers to maintain inventory
- System that provides safest, easiest access to patients
 - Based on patients' needs

Testing

- You may encounter varying results from the same plant
- You would need to sample from various parts of the plant

Sen Espero – those interested in continuing the discussion meet in room Rm 224

Next Steps

- Coordinate with the US Attorney's Office District of Hawai'i to address TF questions at next meeting
- Schedule additional TF meeting in November (tentatively Nov 6)
- TF members to start drafting recommendations for the main topic areas

The next Task Force Meeting is Thursday, November 06, 2014 at the State Capitol, Room 325 from 9:00am – 11:00am



HCR 48 Task Force Meeting #5
Thursday, November 06, 2014 9:00-11:00am
Hawai'i State Capitol, Room 325

Task Force Members Present:

Jill Nagamine, Attorney General's Office
Peter Whitarcar, Department of Health
Ted Sakai, Director Department of Public Safety
May Ferrer (alternate for Lee Ann Teshima, Department of Commerce and Consumer Affairs)
Susan Chandler, University of Hawaii Public Policy Center
Harry Kubojiri, Law Enforcement Coalition
Representative Della Au Belatti, House Committee on Health
Representative Gregg Takayama
Jensen Yoshihide Uyeda, University of Hawaii Tropical Agriculture and Human Resources
Rafael Kennedy, Drug Policy Forum
Dr. Edward Christenson (alternate for Dr. Clif Otto, A physician participating in Hawaii's Medical Marijuana Program)
Karl Malivuk, A patient who is over the age of 18 and is a participant in Hawaii's Medical Marijuana Program
Jari S. K. Sugano, A guardian of a patient who is under the age of 10 and is a participant in Hawaii's Medical Marijuana Program
Dana Ciccone, A caregiver participating in Hawaii's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawai'i
Alan Shinn, Coalition for a Drug Free Hawai'i

TF Members Absent:

Sen. Josh Green, Senate Committee on Health
Sen. Rosalyn Baker
Jon Riki Karamatsu, Department of the Prosecuting Attorney
Jonathan White, Department of Taxation
Dr. Christopher Flanders, Hawaii Medical Association

Other Legislators in Attendance

Senator Will Espero
Representative Richard Creagan

Introductions

Roundtable introductions of participants

Review of ground rules

Timeline – Report Draft Complete (TBD)

- The goal is to have a draft of the report to the LRB by early December
- The LRB will use the report to draft legislation

Approval of October 14th Minutes

Amendment – the comment on DOJ contact should read

“Rep. Belatti has made contact with the US Attorney’s Office District of Hawai’i”

* Approved as amended

Updates and Follow-ups

Review of Arizona teleconference

In terms of the price differential between medical marijuana and the street product, the AZ administrator stated medical marijuana costs are higher than street costs

- Karl disagrees with this observation
 - he has seen this to be the opposite in terms of pricing trends
 - he stated this has been a claim in the past but it is unfounded
- It’s important to consider the affordability of medication for patients

Program size

- the number of patients in the medical marijuana program doubled upon initiation of a dispensary system

Fees

- AZ is one of the most expensive states for registration/licensing fees
- \$150 annual fee for patients (registration fee for cardholders)
- \$300 annual fee for caregivers
- the program is self-sustainable through fees and licensing costs

Hawai’i Fees

- \$35 annual fee for patients when transitioned to DOH
 - \$25 annual fee for patients (currently)

Do dispensaries pay income tax in AZ?

- No
- they pay the standard tax – GE, etc.

Is the Sunrise report looking into fees, taxation, and costs?

- Yes

Open discussion of various aspects of the AZ model:

- No personal cultivation allowed
 - The AZ model prohibits personal cultivation unless a patient lives outside of a 25 mile radius from a dispensary
 - They noted issues with enforcement of this rule
- There are no testing requirements specified by the program
 - TF members noted that testing is important – medication should be tested
- They haven't developed education programs for schools, children, or general public
 - They do have education programs in place for patients and dispensaries
 - TF members commented that general education is needed
- Dispensaries can grow as many plants as needed
 - There is no set limit on the number of plants dispensaries are able to grow
 - They don't seem to be worried about federal interference
- They have a large number of dispensaries across the state
 - 126 dispensaries to provide access
 - There are concerns about the number of dispensaries planned for Hawai'i
 - TF members noted that they wanted to ensure patients have access to medication
- AZ DOH doesn't share information on grow sites with law enforcement
 - How do we balance information sharing without jeopardizing privacy?
 - It's difficult to know where the grow site is in rural locations
 - TF members mentioned that we should list the grow site on the licensing application
 - potentially implement a tagging system on each plant to identify the grow site
 - AZ uses a card system – growers must show law enforcement their card with the grow site address to verify the grow site is a legal medical marijuana site
 - the grow site location is documented on card
- How do we make the distinction between medical marijuana and non-medical marijuana?
 - Many of the rural grow sites don't have addresses
 - On the Big Island they use the tax map
- Will there be a centralized database for law enforcement verification?
 - Yes, a call in system is planned – law enforcement will be able to contact DOH to verify that a site is legally registered to grow medical marijuana
 - Grow sites will be assigned a number. The number on the dispensary registration card and the number on the plant tags should be the same
 - DOH intends to work with law enforcement, but it's not DOH's responsibility to enforce the law
 - Law enforcement can call DOH to verify a location is legally registered, but DOH is not going to provide the overall database to law enforcement to initiate investigation of all sites.

- Tax Map Key (TMK) is used on the Big Island to verify grow sites
 - Law Enforcement has access to this database

Decision-making process for Task Force Report

Subcommittees will draft recommendations on various topics/issues

- The TF will vote on the recommendations
- The results will be annotated in the report to capture the overall opinions on each recommendation (for, against, neutral).

Rep. Belatti – It is important to look at the program as a whole – keeping a broader perspective of the program in mind to urge consensus and to develop a functional program for patients

- the report should provide guidance to the DOH to implement the dispensary program

Policy Sub Committee Report (Dan Gluck)

- The report focused on the 8 topics outlined in the HCR
- The report is posted on the UH PPC website

Federal Interface Sub Committee Report (Dr. Otto)

- Update to be presented at the next meeting

Core issues discussion

Range and Types of Product

There is a wide range of products available

- Different people use different products depending on their needs
- Various products may be used in different ways

There are concerns about commercialization and edibles that may not look like a medicinal product (child safety)

Would the people want access to various products?

Several TF members said “ Yes.”

How do you make edibles less desirable/attractive to children?

- This could be addressed by the packaging and presentation of the product (i.e. no cartoon figures, etc.)

This is a Medical Marijuana Program; it’s not recreation or commercialization

- It should be treated as a medicine
- They don’t make other medicines in the form of edibles (sodas, candies, etc)
 - the issue is with edibles such as brownies, cookies, candies, etc
 - no other medicine is presented these forms

Patients ingest medicine

- From a public health stance – it’s safer to ingest than smoke

- Is there a range of products that would reduce this concern?
- Medicinal marijuana products would be clearly labeled
 - the packaging would provide information on the medicinal content

It's important to reinforce this is a medical product

There is a disconnect between medical marijuana and other drugs

- With other pharmaceuticals the doctor prescribes/directs the way the medicine is to be taken (the form the drug is in, how much, etc.)
- With medical marijuana it's up to the patient to determine this
 - Patients are left to figure this out for themselves (trial and error with different forms, strains, dosages)
 - How many doctors are educated on medical marijuana?

New Mexico's system has the dispensaries provide patient education

- Patients may be recreationally knowledgeable, but medicinally not sure what products to use
- Rely on the expertise of the dispensary system personnel for education on products
- A key element is education of dispensary staff
 - When a patient goes to a pharmacy the staff asks – Do you have any questions?
 - The same should be true for dispensaries

Do you see the potential for dispensary staff to push higher end products?

- Yes, it is a possible risk.
- Staff usually very informative on the products available

Yes, there are safety concerns – the same can be said for other products

- Every patient has different medicinal needs
 - Some may need to use lollipops to help suppress symptoms allowing the patient to regain appetite after certain cancer treatments
- A broad range of products are needed – these products are essential for patients personal needs/preference for medication
 - It's important to respect the diversity of products
 - The packaging is a critical element to address this concern
 - Child protective packaging is essential

Education is important

- Medical personnel should receive continuing medical education (CME) on medicinal medical marijuana
- Potentially certify dispensary staff (training/education program)
- Allow the system to grow together
- Prof Tomida from HPU has outlined training and education for dispensary personnel, medical personnel, and the public
- Dispensaries also have (or gain) expertise in this area
 - Dispensary staff should be professional and educated on the various products

- We should use existing models and tailor it to our needs

Methods of ensuring public safety and security of supply

The legislation could mandate the minimum security measures required at each location (dispensary, grow site, etc.)

The Policy Sub Committee Report outlined – video surveillance, inventory tracking, black fences as required measures

- What does video surveillance mean? Is someone actually watching the video feed or is it recorded?
 - It would be recorded video that can be reviewed (a person present to monitor the video would not be required)
 - passive surveillance – video avail if an incident occurs

Some strains of marijuana are very fragrant

- This should be considered in terms of indoor vs outdoor growing to contain the smell

The grow sites are concerned about protecting their inventory

- Security would not only be a directive – the business owners have a vested interest in protecting their product

What is an inventory tracking system?

- Some inventory tracking systems use a tagging system to track plants from seed to sale
 - plants are tagged with a number or barcode
 - this allows for easy tracking of products and inventory
- Is there an interface with the regulatory agencies?
 - the inventory system would be maintained by the dispensary and subject to audits
- In Arizona, they stated IT was involved from the beginning of the program to provide an extensive tracking system

Concerns brought up about diversion of product

- the medical marijuana program should use similar policies used for tobacco and alcohol sales
- no card, no access (no entry to the dispensary if the individual is not a registered patient)
 - most dispensaries use a double door system
 - anyone can enter the lobby
 - but only the cardholder with ID may enter the back area where the product is available for purchase

What happens if a cardholder passes medical marijuana to someone else?

- This is no different from any other medication or alcohol
 - Medicine can be obtained from a pharmacy and distributed to others
- Why wouldn't that be treated as any other form of drug dealing (street or medical)?
 - The same rules should apply (the act is illegal)

What type of safeguards would you like to see in place to minimize access from non-cardholders?

- It's not like other pharmaceuticals where the patient has access to a specified amount of medicine for 30 days
 - With medical marijuana a patient can access medicine overtime and potentially distribute unused portions
 - There are laws in place to deal with this – if a person/dispensary is breaking the law there are laws/consequences in place
 - There can be random audits of dispensaries to check the records of purchase, etc

You can put safeguards in place to deter illegal activity, but you can't stop a person from breaking the law if that is what they intend to do

- There are existing laws/consequences in place to deal with that
- Licenses and cards can be revoked if the system is being abused
- There could be limits to the amount of medicine a patient can purchase per month
 - Dispensaries tracks the amount of medicine purchased by the cardholder

Resources are needed to develop these systems

- DOH is creating an online database to verify legit patients and the amount of medication purchased per patient – dispensaries would have access to this
- What is the skill set and what is the capacity required to regulate dispensary systems?

DOH will regulate the medical marijuana program from the health aspect; it shouldn't be an assumption that DOH is going to regulate dispensary systems

- The Department of Agriculture has a similar system for monitoring pesticide use
- Will DCAA regulate the dispensaries?

Education, Training and Public Health Issues

DOH is focused on training the medical side

- They plan to have website modules, CME, conference, bring in subject matter experts (SMEs) from other states
- DOH has contacted HI Medical Board to see if they would provide recommendations

Can any doctor certify medical marijuana patients?

- The law states a primary care physician, but that is not defined so any doctor can certify

Is the pharmacy school involved?

- The pharmacy school expressed interest in testing. Should follow-up
- Due to federal level issues, many are apprehensive about getting involved with the medical marijuana program

The Drug Policy Forum is looking to expand continued medical education (CME) to include content on medical marijuana

Who can staff the dispensaries? What type of expertise is needed?

- Background checks (felony drug convictions would be excluded – unless it's related to medical marijuana)

What type of training would staff receive? Would it be required?

- Other states have already addressed this – we could use their models
- Some states have online certifications available
- Other states don't necessarily mandate certification of staff
- Peter has seen mandates for ongoing training for staff
- This could be added to legislation – annual training and certification

DOH should have a health educator on staff

– Certification may not be possible upon inception of the program, but we can work toward that as the program evolves

- Certification could be phased into the program
- Build in the expectation that within 2-3 years certification for employees would be required
 - Identify agencies that would need to be involved
 - Could write this into session law

What about education for the general public and safety education for minors/schools?

- A public information campaign on the program would be helpful
- A DOH health educator could be tasked with this

Suggestion – DOH could develop an informational book about medical marijuana (types, strains, etc)

- Potentially task the health educator with creating this book

Identify TF members to start drafting recommendations for the main topic areas

- * Rafael & Chief Kubojiri – to draft Safety and Security section
- * Peter, Della, & DCCA(?) – to draft Education, Training and Public Health Issues

Next meeting

November 18th

Can the next meeting be extended?

- * TF members agreed to an extended meeting on Nov 18th from 9-2p

Public Input

Cannabis is a safe medicine

- There have been no reports of deaths from anyone “overdosing” on marijuana
- If a child consume too much, he/she may have a bad experience but will not die
- Other drugs are a far greater problem for Hawai’i

Education and training

- Currently in pharmacies, there are no formal training is required
- Each pharmacy is required to have 1 pharmacist available
 - Other staff members receive HIPAA training, but no formal training to work in a pharmacy
 - Model the medical marijuana program on this system
- Track dispensaries to ensure they are following the law
 - Hold them accountable for any questionable activity
- What to do in terms of school education?
 - In other states, DARE programs have adjusted to include medical marijuana education

Drug policy forum - Education discussion

- Use existing resources – Public Health at UH & Prof Tomida (HPU)
 - They have expressed interest
- Potentially have a student or program create an educational pamphlet on medical marijuana
- Develop a CME program using existing resources in state and other states
- Different products are available
 - Similar with other drugs – there may be a variety of blood pressure medication available patients try out which medication is the most effective and the right fit for their needs

Plant tracking

- Use of GPS to track plants locations
- Quality related to THC levels only is a misconception
- How do we reclassify medical marijuana?
- Can a dispensary be a farmers’ market?
- UH should educate doctors on the medicinal benefits of marijuana

Can the public have more time for input? 20min?

- * Yes – 25 minutes at the extended meeting on Nov 18th
 - This can be broken up throughout the meeting

What about having collective gardens?

- Consisting of a variety of growers, types of plants, etc

* Clarification by Rep. Belatti – An invitation has been extended to the US Attorney’s Office District of Hawai’i

- Participation has not been confirmed, we are awaiting a response

Concerns about over-regulation of the product

- You don’t need an exact quantity labeled on the product – label as strong, medium, or low

- Dispensaries have vested interest in providing quality products and customer service to survive in the market
- Diversion happens across the board with various medications not just medical marijuana
- Patients should consider what are the end points you are looking for not how much you are using?
- Marijuana has a high therapeutic index

Patient comment on usage/dosing

- He has been a patient for 1 year
- He uses medication as needed to alleviate his symptoms
 - This varies daily
- He uses different parts of the plant

Next Steps

Continue to discuss open topics

- DOJ discussion (tentative)
- Federal Interface SC Report
- Discussion of associated program costs – resources, etc
 - Budget
 - Does Department of Tax have an estimate on potential revenue?
 - Discuss start-up costs

Recap completed sections and vote on recommendations

** At the next meeting groups will provide section drafts

**The next Task Force Meeting is Tuesday, *November 18, 2014* at the State Capitol, *Room 325*
from *9:00am – 2:00PM***



HCR 48 Task Force Meeting #6
Tuesday, November 18, 2014 9:00-2:00pm
Hawai'i State Capitol, Room 325

Task Force Members Present:

Jill Nagamine, Attorney General's Office
Peter Whiticar, Department of Health
Shawn Tsuha (alternate for Ted Sakai, Director Department of Public Safety)
Jonathan White, Department of Taxation
Lee Ann Teshima, Department of Commerce and Consumer Affairs
Susan Chandler, University of Hawaii Public Policy Center
Jon Riki Karamatsu, Department of the Prosecuting Attorney
Harry Kubojiri, Law Enforcement Coalition
Fele Tau (alternate for Sen. Josh Green, Senate Committee on Health)
Representative Della Au Belatti, House Committee on Health
Senator Rosalyn Baker
Karen Kawamoto (alternate for Representative Gregg Takayama)
Jensen Yoshihide Uyeda, University of Hawaii Tropical Agriculture and Human Resources
Rafael Kennedy, Drug Policy Forum
Dr. Clif Otto, A physician participating in Hawaii's Medical Marijuana Program
Karl Malivuk, A patient who is over the age of 18 and is a participant in Hawaii's Medical Marijuana Program
Jari S. K. Sugano, A guardian of a patient who is under the age of 10 and is a participant in Hawaii's Medical Marijuana Program
Dana Ciccone, A caregiver participating in Hawaii's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawai'i

TF Members Absent:

Dr. Christopher Flanders, Hawaii Medical Association
Alan Shinn, Coalition for a Drug Free Hawai'i

Other Legislators in Attendance

Representative Richard Creagan

Introductions

Roundtable introductions of participants

Review of ground rules

Timeline – Report Draft Complete (TBD)

- The goal is to have a draft of the recommendations to the LRB following this meeting
- The LRB will use this to draft legislation

Approval of October 14th Minutes

* Approved

Updates and Follow-ups

Federal Interface SC Update

- Nothing to present at this time – the update will be posted to the website

Small Group Breakout Session

Process – small group breakout groups will be formed to discuss major policy topics and develop recommendations

- An overview of the 5 groups and group leaders was introduced
- Members will provide specific recommendations by the end of breakout session
- TF members agreed to the process and leads accepted roles

Group 1

Lead – Mr. Gluck

- Appropriate Number of Dispensaries/Cultivation Sites
- Appropriate Location of Dispensaries/Cultivation Sites

Group 2

Lead – Mr. Kennedy

- Cultivation/Production/Manufacturing Issues
- Range and Types of Product

Group 3

Leads – Rep. Belatti & Mr. White

- Administrative/Regulatory Structure
- Taxes and Fees Structure

Group 4

Leads – Ch. Kubojiri & Dr. Otto

- Methods of ensuring public safety and security of supply
- Federal Interface

Group 5

Leads – Mr. Whitarcar & Ms Teshima

- Business Requirements for Licensed Dispensaries
- Education, Training, and Public Health Issues
- Quality Control of the Supply and Lab Testing

Public Input (15 mins)

The public commenters decided to defer comments to the end of the meeting following the overview of the recommendations from each group. They were invited to attend and observe the small group discussion.

- The recommendations will be presented during the afternoon session after the presentations to the Task Force

Small Group Presentations

If TF Members have a major issue with the recommendation it will be noted (based on time constraints)

- Any other concerns or wish to elaborate, please email it to the PPC to document it

Group 1

Set a bottom limit for the number of dispensaries but not a maximum in general

- Interested in feedback on requiring the department of health to issue more licenses to keep the patient-dispensary ratio low

- Should there be a limit on the maximum amount of plants for producers?

- Recognize federal sanction increases after 100 plants

- How to handle two tiers of licenses (dispenser and producer)?

- Equivalence - tobacco products: producer license, dispenser license (to grow plants ; dispensaries would need both licenses)

- The program needs to be self-sufficient -- through licensing fees

- Feedback needed on the transportation between islands for how this will actually happen (i.e. Maui county with three separate islands)

- Issue is may not illegal under state laws, but not immune or exempt from prosecution under federal law?

- Easiest way could be to transport via the ferry from Maui, but still have inter-island issues re: other islands

- Satellite locations - concern expressed about physical security provisions

- Issue raised with 500 patients per dispensary

- On the Big Island, majority grow their own so that rationale doesn't work

- Very few people grow from the seed - why would people pay for something they are growing already? maybe 1 dispensary per county?

- Would that provide sufficient access?

- On O'ahu, it might make sense to have more because of density/urban environment

- After the dispensary system has been established, the unevenness re: the Big Island and other islands is likely to even out

Group 2

- Statute should require opaque labels and windows (too detailed for legislation?)

- All types of products allowed?
 - Should there be limits placed on this?
 - Permissive language or write language saying what is possible and what is not saleable?
- Need someone to write what is permissible

Group 3

- New Mexico rolled out licenses one year earlier for producer than dispensaries - Producer license (Jan 2017), dispensaries (Jan 2018) - gives two years to allow rules to be drafted
- The timeline is problematic - start-up for the department and allowing people to start their inventory would take at least 2 years (not 18 months)
- 2 staff at DOH is not enough to run the program -- maybe only for initial stages
- Startup budget and staffing is needed for initial phase of the program
- Consider interim program before deadlines?

Group 4

- Cannot get around Schedule 1, federal regulations of storage of product, State models for security of product by federal code
- Explain how a Hui or collective substituting for dispensary would work
 - Big Island, prefer to grow for themselves and can pool their resources to grow exclusively for themselves, but they need to comply with dispensary/cultivation regulations
 - Describe explicitly how the "hui system" will work?
 - Caregiver, producer, and third group? Co-op/hui
 - If they step out of boundaries, the consequences can be huge
 - How would this be implemented? Would they be a legal entity?
 - It would be no different from dispensary except they cannot go outside of their system
 - Dr. Otto will write up the description

Group 5

- Restricting to only Hawaii residents as dispenser – Is this legal?
 - Gluck will research if the restriction is possible (the intent is to grow the local economy)

Public Input

Transportation concerns

- Federal agencies defer to the state when dealing with medical marijuana
- Federal law enforcement are not aggressively seeking confrontation on medical marijuana
- In Alaska they are also geographically dispersed – they use regional carriers to transport medical marijuana
- Hawai'i should also consider a delivery system

Limit on types of products

- Marijuana should be reclassified – it shouldn't be a schedule 1 drug

Timeline concerns

- Dispensary systems are needed for patients to safely obtain medicine – Currently patients are obtaining medicine from the street market

Issues with terminology

- Reclassification of marijuana – stop criminalizing medicine

Packaging

- Other substances such as alcohol are advertised and there are liquor stores near schools
- Why would marijuana be treated differently

Background checks

- Many people with the expertise on medical marijuana may not have clean backgrounds
- Potentially allow certain felonies with regard to employee background checks

There are blue cardholders already growing their medicine

- Continue to allow personal growth of medical marijuana

Access to safe medicine

- A patient in the audience is unable to grow his own medicine, so he is forced to purchase it illegally

Concerns about Hawai'i residency

- If we can restrict users to the state – we should be able to restrict producers/distributors to the state

Reciprocity

- Allowing for reciprocity will deter black market purchases by tourist

Packaging

- Label max amount of dosage on the package

Potential Revenue

- From Continuing Education requirement and application fees

Next Steps

Rep. Belatti – Hasn't received a response back from US Attorney's Office District of Hawai'i

Consolidate sub-group recommendations

- TF Members send revised drafts of recommendations to UH PPC
- If TF Members have any major issue with the recommendations discussed during this meeting send those concerns to UH PPC for consolidation

TF Members will vote on the recommendations at the next meeting

- A report will be drafted following the meeting based on recommendations and vote

Additional Information Needed – to be completed prior to next meeting

- Transportation/satellite facilities: such as Maui County – Dan Gluck

- Types/range of products as well as packaging/labeling – Bellatti, Baker, and Sugano

- Hui program – Dr. Otto and Daniel Ciccone

**The next Task Force Meeting is Tuesday, *December 16, 2014* at the State Capitol, *Room 325*
from *9:00am – 11:00am***



**HCR 48 Task Force Meeting #7
Tuesday, December 16, 2014 9:00-2:00pm
Hawai'i State Capitol, Room 325**

Task Force Members Present:

Jill Nagamine and Lance Goto, Attorney General's Office
Peter Whiticar, Department of Health
Ted Sakai, Director Department of Public Safety
Jonathan White, Department of Taxation
Lee Ann Teshima, Department of Commerce and Consumer Affairs
Susan Chandler, University of Hawai'i Public Policy Center
Tricia Nakamatsu (alternate for Jon Riki Karamatsu), Department of the Prosecuting Attorney Harry Kubojiri, Law Enforcement Coalition
Representative Della Au Belatti, House Committee on Health
Senator Rosalyn Baker
Representative Gregg Takayama
Jensen Uyeda, University of Hawai'i Tropical Agriculture and Human Resources Rafael Kennedy, Drug Policy Forum
Dr. Clif Otto, Physician participating in Hawai'i's Medical Marijuana Program
Karl Malivuk, Patient over the age of 18 and a participant in Hawai'i's Medical Marijuana Program
Jari S. K. Sugano, Guardian of a patient under the age of 10 who is a participant in Hawai'i's Medical Marijuana Program
Dana Ciccone, Caregiver participating in Hawai'i's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawai'i
Dr. Christopher Flanders, Hawai'i Medical Association
Alan Shinn, Coalition for a Drug Free Hawai'i

TF Members Absent: Senator Josh Green

Other Legislators in Attendance: Senator Will Espero

Introductions:

Roundtable introductions of participants
Approval of Agenda
Opportunity for public input added at halfway point of this Task Force meeting.

Review of Ground Rules:

Timeline: Report Draft due to Legislature (early January)

Additional meeting needed to review Final Draft of Report.

Suggested meeting date: December 30, 2014. Following this meeting, can make final approvals via email.

Approval of November 18 Minutes: Deferred to next meeting.

Voting Procedures for Task Force Proposals:

YES = I'm OK with putting this recommendation into the Task Force Report.

NO = I do not want this recommendation in the Task Force Report.

DEFER = This proposal needs more work and should be put into an appendix for further discussion.

TF Discussion and Vote on Proposed Recommendations # 1-5:

1. Number and Location of Dispensaries

Discussion about 4th bullet recommendation:

- The DOH Deputy AG expressed concerns about the transport of medical marijuana between islands. Does this proposed recommendation imply giving DOH's stamp of approval?
 - Comment: Take out "department" to address liability concerns?
 - Comment: Need to include caveats with the approval of petition. Similar to issuance of patient certifications, an approved petition does not protect them person from federal law.
 - Comment: Embed in proposed legislation references to the Cole memorandum and how recommendation that allows dispensing on an island that lacks a dispensary is part of a larger regulated system with appropriate safeguards such as tracking medication, even through the delivery process, with "seed to sale" tracking system.
- Implementation of this type of recommendation will require establishing dialogue with federal partners (ie. discussion with TSA, DOJ and US Attorney). DOH and other stakeholders will need to vet a policy to address interstate transport.
- Re: airport concerns, especially, the various State and federal agencies and their various contractors will be involved and will need to come together to discuss how policies would be implemented.
- Continued open discussion on issues still needed in this area (ie. Is Oakland example replicable in Hawaii).
- Federal partners reserve the right to prosecute; and there is no state protection if someone steps outside of the regulation boundaries.
- Question: Did Task Force receive response from DOJ or TSA regarding meeting request? Representative Belatti reported that due to time constraints a meeting with DOJ representatives could not be arranged with the Task Force, but she and Mr. Whitarcar were able to meet with the US Attorney in early December to begin general discussions about medical marijuana and the prospects of a dispensary system in Hawaii. From that meeting, federal agencies will reserve the right to prosecute.
- Question: Will there be an exemption for populations <500 patients?

Discussion about 1st bullet recommendation:

- Concerns expressed about 500:1 patient to dispensary ratio.
- Explanation for 500:1 ratio based on Policy Subcommittee finding that most other states with dispensaries allow for one dispensary for every 500-1,000 registered patients. Based on this ratio and also using current number of approximately 13,000 patients statewide, this would result in a range of 15-30 licensed dispensaries for roughly 500-1,000 patients per dispensary.
- Question posed whether there should be a set number of dispensaries rather than a ratio based on patient population?
- Other alternative discussed was to allow the market to determine number of dispensaries based on demand and patient need.
- Further observations made that other states don't necessarily identify a set number of dispensaries or have adopted some pre-existing structure to determine number of dispensaries. For example, Arizona is divided into geographic areas based on census tracts with 126 community health areas and, coincidentally, there's essentially 1 dispensary in each geographic area.
- Question raised about how will licenses be decided/granted? Will process be based on a point system, lottery, or other process? This is still open question and will need to be worked out within DOH.

Discussion about 3rd bullet recommendation:

- Discussion that this recommendation contemplates an 18-month ramp up time from enactment of bill (May/June 2015) to operation of dispensary beginning on January 2017.
- If a 2-year timeline for implementation is desired, then operation of dispensary could begin in July 2017 with licenses having a built in 6-month start up time, meaning dispensary licenses should start being offered in January 2017.
- DOH representative explained that going through rule-making process, application/licensing process, building up program and regulatory capacity to handle responsibilities will take at least 2 years. Also expressed preference for permissive language ("may" vs. "shall"; and "offer" vs. "shall be no less than") rather than mandatory language in event that there are insufficient number of quality applications that meet the licensure requirements.
- Concern expressed that some mandatory language needed to ensure that implementation of dispensaries not unnecessarily delayed. As a compromise, recommendation can be reworded to say "shall offer no fewer than twenty-six licenses by January 1, 2019."

VOTE TALLIES¹:

Recommendation 1.1: The Department of Health shall determine the number of dispensary licenses based on a guideline of 1 for every 500 patients, adjusted annually, based on the patients' residency. YES=15; NO=1; DEFER=3

¹ Nineteen authorized members of the Task Force were present with two representatives from the Department of the Attorney General participating in voting. The voting tallies for Recommendations 1.1 and 1.2 are amended to record only one vote for the Attorney General.

Recommendation 1.2: There shall be at least one dispensary on every county with the exception of Kalawao County. YES=15; NO=0; DEFER=4

Recommendation 1.3: The Department of Health may begin offering licenses for dispensaries and producers on January 1, 2017, and dispensaries may begin operations on July 1, 2017. The Department shall offer no fewer than twenty-six licenses by January 1, 2019. YES=10; NO=6; DEFER=2

Recommendation 1.4: In the event that an island or a county lacks a single licensed dispensary by July 1, 2017, a dispensary that is licensed and established on another island or in another county may petition the Department of Health to allow an owner or employee of such dispensary to allow an owner or employee of such dispensary to deliver medical marijuana products to a qualified patient or caregiver of the island or county that lacks a dispensary. The owner or employees shall at all times retain possession of the medical marijuana products until the products are delivered to the patient or caregiver. YES=14; NO=4; DEFER=1

2. Producers

Discussion about Producer Recommendations:

- Clear definitions are needed for dispensary, producer, and manufacturer.
- Explanation for recommended minimum number of 30 producer licenses is based on current number of approximately 13,000 registered patients and, assuming that these patients would need 39,000 plants and the usable marijuana derived from these plants, then there would be a range of 39 to 78 producer licenses that would need to be issued to meet demand required by dispensaries depending on the plant limits that may be imposed on producers.
- Discussion about plant limits and that Department of Health should be required to determine the number of medical marijuana production center licenses to issue based on a ratio that producers will have *up to* 500 to 1,000 plants at any one time.
- Plant limitation on producers may be worth considering as (i) a means of stronger regulation over producers (ie. having a hard, definite limit will be track-able especially with "seed to sale" software); (ii) a way to align cultivation scheme with federal possession limits so as to not expose cultivators under state regulatory scheme to harsher federal penalties (ie., federal penalties are harsher for those charged with possession of 1,000 plants vs. 500 plants); (iii) a mechanism to ensure supply to dispensaries is diverse and smaller business models are encouraged (ie. the more producers there are, the more likely different strains will be grown); and (iv) a means to ensure that Department of Health not overly burdened with too many production centers to monitor (ie. fewer producers will be needed to be overseen/regulated if these producers are allowed to grow 1,000 plants vs. 500 plants). If producers are limited to 500 plants/producer, then 78 producer licenses would need to be issued vs. if producers are limited to 1,000 plants, then approximately 39 producer licenses would need to be issued.

- General discussion that producer regulations should still allow patients to grow their own medicine, especially since patients have over the years learned how to best grow & create their own medical marijuana products.
- Question posed about whether and how access to producer/grow sites will be provided to law enforcement? Licenses will be issued to businesses/entities in order to operate in the State. These licenses will be public available and law enforcement will have access to this public information.

VOTE TALLIES²:

Recommendation 2.1: The Department of Health shall determine the number of medical marijuana production center licenses to issue based on a ratio that producers will have up to 1,000 plants at any one time. YES=14; NO=2; DEFER=2

Recommendation 2.2: Producers may acquire, possess, cultivate, manufacture, and transport no more than 1,000 plants at any one time. YES=12; NO=1; DEFER=5

Recommendation 2.3: Beginning on January 1, 2017, the Department of Health may offer a minimum of 30 producer licenses. YES=13; NO=1; DEFER=5

Recommendation 2.4: Medical marijuana production centers shall distribute only to dispensaries or other production centers licensed pursuant to this section. YES=18, NO=1; DEFER=0

3. Medical Marijuana Product Manufacturers

Discussion about Manufacturing Recommendations:

- Basis for these recommendations are Colorado's medical marijuana manufacturing statutes.
- The intent of these set of recommendations is to place a limit on the amount of product a manufacturer is able to possess at one time & to use of seed-to-sale tracking to regulate and monitor amounts by tracking transaction history.
- Comment made that at manufacturing point, material is no longer a "plant" but dried material linked to a certain plant.
- Suggested that recommendation could state: "A licensed medical marijuana product manufacturer may not have *plant material from* more than five hundred medical marijuana plants on its premises, except that the Department of Health may grant a waiver in excess of 500 marijuana plants based on consideration of factors such as nature of the products manufactured, existing business contracts with licensed medical marijuana dispensaries for the production of medical marijuana products, and the ability to contract with licensed medical marijuana dispensaries for the production of medical marijuana products."

² Nineteen authorized members of the Task Force were present with two representatives from the Department of the Attorney General participating in voting. The voting tallies for Recommendations 2.3 and 2.4 are amended to record only one vote for the Attorney General.

- Task Force decided to have Policy Subcommittee discuss these recommendations further as they are newly introduced ideas and return with some recommendations to Task Force at next meeting.

Public Input

- Task Force should review the new federal law that addresses medical marijuana.
- Sites of grow locations are private due to security concerns.
- There are too few doctors willing to certify patients entering or already in program. Primary care physicians often are not willing to certify patients.
- DOH sent out memo regarding primary care physicians that has broad definition for primary care physician.
- Limiting grow sites presents issues for production
- Tracking seed-to-sale software – may only able to track plants not dry weight.
- CO has a closed system between producer, manufacturer, and retailer (one entity throughout supply chain) that Task Force should consider.
- Different strains of marijuana produce different amounts of product. Different parts of the plant are used to manufacture edibles
- Concerns about reciprocity should be considered by Task Force:
 - Patients need access to medication while on vacation
 - Should have reciprocity with other states that permit medical marijuana
- Inter-state transport - TSA will not be supportive of this program
- There are other inter-island transport options that are not subject to TSA inspections
- Dispensary Licensing
 - Lottery may not be best solution.
 - Selection needs to be based on minimum qualifications.
 - Other states use a first come first serve basis.
 - Option for decision to be based on meeting licensing requirements.
- Implementation
 - Concerns about timeline
 - Lack of dispensary system is forcing black market supply
- Concern with limiting producers to 1000 plants. More producers and less plants seems to work better in Oregon.
- Producers should be able to manufacture using excess product rather than creating another entity
- Law enforcement site verification
 - Consider 24 hour hotline to verify grow sites, patient licenses, etc.

4. Transportation

VOTE TALLIES WITH DISCUSSION³:

Recommendation 4.1: Producers and dispensaries shall be permitted to transport medical marijuana within Hawai'i and between the Hawaiian islands in accordance with security requirements to be established by the Department that *may* include but are not limited to: use of seed-to-sale tracking software and labeling of medical marijuana; limitations of amounts to be transported based upon whether it is a producer and dispensary; utilization of additional security measures for transport of medical marijuana plants and/or manufactured products between producers and dispensaries. YES=13; NO=2; DEFER=3

Recommendation 4.2: The Legislature shall enact provisions that comply with the State v. Woodhall, 301 P.3d 607 (2013) decision. YES=18; NO=0; DEFER=1

5. Range of Products

- Policy Subcommittee to be reconvened by Dan Gluck to examine this set of recommendations along with recommendations related to "Medical Marijuana Product Manufacturers" in order to develop some further recommendations for the Task Force at its December 30, 2014 meeting.

Task Force Discussion and Vote on Proposed Recommendations #6-14:

7. Zoning

VOTE TALLIES WITH DISCUSSION:

Recommendation 7.1: Dispensaries, producers and manufacturers shall comply with County zoning ordinances, provided that counties cannot enact zoning laws that target/discriminate against dispensaries or producers. YES=14; NO=4; DEFER=1

- This recommendation address concerns that county zoning not be used to zone dispensaries out of existence.

Recommendation 7.2: No dispensary or producer shall be located within 500 feet of a public school. YES=13; NO=6; DEFER=0

- Distance from schools should mirror restrictions placed on establishments that sell alcohol.
- Should consider adding "private schools" to limitation. However, concern expressed that "private school" could open in place where dispensary may already be located and force dispensary to close.

³ Nineteen authorized representatives of the Task Force were present with two representatives from the Department of the Attorney General participating in voting. The voting tally for Recommendation 4.2 is amended to record only one vote for the Attorney General.

- Compromise reached that recommendation be limited to "public school" at this time but Legislature could consider further defining and adding private schools to limitation.

Recommendations not voted on due to time constraints:

- 6. Inspections**
- 8. Fees**
- 10. Security**
- 11. Quality**
- 12. Education and Training**
- 13. Resources & DOH Staffing**
- 14. Federal Interface and Protections**

These recommendations to be considered and voted on at December 30, 2014 meeting of Task Force.

Public Input:

- Technical advisor is missing from the Task Force. Subject matter expert that has experience in the field (ie. certified master grower) would be helpful.
- Management consultant working with MMJ in other states. Focus is on what is best for wellness of patients. Has testing capabilities, wants to support science that informs policy, look at vertical integration, interested in tapping UH capabilities.
- Representative from the government for the Hawaiian people stated they won't regulate medical marijuana on sovereign land. State government needs to establish clear policies.
- Edible aspirin is available in the pharmaceutical section. Packaging of product indicates that product is medicinal.

Quick Reference Table - Completed Votes

Recommendation	Yes	No	Defer	Total Votes
1.1	15	1	3	19
1.2	15	0	4	19
1.3	10	6	2	18
1.4	14	4	1	19
2.1	14	2	2	18
2.2	12	1	5	18
2.3	13	1	5	19
2.4	18	1	0	19
4.1	13	2	3	18
4.2	18	0	1	19
7.1	14	4	1	19
7.2	13	6	0	19

**Note: Nineteen authorized members of the Task Force were present with two representatives from the Department of the Attorney General participating in voting. The voting tallies for Recommendations 1.1, 1.2, 2.3, 2.4, and 4.2 are amended to record only one vote for the Attorney General.*

Next Steps

- Open items
 - Defer recommendations 3 & 5 to subcommittee for discussion and vote
 - Review and vote on recommendations – 6, 8, 10, 11, 12, 13, & 14
 - * Not addressed during this meeting due to time constraints
- Sub-committee meetings
 - Discuss recommendations 3 & 5 – Dan Gluck will coordinate
 - The subcommittee will produce a report prior to December 30, 2014, meeting.
- Additional Task Force meeting to consider and vote on remaining recommendations and review final report: December 30, 2014, from 9am – 12pm

**The next Task Force Meeting is Tuesday, December 30, 2014 at the State Capitol,
Room 329 from 9:00am – 12:00pm.**

HCR 48 Task Force Meeting #8
Tuesday, December 30, 2014, 9:00 am-12:00 pm
Hawai'i State Capitol, Room 329

Task Force Members Present:

Lance Goto (alternate for Jill Nagamine), Attorney General's Office
Peter Whiticar, Department of Health
Robert Nagamine (alternate for Ted Sakai), Director Department of Public Safety
Jonathan White, Department of Taxation
Lee Ann Teshima, Department of Commerce and Consumer Affairs
Susan Chandler, University of Hawai'i Public Policy Center
Representative Della Au Belatti, House Committee on Health
Senator Rosalyn Baker
Representative Gregg Takayama
Jensen Uyeda, University of Hawai'i Tropical Agriculture and Human Resources
Pam Lichty (alternate for Rafael Kennedy), Drug Policy Forum
Dr. Clif Otto, Physician participating in Hawai'i's Medical Marijuana Program
Karl Malivuk, Patient over the age of 18 and a participant in Hawai'i's Medical Marijuana Program
Jari S. K. Sugano, Guardian of patient under the age of 10 who is a participant in Hawai'i's Medical Marijuana Program
Dana Ciccone, Caregiver participating in Hawai'i's Medical Marijuana Program
Dan Gluck, American Civil Liberties Union of Hawai'i
Alan Shinn, Coalition for a Drug Free Hawai'i

Task Force Members Absent:

Senator Josh Green
Jon Riki Karamatsu, Department of the Prosecuting Attorney
Harry Kubojiri, Law Enforcement Coalition
Dr. Christopher Flanders, Hawai'i Medical Association

Other Legislators in Attendance: Senator Will Espero

Introductions: Roundtable introduction of participants

Review of Ground Rules:

Timeline – Report Draft to Legislature (first week of January)

Approval of Minutes:

Approval of minutes for November 18, 2014, and December 16, 2014, deferred due to time constraints. Minutes will be distributed and approved via email.

Public Input

Federal Law Enforcement no longer raid state medical marijuana dispensaries (memo released December 22). Federal agencies are more receptive to industry and medical marijuana initiatives.

Voting Procedures for Task Force Proposals

YES = I'm OK with putting this recommendation into the Task Force Report.

NO = I do not want this recommendation in the Task Force Report.

DEFER = This proposal needs more work and should be put into an appendix for further discussion.

PROPOSED RECOMMENDATIONS, DISCUSSION & VOTE TALLIES BY TASK FORCE:

Revised recommendations distributed by Representative Belatti. These revised recommendations were a compilation of those recommendations carried over from the December 16, 2014, meeting, recommendations developed by the Policy Subcommittee on December 22, 2014, and revisions based upon Department of Health calculations for resources and staffing needed to establish medical marijuana dispensary system program.

(2) PRODUCERS:

RECOMMENDATION 2.5: The Legislature shall preserve the right of qualifying patients to continue to cultivate their own medication if they wish to do so.

- This recommendation recognizes concern that patients be allowed to continue to grow as they have for last 14 years of existence of program, way to maintain the status quo and allow those growing now to continue to do so.
- Question asked whether this recommendation allows patients to grow together?
- Current statute remains silent on coop growing; this proposal needs to be addressed at a later time.

VOTE TALLY: YES=15; NO=0; DEFER=1

(5) RANGE OF PRODUCTS:

RECOMMENDATION 5.1: All products distributed by a dispensary must be distributed in opaque, child-resistant packaging. These products must be labeled clearly with the phrase "FOR MEDICAL USE ONLY." The label must include information about the potency and contents of the product.

- Question asked about whether chocolate/baked goods would be okay, provided packaging follows the rest of the recommendations (single dosage)?
- This would allow for certain edibles because patients might not like smoking; find smoking uncomfortable. Might prefer product like that made in Colorado – low dose cookie called a “rookie cookie.”
- Question asked about whether this recommendation would apply to concentrated oil in capsule? See Recommendation 5.3 related to “(excluding pills, extracts, and oils).”

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 5.2: No dispensary or producer shall produce or distribute any candy with medical marijuana; provided that lozenges shall be permitted. “Lozenge” is defined as a small tablet intended to be dissolved slowly in the mouth.

- These recommendations regarding the range of products are broad. Task Force needs more discussion.
- Concern expressed that prescription medicines typically do not come in these various forms. We should not be allowing commercial products that taste good or are pleasurable. Because the intent is to provide accessibility to medication, we should consider limiting range of products to capsules or drops, similar to other current pharmaceutical type products. Note that this is not about food regulation as product is a Schedule I drug with psychoactive ingredients.
- Recognition that there are benefits to methods of delivery that patients can take more easily (i.e. baked goods have a longer lasting effect and are easier to take; capsules may cause nausea).
- Comment made that other medications such as children’s medications are sweetened.
- Comment made that Task Force should act judiciously at the outset as this is a medical product. Colorado is not a good example to use as that state is implementing recreational use not medical use of marijuana. As a starting point, product should be kept more like traditional medicine (pills, capsules, concentrated oils, etc. are okay). Concerns are with products like candies, chocolates, cookies, sodas, etc.
- People can place the medicine in/on various items on their own. Product doesn’t need to be sold at the dispensary in particular form. For example, patients can place oils on cookies themselves.
- We don’t want dispensaries be the purveyors of edibles. Are there are other ways to accommodate those patients who are nauseated?
- There are different forms of delivery being developed all the time. Flexibility in the law needed or else it gets ossified and becomes irrelevant. Process needs to remain dynamic.
- Suggestion made to create a list of permissible items rather than excluded items.
- Report can reflect discussion of the idea of “edible items” and that there should be flexibility to allow for changes to be made later.

VOTE TALLY: YES=10; NO=3; DEFER=1.

RECOMMENDATION 5.3: Lozenges, capsules, and pills containing medical marijuana shall be packaged in such a way so that one dose/serving – a single wrapped item – contains no more than 10mg of active THC.

- Recommendation amended to remove “and edible items (excluding pills, extracts, and oils)” and replace with “capsules, and pills”.
- Question raised about how will gelatin capsules containing oils be singly wrapped? Can these be individually wrapped and put into bottles? What about requiring blister pack containers for pills?
- Include language that would allow the items/range of products to be reviewed and evolve with the program/industry.
- Legislature will need to consider whether to add explanatory language to explain what “single wrapped item” might look like.

- Products identified in this recommendation are still subject to requirements in Recommendation 5.1 above (opaque, child-resistant packaging; labeling).

VOTE TALLY: YES=13; NO=1; DEFER=0

RECOMMENDATION 5.4: Oils and extracts are permitted, provided that they are clearly labeled with the potency and contents of the product.

- Products identified in this recommendation are still subject to requirements in Recommendation 5.1 above (opaque, child-resistant packaging; labeling).

VOTE TALLY: YES= 13; DEFER=2.

(5A) MANUFACTURER REGULATIONS:

RECOMMENDATION 5A.1: “Manufacture” means the production, preparation, propagation, compounding, conversion, or processing of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction or chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of marijuana by an individual for the individual’s own use.”

- Recommendation from Policy Subcommittee initially state that “process” be defined as including “any procedure by which marijuana buds are converted into another form for consumption by patients.”
- Recommendation made that Task Force adopt definition of “manufacture” in HRS §329-1 in Hawaii’s Uniform Controlled Substances Act such that “process” would be replaced with “manufacturer” and “processor” would be replaced with “manufacturer” in Recommendations 5A.1 through 5A.3.
- Per HRS §329.1: ““Manufacture’ means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use.” Need to make this definition specific to marijuana.

VOTE TALLY TO AMEND RECOMMENDATION 5A.1: YES=14; NO=1; DEFER=0.

VOTE TO ADOPT HRS §329-1 DEFINITION FOR MANUFACTURE: YES=15; NO=0; DEFER=0.

RECOMMENDATION 5A.2: Any individual or entity with a license to dispense and/or produce medical marijuana shall be permitted to manufacture medical marijuana; provided that any dispensary and/or producer must also obtain necessary licenses from the appropriate regulatory agency if engaged in the manufacturing of medical marijuana or any other activity that, independent of the medical marijuana program, would require a license.

- Existing Department of Health regulations for commercial kitchens would apply here. The only state regulatory structure/mechanism we have now are kitchen/cooking/food regulations with its own licensing and regulatory system. This is closest to regulatory structure we have at this time.

VOTE TALLY: YES=15; NO=0; DEFER=0

RECOMMENDATION 5A.3: The Department of Health shall conduct inspections and audits of facilities where medical marijuana is manufactured. The Department of Health shall enforce all applicable regulations.

- Would food safety regulation cover oils? Yes
- AG suggested that PSD enforcement division be involved in inspections similar to pharmacy checks because law enforcement should be involved where Schedule I drug is being manufactured.
- DOH disagreed with joint inspections as inspections and audits are about the safety of the products. DOH would conduct the audit and refer to the appropriate department (i.e. PSD) as needed. PSD also joined DOH in disagreeing with joint inspections.

VOTE TALLY: YES=14; NO=0; DEFER=1

(6) INSPECTIONS:

RECOMMENDATION 6.1: Licensed medical marijuana dispensaries and production centers shall be subject to announced and unannounced inspections and audits of its operations by the Department of Health at least annually.

VOTE TALLY: YES=10; NO=0; DEFER=0

RECOMMENDATION 6.2: Requirements for annual reports and audits shall be determined by the Department of Health.

- Task Force should be more specific as to what is required in reporting (i.e. active licenses, volume dispensed, etc.).
- This recommendation deals with inspections of dispensaries and production centers not DOH reports to legislature.

VOTE TALLY: YES=10; NO=0; DEFER=0

(8) FEES AND DESIGN OF A TAX STRUCTURE:

RECOMMENDATION 8.1: The fee for an application for a license to operate a dispensary shall be \$20,000, with \$18,000 refunded to unsuccessful applicants.

- General comment made that two application processes being created by Recommendations 8.1 and 8.2: one process for operating dispensaries, another process for production centers.
- Recommendation made to require 26 vertically integrated dispensaries-production centers as this would simplify application process.
- Consider adding explanatory section in report as to reasons for vertical integration (i.e. simplifying application process).

VOTE TALLY: YES=15; NO=0; DEFER=0

RECOMMENDATION 8.2: The fee for an application for a license to produce medical marijuana up to 500 plants shall be \$2,000, with \$1,000 refunded to unsuccessful applicants. The fee for an application for a license to produce medical marijuana between 501 and up to 1000 plants shall be \$4,000, with \$2,000 refunded to unsuccessful applicants.

- Task Force considered and amended this recommendation to apply tiered application fee depending on number of plants produced (ie. higher fee for higher number of plants).

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 8.3: The existing DOH Medical Marijuana Registry Special Fund shall be amended and renamed the Medical Marijuana Registry and Regulation Special Fund with subaccounts for the medical marijuana registry program and the medical marijuana dispensary program. Fees from qualified patients and caregivers shall be deposited into the medical marijuana registry program subaccount. Fees from applicants and licensees of medical marijuana production centers and medical marijuana dispensaries shall be placed into the dispensary program subaccount.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 8.4: Annual renewal licensing fees for dispensaries shall be \$30,000 subject to review and revision by the department. Annual renewal licensing fees for medical marijuana production centers are to be determined by the Department of Health. These fees shall be sufficient to cover the costs to administer the medical marijuana dispensary program.

- Task Force members discussed necessity that fees from applications and renewed licenses cover the costs to administer the medical marijuana dispensary program.
- No objections raised to setting annual renewal licensing fees at \$30,000 as this is in line with fees in other jurisdictions. There should be some language that allows review and revision of fees by the Department.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 8.5: Sales of medical marijuana shall be subject to the Hawaii General Excise Tax.

- This recommendation was amended to remove “currently 5% on wholesale transactions, 4.5% for retail transactions on O’ahu, and 4.0% for retail transactions on all other islands.”
- Basic concept is that the current GET scheme would apply to sale of medical marijuana products.

VOTE TALLY: YES=16; NO=0; DEFER=0

(12) EDUCATION AND TRAINING:

RECOMMENDATION 12.1: The Department of Health shall employ a staff person to provide medical marijuana health education. The Department of Health shall also establish a training or certification program for dispensary employees.

- “Health educator” changed to “staff person to provide medical marijuana health education” because of possible conflict with “health educator” description.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 12.2: The Department of Health shall develop an annual medical marijuana program report to the Legislature.

- Department of Health representative to provide list of factual items that would at minimum be included in report to legislature. This list will be provided in guidance section of report.

VOTE TALLY: YES=16; NO=0; DEFER=0

(13) RESOURCES AND DOH STAFFING:

RECOMMENDATION 13.1: The Legislature should provide sufficient resources each year FY16 (July 1, 2015, through June 30, 2016) and FY17 (July 1, 2016, through June 30, 2017) to establish the Medical Marijuana Dispensary Program. Based on Department of Health projections, the Legislature should allocate \$510,000 in general funds for FY16 and \$510,000 in general funds for FY17 to the Medical Marijuana Registry and Regulation Special Fund in order to set up the Medical Marijuana Dispensary Program. The General Fund shall be reimbursed for the monies allocated in FY16 & FY17 with dispensary and production center application and licensing fees. After these fiscal years, the Dispensary Program will be self-sufficient and funded with dispensary and production center application and licensing fees.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 13.2: The Legislature should direct the Department of Health to establish 5 FTE exempt positions to facilitate implementation of the Medical Marijuana Dispensary Program.

- Discussion about whether creation of an “exempt Medical Marijuana Dispensary Project” is necessary. This language deleted from recommendation.

VOTE TALLY: YES=16; NO=0; DEFER=0

(14) FEDERAL INTERFACE AND PROTECTIONS:

RECOMMENDATION 14.1: The Department of Health shall initiate on-going dialog among relevant state and federal agencies to identify processes and policies that ensure privacy of patients and compliance of patients, caregivers, producers, and dispensaries with state laws and regulations related to medical marijuana.

- Discussed need for stronger wording requiring dialog and delineating specific federal agencies (i.e. DOJ, Homeland Security, Coast Guard).
- Suggestion made to establish MOUs. This may not happen because TSA employees won't violate federal laws.
- Recommendation amended to make Department of Health responsible for initiating dialog.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 14.2: DOH shall petition the DEA to initiate rescheduling proceedings for marijuana.

- Suggestion made to consider and vote on this recommendation.
- Concern expressed that this recommendation is outside the scope of the Task Force.
- Question raised whether petition to DEA is the prerogative of the Department of Health or the Legislature?

VOTE TALLY: YES=4; NO=10; DEFER=1

(15) RESTRICTIONS ON ADVERTISING:

RECOMMENDATION 15.1: The Department of Health shall promulgate rules limiting the size and format of any sign(s) outside the dispensary itself.

- This recommendation split into two: one for signage outside of dispensary, one for prohibiting advertising to children.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 15.2: Dispensaries and producers are prohibited from using cartoon characters or other designs intended to appeal to children.

VOTE TALLY: YES=16; NO=0; DEFER=0

(10) SECURITY:

RECOMMENDATION 10.1: The Department of Health shall promulgate regulations mandating the following security measures to ensure that medical marijuana is provided only to patients and is not diverted for non-medical use:

- (1) For dispensaries:**
- (a) Video surveillance;**
 - (b) Inventory tracking software (“seed to sale”);**
 - (c) Alarm system; and**
 - (d) Exterior lighting.**

- (2) For producer grow sites:**
- (a) Video surveillance;**
 - (b) Inventory tracking software (“seed to sale”);**
 - (c) Alarm system; and**
 - (d) Black-out fencing for open outdoor grow sites.**

- Recommendation amended to add “alarm system” as requirement for grow sites.
- Question raised whether “black-out fencing” would be required of enclosed greenhouses. Recommendation as to “black-out fencing” being required for open outdoor grow sites.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 10.2: The Department of Health may place additional security restrictions on dispensaries and production centers.

VOTE TALLY: YES=16; NO=0; DEFER=0

RECOMMENDATION 10.3: Applicants for licenses to operate and prospective employees of dispensaries and production centers shall submit to criminal background checks. Those with felony convictions shall be prohibited; provided that the department may promulgate regulations to allow individuals with felony convictions related to marijuana more than 10 years ago to own or work at a dispensary or production center.

- Concerns expressed that those with felony convictions, notwithstanding any length of time, should be prohibited from ownership or work at any dispensary or production center.
- EEOC has relaxed rules pertaining to drug related felonies as limitations to employment.
- The LRB should consult EEOC guidelines from 2012 for language to be placed in bill related to this recommendation.

VOTE TALLY: YES=15; NO=0; DEFER=1

RECOMMENDATION 10.4: Patients and caregivers shall be allowed to purchase up to eight ounces of medical marijuana per month from a dispensary, provided that no patient or caregiver may possess more than four ounces of marijuana at any one time.

- Questions raised about physician making recommendation for amount instead of applying an upper limit, what does “equivalent” mean, how would tracking of amounts be done (ie. through a DOH directory)?
- Recommendation is deferred and appendix to be added to report by those on Task Force who did some of the initial work on this recommendation.

RECOMMENDATION 10.5: The patient possession limit for processed medical marijuana shall be based on the equivalent amount of dried bud leaf. Therefore patients may possess no more than four ounces of medical marijuana, or the equivalent of four ounces of medical marijuana in other forms.

- Recommendation is deferred and appendix to be added to report by those on Task Force who did some of the initial work on this recommendation.

(11) QUALITY/LABORATORY SCREENING:

RECOMMENDATION 11.1: The Department of Health shall promulgate rules to provide for screening of medical marijuana for content (e.g. THC, CBD, and/or other cannabinoid concentrations), contamination and consistency.

- The Department will need to bring in experts to help develop screening.

VOTE TALLY: YES=15; NO=0; DEFER=0

Public Input

- Placing limits on how much one can buy is discriminating against people not individually growing, certain strains of medicine, & certain diseases that require different medication dosage.
- Products and edibles - KISS system
- Annual inspections are not enough. Recommend inspections on quarterly basis.
- Recommend smaller production centers with less plants.
- Testing - recommend physician’s discretion.
- Signage - use current regulations.
- Advertising - not required or necessary.
- Potential issue for patient’s privacy created by video surveillance, purchase limits & tracking of purchase.
- Background checks - pharmacies do not require it – dispensaries shouldn’t either.
- Concerned about low dosage limits on products of 10mg/dose. If patient requires 100mg, does not want to have to take 10 pills.
- Task Force geared toward regulatory process. Perspective has been based on law enforcement model, not patient model.
- Concerned that new forms require a lot of information and violates patients' privacy.
- Questioned where there is caregiver experience on the Task Force.
- The use of edibles is important for many patients.
- Growing takes a lot of work to be limited to 4oz

- What is advertisement? Listings in phone book? Email discussions? Word of mouth? Anything on the Internet?

Next Steps

- Review the minutes from Nov 18 and Dec 16
 - Review votes from Dec 16 meeting – AG had 2 votes
 - Distribute to TF via email for approval
- Revised recommendations will be distributed by end of the day Jan 31
 - Distribute to TF via email
 - Distribute to the LRB no later than Jan 5

Final Task Force Meeting adjourned.

APPENDIX D

HAWAII DISPENSARY TASK FORCE QUESTIONS FOR STATE MEDICAL MARIJUANA AND DISPENSARY PROGRAM ADMINISTRATORS October 2014

1. Appropriate number and location of dispensaries
Structure of dispensaries (Nonprofit? For-profit? State?)
What is the right fit (#, location) in year 1 for our patient population (economic feasibility, medical necessity)?
 - What's the percentage of patients that use dispensaries?
 - Should DOH make recommendations for the first 1-3 years based on the roll-out? Who decides on the number and distribution of dispensaries and using what criteria?
 - How do we deal with geographical discrepancies (rural areas)?
2. Manufacturing Issues (Cultivation, Quality control; types of product, testing, labeling, security, environmental issues)
 - What's the best method for cultivating in-house or external source?
 - Who tests the medicine? Dispensaries or state-run department?
 - How do you handle regulation structure at different levels (growing, security, point of sale)?
 - Is indoor growing more secure than outdoor?
3. Administration (registration, staffing, regulatory issues, evaluation)
Database, Data needs, Privacy concerns
 - What is the process to become an operator? How do we select the applicants?
 - Do we want the retailers to be the growers (vertical integration)? What cultivation practice works best (indoor vs outdoor)?
 - How do we ensure medical marijuana (MMJ) is not cost prohibitive for patients?
 - What kind of regulatory structure do they (the other state) have in place?
4. Education and Training (consumers, physicians, public; protection of minors)
 - Do states have education/training experts that can educate and inform doctors, patients, and the general public?
 - How does your state educate and inform dispensaries/operators about the legal and safety best practices, community involvement, and sensitivity?
 - Does your state have educational resources for minors on medicine and drugs in the DOE, private, or community resources?

APPENDIX D

5. Taxes/revenue/costs
 - To what degree did your state utilize your current tax system to the medical cannabis industry (NM specifically because they have similar GET system)?
 - What are the ranges of tax rates applicable to different points of the industry? (import of seeds → use up to 4%; grower→manufacturer wholesale tax ½ %; manufacturer → retailer ½ %; etc)
 - Are taxes earmarked for particular uses? What are those uses?
 - Lessons learned/best practices – If you could design your tax system based on what you now know, what would you do and not do?
 - Does your state collect any revenue not in the form of a tax (i.e. application or registration fees)?

6. Federal interface
 - How do we protect state licensed dispensaries from Federal interference? How do you enlist the support of local/state law enforcement?
 - Are there steps the state can take to pre-emptively protect the patient population from federal interference?
 - How do we allow for intra-state transport of product?

APPENDIX E

EXECUTIVE SUMMARY OF THE POLICY SUBCOMMITTEE REPORT TO HCR 48 MEDICAL MARIJUANA DISPENSARIES TASK FORCE¹

November 3, 2014

These are recommendations of the Policy Subcommittee of the HCR 48 Task Force. As set forth in more detail herein, we recommend the following.

- 1. Number and location of dispensaries.** The Subcommittee recommends that:
 - The Legislature require the Department of Health to offer a minimum of 15-30 dispensary licenses, representing a ratio of approximately 500 to 1,000 patients per dispensary;
 - The Department of Health issue dispensary licenses by county in proportion to patient density within each county (based on county of residency, rather than county of certification).

- 2. Design of a tax structure.** The Subcommittee recommends that:
 - The Legislature adhere to the existing GET for purchases of medical marijuana at dispensaries;
 - The Legislature allow dispensary owners to deduct business expenses from income for purposes of state income taxation;
 - The Legislature require dispensaries to be incorporated as non-profit corporations pursuant to Hawai'i Revised Statutes chapter 414D.

- 3. Location and restriction issues.** The Subcommittee recommends that:
 - The Legislature remain silent as to buffer zones around dispensaries. The Subcommittee is not aware of any evidence to suggest that buffer zones yield any benefit to public safety, or that buffer zones are effective at limiting non-patients' access to medical marijuana. Nevertheless, if the Legislature believes that a buffer zone is a political necessity to ensure passage of a dispensary bill, then the Subcommittee suggests a buffer zone between dispensaries and schools, narrowly defined, of not more than 500 feet, set by statute;
 - The counties maintain their traditional authority over zoning matters, but that the Legislature should explicitly state that counties may not enact zoning ordinances that apply only to (or have as their principal targets) medical marijuana dispensaries;

¹ A complete copy of the Policy Subcommittee's Report to the HCR 48 Medical Marijuana Dispensaries Task Force, dated November 3, 2014, can be found at <http://www.publicpolicycenter.hawaii.edu/projects-programs/hcr48.html>

APPENDIX E

- The Department of Health be required to enact administrative rules that allow travelling dispensers to service smaller, less-populous islands.

4. Methodology for ensuring safety of supply. The Subcommittee recommends that:

- The Legislature require the Department of Health to promulgate rules to provide for screening of medical marijuana for content, contamination, and consistency;
- The Department of Health employ a medical marijuana health educator, funded by licensing fees paid by dispensaries and growers;
- The Department of Health establish a training or certification program for dispensary employees.

5. A framework for cultivating and manufacturing medical marijuana. The Subcommittee recommends that:

- Any proposed dispensary statute remain silent with respect to a statutory limit on the number of plants allowed per grower, with a clear understanding that the grower takes on all risk of federal prosecution in producing medical marijuana;
- The Legislature explicitly provide that qualifying patients possess the right to continue to cultivate their own medical marijuana if they wish to do so;
- The Legislature allow dispensaries to grow medical marijuana on the premises and/or at a second secured and registered location, or to contract out the growing and production to one or more other entities which shall also be licensed by the Department of Health;
- The Legislature require growers to obtain a license from the Department of Health and pay a licensing fee (which will be lower than the licensing fee for a dispensary).

6. Regulations to ensure security and public safety. The Subcommittee recommends that:

- The Legislature require the Department of Health to promulgate regulations mandating the following security measures to ensure that marijuana is provided only to patients and is not diverted to non-medical use:
 - i. For dispensaries:
 1. Video surveillance
 2. Inventory tracking software (“seed to sale”)
 3. Alarm system
 4. Exterior lighting

APPENDIX E

- ii. For grow sites:
 1. Video surveillance
 2. Inventory tracking software (“seed to sale”)
 3. Black-out fencing

7. Restrictions on advertising. The Subcommittee recommends that:

- The Legislature allow the Department of Health to promulgate rules limiting the size and format of any sign(s) outside the dispensary itself;
- The Legislature require the Department of Health to promulgate rules prohibiting dispensaries and producers from using cartoon characters or other designs intended to appeal to children;
- No additional advertising restrictions are necessary, insofar as dispensaries will have no financial incentive to advertise to non-patients. Nevertheless, the Subcommittee recommends that, if the Legislature believes additional restrictions are necessary, the Legislature could allow the Department of Health to promulgate rules prohibiting dispensaries and producers from advertising in a way that primarily targets individuals who are not medical marijuana patients.

8. Preventing federal interference. The Subcommittee recommends that:

- The Legislature eliminate the statutory inconsistencies in HRS §§ 329-121 and 329-122 to clarify allowable transport of medical marijuana by qualifying patients, caregivers, dispensary operators, and manufacturers; and
- The Legislature explicitly provide that growing medical marijuana on public lands is prohibited.
- By enacting the above-referenced recommendations, the Subcommittee believes that the Legislature will have fully addressed the Department of Justice’s stated priorities in enforcing federal marijuana laws.

These recommendations, along with viable alternatives that the Subcommittee identified, are discussed in greater detail in the rest of this report.

APPENDIX F

FEDERAL INTERFACE SUBCOMMITTEE RECOMMENDATIONS

December 16, 2014

Q1. How do we protect state licensed dispensaries from potential federal interference, and enlist the support of local/state law enforcement?

[1] Have the Legislature adopt legislation that will hold harmless local and state law enforcement from the liability of not complying with federal regulation regarding the medical use of marijuana.

[2] Have PSD create a memorandum of understanding with Hawaii HIDTA that prevents the use of Fusion resources to target Cultivators, Dispensaries and Patients that are in compliance with state law.

Q2. Are there steps that the State can take to prevent potential federal interference?

[3] Have the State Attorney General release a formal opinion that supports the State's authority to accept the medical use of marijuana and that supports the creation of a state-sanctioned Dispensary System.

[4] Have DOH file a formal petition with the DEA requesting that marijuana be removed from the federal Schedule I controlled substances list based on the State's authority to accept the medical use of marijuana.

[5] Have the State Attorney General file a federal injunction enjoining any further enforcement of marijuana as a Schedule I controlled substance.

Q3. How do we allow for transportation by patients and producers?

[6] Have the Legislature adopt statutory changes that remove the current ambiguity surrounding medical use and transportation through a public place.

[7] Have DOT adopt rules that allow patients, caregivers, and Dispensary agents to transport an adequate supply of marijuana through Hawaii airports and harbors.

[8] Have language within the Dispensary Bill that allows for inter-island transportation of material to those islands that will not be able to support Dispensaries.

APPENDIX G

WORKING GROUP RECOMMENDATIONS

GROUP 1: Appropriate number/location

INTRODUCTORY SECTION(S):

- Approximately 13,000 patients now. Other states have imposed hard limits on the number of dispensaries allowed statewide, but those limits typically result in a ratio of approximately one dispensary for every 500 to 1000 patients. Rather than setting a firm number, we believe setting a ratio is more appropriate; this will allow for growth and flexibility in the program. We believe that a ratio of approximately one dispensary for every 500 patients will allow sufficient dispensaries to reach all qualifying patients while keeping the number small and manageable enough to allow for sufficient oversight and regulation.
- Recognize that patients in urban areas are more limited in their ability to grow their own medicine; as such, allow the Department of Health flexibility to offer more licenses for dispensaries in urban areas.
- Nothing in this chapter shall limit the rights of qualifying patients and/or caregivers to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell or dispense as set forth in HRS chapter 329.

I. DEFINITIONS

“**Department**” shall mean Department of Health unless otherwise noted.

“**License**” means a license issued by the Department pursuant to this chapter. There shall be both dispensary licenses and producer licenses, though dispensaries shall be entitled to produce without obtaining a separate license.

“**Nonprofit medical cannabis dispensary**” (or “**dispensary**”) is a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses medical cannabis, related products, and/or related supplies and educational materials to qualified patients, their caregivers, other dispensaries, and/or producers. A dispensary may be a producer without obtaining a producer license.

“**Producer**” is an entity that is licensed by the Department to produce medical cannabis, related products, and/or related supplies and sell, deliver, transport or distribute medical cannabis solely to nonprofit medical cannabis dispensaries or other producers. *[Note: may want to reference HRS §329-1 definition of “production” here.]*

“**Public School**” shall have the same meaning as in HRS § 302A-101.

APPENDIX G

II. FORMULA FOR DETERMINING THE NUMBER OF LICENSES

A. DISPENSARY LICENSES

The Department shall determine the number of licenses available for nonprofit medical cannabis dispensaries, subject to the following:

1. The Department shall offer a minimum of one license for a dispensary to operate within each county, with the exception of Kalawao County;
2. The Department shall issue licenses by county in proportion to patient density within each county, with patient density determined according to a patient's county of residency rather than the county in which the patient is certified, provided that the Department may allocate additional licenses for dispensaries to operate in the City & County of Honolulu;
3. Upon initiation of the dispensary program, the Department shall offer a minimum of twenty-six licenses, representing a ratio of approximately one dispensary for every 500 patients; and
4. As the number of patients fluctuates, the Department shall endeavor to offer sufficient licenses such that the ratio of qualified patients to dispensary does not exceed 500:1, offering more licenses as necessary to achieve this goal; provided that this subsection shall not create a cause of action against the Department or any State official for failing to offer additional licenses due to the ratio exceeding 500:1 unless the ratio exceeds 1500:1, in which case a qualified patient and/or caregiver may bring a claim for injunctive relief only to require the Department to issue additional licenses to reduce the ratio of qualifying patients to dispensary.

B. PRODUCER LICENSES

1. The Department shall issue licenses to producers. Producers may only distribute cannabis, related products and/or related supplies to dispensaries and/or other producers.
2. Producers may acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell or dispense no more than _____ plants at any one time.

Note: Approximately 39,000 plants needed to supply 13,000 patients.

- *500 plants/producer = 78 producers needed*
- *1000 plants/producer = 39 producers needed*

3. Upon initiation of the dispensary program, the Department shall offer a minimum of _____ producer licenses;

APPENDIX G

4. As the number of patients and dispensaries fluctuates, the Department shall endeavor to offer sufficient producer licenses such that dispensaries are able to obtain sufficient supply, offering more licenses as necessary to achieve this goal;

5. Dispensaries may produce cannabis, but must obtain a separate producer license to do so. *[Note: 26 dispensaries → approximately 1,500 plants per dispensary (if growing all internally)]*

III. ZONING

- Dispensaries and producers shall comply with County zoning ordinances, and each County shall continue to have authority over zoning matters; provided that no County may enact or enforce any zoning ordinance that applies only to (or otherwise targets for disproportionately restrictive treatment) a dispensary and/or producer.
- No dispensary or producer shall be located within 500 feet of a public school.

IV. PROTECTION AGAINST PROSECUTION

- HRS § 329-125 shall be amended to offer same protections (affirmative defense) to dispensaries/producers.
- HRS § 329-122 shall be amended to clarify that patients, caregivers, producers, and dispensaries shall be permitted to transport cannabis within Hawaii and between the Hawaiian islands.
- Nothing in this chapter shall indicate that an individual has a defense against prosecution pursuant to federal law for acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, selling or dispensing cannabis, related products, and/or related supplies.

V. TRANSPORTATION

See above under protection against prosecution.

- In the event that there is no licensed dispensary on an island, one or more dispensaries on another island may request written permission from the Department to allow a dispensary employee or owner to deliver cannabis, related products, and/or related supplies to patients and/or caregivers on the island that lacks a dispensary. The Department shall grant such written permission within 60 days unless good cause exists to deny the request.
- The owner or employee of the dispensary shall maintain possession of the cannabis, related products, and/or related supplies at all times until delivered to a qualifying patient or caregiver.

APPENDIX G

Group 2: Cultivation/Production/Manufacturing Issues – Range and Type of Products

- The number of plants, and level of inventory in dispensaries should not be specified in statute. Individual dispensary operators should be made aware of potential increases in federal penalties, and can make their own decisions accordingly. This is because dispensaries need to be able to react to changes in demand, and potential crop loss by producing more or less medical cannabis.

- Dispensaries shouldn't be required to produce their own, but should be able to if they choose to. Dispensaries and producers should have separate licensure and dispensaries that wish to grow their own should be required to acquire production licenses as well. They should be able to trade or sell their produce to other dispensaries so as to insure that dispensaries maintain a wide variety of strains and products that meet a broad cross section of patient needs. Trades or sales between dispensaries need to be reflected in dispensary inventory tracking software and subject to surprise audits by the Department of Health.

- Hawaii's current caregivers and patients must be required to continue growing their own cannabis, because they have been required to do so for 14 years, current growers have been developing their production systems with extensive investment requirements in terms of time, knowledge and infrastructure. Patients that have been able to tailor a specific genetic to their needs must not be deprived of this, but should have access to a dispensary in cases of crop failure, so as to ensure a consistent supply. Patients will still be subject to the existing medical cannabis law that includes a limit on the amount of cannabis that may be in their possession.

- Both indoor and outdoor growing should be permitted. Both systems have certain benefits and costs:
 - Indoor growing has higher capital requirements, has certain benefits in terms of pest control.
 - Indoor growing also has much higher energy requirements than outdoor grows and increased security.

- Do we need to define Medical Cannabis as an “agricultural commodity” within HRS? (Research point.)

- All types of products should be allowed. Medical cannabis, and related products such as food – tinctures, aerosols, ointments, and extracts, as well as seeds, clones and all plant material. The latter should be for patients and caregivers that grow their own.

- All products should be in opaque packaging without pictographic labeling, and with all necessary labeling: levels of various cannabinoids, the media used in extractions as applicable, the name or id number of the grower, and disclaimer that this product is intended only for licensed patients.

- There should be no signage at cultivation centers. Dispensaries should be limited to a small sign (the size and content of which shall be specified by the Department of Health) and opaque windows. Cannabis should not be immediately visible upon entering the facilities, but instead, this must be behind a second door with access limited to patients and caregivers.

APPENDIX G

Group 3: Administrative/Regulator Structure – Taxes and Fees Structure

What state agencies will be involved to do which tasks? The dispensary system shall operate within the Department of Health. The Department shall license dispensaries, conduct audits (announced and unannounced), oversee screening, maintain patient database, etc.

Licensure and/or registration requirements for cultivators/producers: Producers will pay an application fee of \$2,000. \$1,000 will be refunded if an application is unsuccessful. The ongoing annual renewal fee will be determined by the Department of Health.

Application fees, registration/licensing fee and amount for dispensaries? Applications to set up a dispensary will cost \$20,000. Applications meeting a minimum threshold for security requirements set forth in statute shall be entered into a lottery, to be administered by the Department of Health. Applications that are unsuccessful in the lottery shall receive a refund of \$18,000. The ongoing annual license fee shall be determined by the Department (this is the way it is done in Minnesota).

How much startup funds will be needed as well as ongoing program funds? We suggest asking for a modest appropriation from the General Fund, to be determined by the Department of Health's budgetary requirements. After the first appropriation, program costs will be covered by application and licensing fees.

Shall proposed legislation include any target dates or implementation triggers regarding licensing/registration of dispensaries/cultivation centers? Legislation shall include target dates for issuing at least one license in each county, and a target date for dispensaries being up and running in each county. The Department shall issue at least one producer license and one dispensary license in each County by June 1, 2016, given sufficient applications, and dispensaries may become operational on January 1, 2017. This will provide a span of time during which the Department of Health can streamline regulatory operations.

For purposes of establishing system of dispensaries/cultivation centers and related licensing, regulation, any specific staff positions to be created? The Department of Health should add a medical marijuana health educator on staff. In addition, the Department of Health will likely need to add a position for a person to oversee licensing and audits once dispensaries are up and running.

Establish any penalties for unauthorized sales/distribution by dispensaries/cultivation centers/qualified patients? Both producers and dispensaries will be audited once a year, announced, and should expect surprise audits periodically throughout the year. For irregularities found in audits, the dispensary will have thirty days to respond. The Department of Health shall establish a hearing process for such irregularities. Dispensaries and producers shall report any unauthorized sale immediately. The penalty for an unauthorized sale shall be determined by the Department, and may include an automatic revocation of the license. If a dispensary or producer immediately reports an unauthorized sale, the entity shall be protected from prosecution, and the individual employee involved shall be held responsible.

APPENDIX G

NOTE: “Producer” is an entity that is licensed by the Department of Health to produce medical cannabis, related products, and/or related supplies and sell, deliver, transport or distribute medical cannabis solely to nonprofit medical cannabis dispensaries or other producers. “Dispensary” means the storefront housing a retail operation that dispenses medical marijuana to qualifying patients.

Taxes: Purchases and wholesale sales of medical marijuana shall be subject to GET, which is 0.5% wholesale, and 4.0% or 4.5% retail (depending on County).

APPENDIX G

Group 4: Methods of Ensuring Public Safety and Security of Supply

Methods of ensuring public safety and security of supply:

(1) Dispensaries will have, at a minimum, double door entry, 24-hour video monitoring and recording, safety measures to include security guards, alarm system, and exterior lighting, and secure on-site storage for all material awaiting retail sale.

Minimum security requirements for cultivators:

(2) Cultivation Facilities will have, at a minimum, 24-hour video monitoring and recording, a means of preventing public viewing, security measures such as fencing, security guards, alarm system and exterior lighting, and secure on-site storage for all material awaiting processing or disposal.

Regulation of owners and staff:

(3) Dispensary and Cultivation Facility owners and staff will undergo criminal background checks, and will be excluded from participation for any type of felony and selected misdemeanors, such as tampering with government records, computer crime, deceptive business crimes, identity theft and perjury related offenses.

Inventory control to prevent diversion:

(4) The Department of Health will create and maintain a centralized internet based database that will allow for tracking of all material from seed to sale, including unused material and individual patient allowances, which will allow for 24-hour case specific connectivity by other appropriate state agencies.

(5) All material for retail sale will be packaged in a manner that is tamper resistant and will allow for rapid law enforcement identification and verification.

(6) The Department of Health will adopt administrative rules that will regulate the safe intra-island transportation from Cultivation Facilities to Dispensaries.

(7) The Department of Public Safety will adopt criminal offenses for Dispensary and Cultivation Facility non-compliance.

Insuring that patients have access to safe material:

(8) The Department of Health will adopt administrative rules that will allow for the creation of state-certified independent analytical laboratories that will be able to perform specified Cannabinoid and contaminant testing for Cultivation Facilities, Dispensaries and Patients.

(9) The Legislature will take steps to protect the right of patients to co-locate the cultivation of their marijuana.

APPENDIX G

(10) The Department of Transportation will adopt administrative rules that will allow for the inter-island transportation of marijuana by Cultivation Facilities and Dispensaries in order to supply patients on islands such as Lanai and Molokai that may not have their own Dispensaries.

Federal Interface:

(11) The Department of Transportation will adopt administrative rules that will protect the inter-island transportation of a patient's adequate supply of marijuana.

(12) The Legislature will adopt legislation that will remove the current ambiguity surrounding medical use and transportation in a public place.

(13) The Legislature will adopt legislation that will hold harmless local and state law enforcement from the liability of not complying with federal law pertaining to the medical use of marijuana.

Areas where use is prohibited: Current regulations are sufficient.

Movement of material to labs for testing:

(14) The Department of Health will create and maintain a centralized internet based database that will allow for tracking of all samples submitted by Cultivation Facilities and Dispensaries to state-certified analytical labs, including the results of such testing.

(15) The Dispensary Bill will include language that will protect state-certified labs from federal intervention and prosecution.

Visitors to Hawaii:

(16) Only locally certified patients will be allowed access to dispensaries.

APPENDIX G

Group 5: Business Requirements for Licensed Dispensaries

Business Requirements and Regulation of Dispensaries and Producers Recommendations:

1. Medical Marijuana dispensaries (retail) and producers (cultivation and edible preparation) should be licensed. Both types of licenses can be issued to one agency or separate agencies.
2. The Department of Health ("Department") should be the agency responsible for the licensure and regulation of dispensaries and producers. The Department will determine where this function would be best placed within the Department.
3. The Department should develop the qualifications for licensure and all the related administrative rules. The dispensary legislation should be as specific as possible in identifying the components it expects the Department to include in its licensing and regulatory requirements. This will help guide the Department's rule making.
4. The Department may establish working groups to obtain information and guide the development and implementation of rules, standards, guidelines, procedures etc. The Department should consider establishing an advisory board to assist in guiding the program.
5. Legislation should be silent on the issue of an agency's for profit or not for profit status eligibility to apply for a dispensary or producer license. Either is acceptable.
6. Any applicant for a dispensary or producer license must meet minimum standards (as established by the Department) on all requirements before being considered for a license. Following is a list of requirements that the Department should consider requiring with application for dispensary licenses: business registration, GET license, facility plan, product and site security, plans for a site with appropriate commercial (dispensary) or agricultural (producer) or other appropriate zoning and following federal guidelines on distance away from schools etc., criminal history background clearance, tax clearance, citizenship, and possible requirements related to Hawaii residence.
7. Applicants would be required to maintain records for finances, supply and inventory, security, staff training/certification, sales and laboratory quality testing etc.
8. The Department should carry out annual onsite monitoring visits before annual renewals are granted. Ad hoc or surprise site visits for any reason including complaints by the Department should be authorized.
9. The Department should be authorized to require corrective action plans, apply sanctions, suspend or revoke licensure of dispensaries or producers if there is evidence of significant or uncorrected violations particularly for health, safety and criminal reasons. An appropriate appeals process will have to be developed.

APPENDIX G

10. A financial audit paid for by the licensee will be submitted to the Department prior to annual renewal. Problems identified in the audit may have to be corrected before the renewal is granted.
11. The Department should expand the capacity and utility of its current medical marijuana registry online data base to securely permit the required access of dispensary operators to i. verify patient and care givers (as needed) before entry to dispensaries and always before purchase of medical marijuana, ii. record each purchase for each patient to permit control of total monthly purchases per patient across all Hawaii dispensaries, iii. permit calculation of the number of individual patients served by each dispensary and help verify inventory/sales/etc., and iv. permit analysis (without patient identifiers) of medical marijuana services.
12. The legislature should provide adequate startup funds to the Department for the development of this expanded online data base system so it is operational for the start of dispensary operations.
13. Production and/or sale of edibles will require an additional level of regulation and oversight including packaging, labeling, child safety, food safety.

Education and Training Recommendations:

The Task Force considers information, education and training related to medical marijuana to be core public health components of a dispensary program. It is recommended that:

1. The Department of Health take the lead in coordinating the assessment needs and development and delivery of medical marijuana information, education and training services both directly and in collaboration with community partner agencies;
2. These activities should be science or practice based;
3. Services should target the following groups: Hawaii physicians and other health professionals, patients and care givers, law enforcement, youth under 18 years both in and out of school, law and policy makers and the general public;
4. The Department of Health in conjunction with the Department of Commerce and Consumer Affairs develop standards of practice or certifications and training requirements for supervisors and staff working in dispensaries to ensure services to patients are of high quality and in keeping with the law; and
5. One FTE public health educator staff and adequate resources to support this staff person should be made available to the Department of Health in an ongoing manner.

APPENDIX G

The information, education and training should be accessible to all target populations. The Department of Health should consider the following methodologies among others:

- Developing and maintaining a website with up to date information on Hawaii's program and a full range of topics;
- Organizing CME and other professional trainings on the medical use of marijuana and the interface of physicians with the program;
- Organizing meetings and conferences that bring stakeholders together to share information;
- Monitor and make available new information related to medical use of marijuana in other states/countries;
- Developing written materials on the program for target populations;
- Coordinating meetings of dispensary managers, physicians and patients to foster open dialogue on how to improve services;
- Provide electronic program and other medical marijuana updates to those who sign up
- Collaborate with the Department of Education and community agencies to support efforts to prevent youth marijuana use and an understanding of the purpose of the medical marijuana program is not recreational;
- Collaborate with the Department of Transportation and other agencies to discourage driving under the influence;
- Coordinate efforts to develop clear and effective labeling for medical marijuana and related products to inform patients and physicians;
- Coordinate efforts to develop rules and policy for use of safe and child proof containers to prevent child access to medical marijuana;
- Develop materials and coordinate trainings for law enforcement personnel so they understand Hawaii's medical marijuana laws and how the program is run;
- Coordinate with other agencies to collect and analyze marijuana and medical marijuana related data from a range of sources to monitor legal and illegal use and any impact on public health; and
- Develop annual medical marijuana program report to provide transparency of the program.

APPENDIX H

RESOURCES REQUIRED TO ESTABLISH THE MEDICAL MARIJUANA DISPENSARY PROGRAM RECOMMENDATIONS

December 29, 2014

The Task Force recognizes that the process to establish the medical marijuana dispensary system is complex and has many components. Some of the key components will require establishing and managing several expert working groups to develop program implementation details based on the legislation. For example, implementing the dispensary system will require establishing: laboratory and testing standards; certification and processes; all licensing and regulatory standards and requirements; dispensary procurement/selection process; monitoring and auditing policies and procedures; standards for edible medicine, labeling, packaging and required patient information; medical marijuana training certification; curriculum and standards for dispensary managers and staff; CME training for physicians; new dispensary administrative rules, and a new online database for dispensary use.

The recommendations are:

1. The Legislature should provide the Department of Health (“the Department”) with sufficient seed resources (funding and staffing) each year FY 16 (July 1, 2015 through June 30, 2016) and FY 17 (July 2016 through July 2017) to establish the dispensary program. After this date the program should be funded through dispensary revenue.
2. The Legislature should authorize the Department to expand the designated purpose and rename the Medical Marijuana Registry Special Fund to also include dispensary related funding, revenues and expenditures and be called the Medical Marijuana Special Fund. Consideration should also be given to having a separate special fund each for the registry and the dispensary programs.
3. The legislature should allocate \$510,000 in general funds for FY 16 and the same amount for FY 17. These funds for each year shall be transferred into the new Department of Health Medical Marijuana Special Fund.
4. The Legislature should direct the Department to establish an exempt Medical Marijuana Dispensary Project and establish 5 FTE exempt positions to facilitate implementation of the program.

APPENDIX I

SUGGESTED ITEMS FOR ANNUAL MEDICAL MARIJUANA DISPENSARY PROGRAM REPORT TO THE LEGISLATURE

January 6, 2015

Patients

1. Total number of Medical Marijuana (MMJ) patients registering in MMJ program each month and annual total, statewide and by county, and compared with previous years;
2. Number of unique patients served by dispensaries annually, statewide and by county, and compared with previous years;
3. Percentage of total MMJ patients using dispensaries at least once in the year, statewide and by county, and compared with previous years; and
4. Number of total individual patient visits with purchase at dispensaries, statewide and by county, and compared with previous years.

Licenses

1. Number of dispensary and producer applications received and new licenses issued in year, statewide and by county, and compared with previous years;
2. Number of dispensaries and producers licensed/in operation at the start and end of the year, statewide and by county, and compared and with previous years;
3. Number of dispensary and producer licenses revoked or terminated annually, statewide and by county, and compared with previous years;
4. Number of dispensaries and producers given warning and probationary status, statewide and by county; and
5. Number of dispensaries and producers with manufacturers licenses annually, statewide and by county, and compared with previous years.

Revenue from Applications and Licenses

1. Income from successful and unsuccessful dispensary and producer license applicants annually, statewide and by county, and compared with previous years; and
2. Income from new and renewed licenses for dispensaries and producers annually and compared with previous years.

Sales

1. Total monthly and annual dispensary sales, statewide and by county and compared to previous years; and
2. Total GET paid by dispensaries annually, statewide and by county, and compared with previous years.

Production

1. Total weight of marijuana cultivated at time of harvest, statewide and by county; and
2. Total weight of usable marijuana and weight of product destroyed, statewide and by county.

APPENDIX J

ADDENDUM TO TASK FORCE RECOMMENDATIONS RELATED TO PATIENT DISPENSING LIMITS AND PATIENT POSSESSION LIMITS

The Task Force discussed patient dispensing limits and patient possession limits, but ran out of time at its last meeting to come to consensus on these issues. However, the Policy Subcommittee has provided guidance in these areas. These are not official Task Force recommendations, but may be useful in drafting legislation.

Supplemental Guidance #1: Allowable purchase amount

Patients shall be allowed to purchase up to eight ounces of medical marijuana per month from a dispensary. However, the patient possession limit shall remain four ounces.

Because patients use medical marijuana in a variety of ways, some requiring more medical marijuana than others, the Subcommittee does not wish to restrict the amount that patients may purchase in a way that would unequally harm some patients. Juicing, for example, uses much more medical marijuana than smoking, but is more effective (and generally healthier) for certain patients. However, the Subcommittee also recognizes that, for security reasons, there should be some cap on the amount a patient can purchase. Therefore, the Subcommittee believes that the above recommendation is a reasonable compromise. Patients may not possess more than four ounces of medical marijuana at one time, but a patient may purchase up to eight ounces in one month.

This recommendation follows the Legislature's recent decision to cap the amount of marijuana a patient may possess at four ounces at any one time, while providing for patients who use more than four ounces per month. This system should accommodate most patients while addressing concerns that stem from unlimited access.

Supplemental Guidance #2: Allowable amount for possession of manufactured medical marijuana products

The patient possession limit for manufactured medical marijuana shall be based on the equivalent amount of usable marijuana. Therefore, patients may possess no more than four ounces of medical marijuana, or the equivalent of four ounces of medical marijuana in other forms. Patients may purchase no more than the equivalent of eight ounces of medical marijuana monthly.

This provision is modeled on Colorado's adult-use marijuana statute. Manufacturers will need to set an equivalency between medical marijuana and medical marijuana products to ensure that patients are not possessing more than four ounces of medical marijuana and medical marijuana products. Manufacturers will determine equivalency with the physical weight of marijuana that is used in processing the marijuana product, and will make equivalency calculations available to the Department of Health and to patients who purchase the manufactured medical marijuana product.