



Akamai Cannabis Clinic

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TESTIMONY ON HOUSE CONCURRENT RESOLUTION 89
REQUESTING CONGRESS TO DESCHEDULE CANNABIS

By
Clifton Otto, MD

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

Friday, March 22, 2019; 2:10 PM
State Capitol, Conference Room 325

Thank you for the opportunity to provide testimony on this resolution. Please consider the following comments:

We cannot have the Legislature continue to ignore a solution to the current misconception that Hawaii's Medical Use of Cannabis Program is violating federal law.

If the goal of this resolution is to remove the barriers to Hawaii's medical use of cannabis dispensaries operating as legitimate businesses, then a much simpler and more direct strategy is to recognize that the medical use of cannabis in Hawaii fails to meet the state and federal definition of a Schedule I controlled substance.

State medical use of a controlled substance is "currently accepted medical use in treatment in the United States", which means that the medical use of cannabis in Hawaii is exempt from the federal regulation that treats non-medical cannabis as a Schedule I controlled substance.

Also, a controlled substance with medical use cannot have the "highest degree of danger", which means that the medical use of cannabis in Hawaii is exempt from the provision in Hawaii's Uniform Controlled Substances Act (UCSA) that treats non-medical cannabis as a state Schedule I controlled substance.

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The first step towards legitimizing the medical use of cannabis in Hawaii is to re-harmonize the medical use of cannabis with the regulation of cannabis under Hawaii's UCSA by adding the following amendment:

Section 329-14, Hawaii Revised Statutes, is amended by adding the following subsection:

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

Congress does not need to remove cannabis from the federal Controlled Substances Act (CSA) in order to allow our dispensaries to utilize banking services. We only need to have the Drug Enforcement Administration (DEA) adopt a rule, like the federal exemption for the sacramental use of peyote, that recognizes at the federal level that the state medical use of cannabis does not violate federal law.

[Exempt from federal Schedule I:](#)

21 CFR 1307.31 - Native American Church.

“The listing of peyote as a controlled substance in Schedule I **does not apply** to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration.”

Therefore, the goal of this resolution will be better served by asking the DEA to initiate administrative procedures to adopt a rule that exempts the state medical use of cannabis from federal Schedule I regulation.