Updated for 2017!

The Medical Use of Cannabis:

A guide to Hawaii's law for patients and medical professionals

the Drug Policy Forum of hawai'i

4th Edition

To the Reader

The purpose of this brochure is to help patients, their caregivers, and medical professionals understand Act 228, the 2000 Hawai'i Medical Use of Marijuana Act; Act 242, the 2015 Medical Marijuana Dispensary Act, and related laws and policies.

This brochure provides the best and most accurate information available to us at this time. Nothing herein constitutes medical or legal advice, and you should consult a health care professional or attorney if you have any questions about medical cannabis as it applies to your individual circumstances.

Information in this booklet is current as of February 2017.

Note on terminology: *Cannabis is the correct term used to describe the medicinal plant. It is the botanical name for the genus of flowering plants that includes Cannabis Sativa and Cannabis Indica. Although, there is no plant named "marijuana", it is the term that has been used in Hawai'i law to date. So, while the term cannabis is scientifically accurate, and is the agreed-upon international term, in this document we use the terms interchangeably*.

Mahalo

Thanks to the Hawai'i People's Fund and the Kosasa Family Fund of the Hawai'i Community Foundation for their generous support in the production and distribution of this booklet and to those who helped in its creation, especially Miles Tuttle. Thanks also to the Drug Policy Alliance for their ongoing support.

Mahalo nui loa to Governor Benjamin Cayetano for his compassion and foresight in introducing the original legislation in 1999.
Special thanks to the individuals and organizations whose efforts helped ensure that Hawai'i became the first state to legalize medical cannabis via the legislative process and now is on the cusp of having a dispensary system to serve the state's thousands of patients. Finally, we are grateful to the Hawai'i Department of Health for its role in helping Hawaii's patients and for the use of its FAQs.

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ACT 228: An Act to Permit the Medical Use of Marijuana in Hawai`i:
http://www.capitol.hawaii.gov/session2000/acts/Act228_SB862_HD1_.htm

Resources

The Department of Health, Medical Marijuana Registry program: health.hawaii.gov/medicalmarijuanaregistry/ The Department of Health, Medical Marijuana Dispensary Program: http://health.hawaii.gov/medicalmarijuanadispensary/	
The Drug Policy Alliance www.drugpolicy.org	Patients Out of Time www.medicalcannabis.com
The Marijuana Policy Project www.mpp.org	Americans for Safe Access www.safeaccessnow.org
The Drug Policy Forum of Hawai'i www.dpfhi.org	Hawaii Dispensary Alliance www.hawaiidispensaryalliance.org

Updates

For up to date information and advocacy resources, please visit the Medical Cannabis Coalition of Hawai‘i (MCCHI) website at www.mcchi.org or contact them via e-mail at info@mcchi.org.

To contact the Drug Policy Forum of Hawai‘i about this or any other drug policy issue, please visit our website at www.dpfhi.org, contact us via e-mail at info@dpfhi.org or by phone (808) 518-3213.

For the latest on the medical cannabis industry, please contact our allies at the Hawai‘i Dispensary Alliance via their website, www.hawaiidispensaryalliance.org or by phone (808) 351-8733.

Medical Cannabis and the Law

Background: The Law in Hawai‘i

In April 2000 Hawai‘i became the first state to permit medicinal use of marijuana via an act of the state legislature. Governor Benjamin Cayetano signed Hawaii's Act 228 into law on June 15, 2000.[1] Rules for its administration were developed by the state Department of Public Safety where the program was initially housed. Since their approval, in December of 2000, Hawaii's medical marijuana registry program has been in effect. Since the implementation of the program, more than 13,000 patients have registered to use medical marijuana under state law.

In January 2015 the program moved to the Department of Health (DOH) where it is now administered by the Harm Reduction Services Branch.

On July 14, 2015 SB1291 was signed into law as Act 242 which added additional patient and caregiver protections that specifically address non-discriminatory requirements for the following:

- Schools and landlords towards individuals based solely on the individual's status as a qualifying patient or primary caregiver in the medical marijuana program,
- Medical care, including organ transplants, in that the medical use of marijuana shall be considered equivalent to the use of any other medication under the direction of a physicians, and
- Custody, visitation, or parenting time and no presumption of neglect or child endangerment.

A long-awaited dispensary program also became law in 2015, when Governor David Ige signed and enacted HB321 as Act 241 - a program that is administered by the Office of Health Care Assurance at DOH.[2] During the 2016 Legislative Session, both the registry and dispensary laws were futher amended when HB2707 was enacted as Act 230. One of the key changes was that Advanced Practice Registered Nurses (APRNs) with specific prescriptive privileges are now able to certify patients for legal medical cannabis use. The first dispensaries are expected to open in the spring or summer of 2017.

The National Situation

Hawai‘i thus helped pave the way for the other jurisdictions which have passed laws for the medicinal use of marijuana since California first did so in 1996: Alaska, Arizona, California, Colorado, Connecticut, District of Columbia, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont and Washington. In the states which have approved the medical use of marijuana, thousands of patients, doctors and caregivers are participating in programs protected from state or local prosecution. As of this writing, aside from the 25 states and Washington D.C. that have laws permitting medical use of cannabis, 8 states plus D.C. have legalized cannabis entirely under a system of regulation and control.

Conflict between State and Federal Laws

Despite the progress that has been made toward creating safe and legal systems at the state and local level, federal laws banning any use of marijuana remain in effect - with a few exceptions for participants in federally approved clinical trials and the Compassionate Investigational New Drug Program patients.

Marijuana remains at this writing in Schedule I of the Controlled Substances Act of 1970 despite meeting none of the criteria mandating this highly restrictive placement. This scheduling is a barrier to legislation, to patient access and to research. The Drug Enforcement Administration (DEA) is under substantial public and political pressure to revise this placement.

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1 Act 228 was codified into law as part IX, chapter 329, Hawaii Revised Statutes

2 Act 241 was codified into law as chapter 329D, Hawaii Revised Statutes

Current Medical Cannabis Climate

In 2005 the U.S. Supreme Court, in Gonzales v. Raich ruled that the federal government had the power under the commerce clause of the U.S. Constitution to enforce federal marijuana laws against patients who possess or cultivate marijuana. The ruling did not address any issues related to medical marijuana nor did it overturn any of the state laws on medical marijuana. The power of state governments to enact and enforce state medical marijuana laws was not affected by this decision.

From a practical point of view, federal prosecutors tend to act against large drug operations. Federal charges are rarely brought against patients for small-scale, personal possession or cultivation of marijuana, although this remains a possibility. In fact, arrests for marijuana by federal authorities in the U.S. over the last several years account for only 1% of all marijuana arrests.

If a state like Hawaiʻi has removed criminal penalties for medical use of marijuana, then patients and physicians are protected from arrest by state or local authorities, assuming they remain compliant with the program. It is important to note, however, that the protections of the Hawaiʻi medical marijuana laws do not protect patients and physicians from possible federal prosecution.

On August 29, 2013, however, the U.S. Department of Justice "Cole Memorandum" signified a substantial swing of the government's focus away from the stringent implementation of federal cannabis prohibition, and stated that "a robust [state] system may affirmatively address [federal] priorities by, for example, implementing effective measures to prevent diversion of marijuana outside the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for." Please note that these priorities are policies, not laws, and thus can be changed at any moment by a sitting Administration.

In December 2014, the "Hinchey-Rohrabacher Medical Marijuana Amendment" (House Amendment 272) was incorporated by both houses of Congress as a portion of the $1.1 trillion spending bill that prevents the Department of Justice from spending money to impede the execution of state medical marijuana laws.

The amendment has subsequently been reauthorized, but is subject to yearly renewal. In early 2017 under the Trump Administration, Congress seems increasingly inclined to take this states' rights approach to cannabis regulation.

What Hawaii's Law Does[1]

Protects Patients and Caregivers from Arrest at the State or Local Level

Patients and their "primary caregiver" who comply with this law (obtain certification from a physician or APRN and register with the Department of Health, Medical Marijuana Registry Program (DOH-MMRP) and remain compliant with the program are protected against prosecution for cannabis-related crimes under Hawai'i law. In the unlikely event of being arrested, patients and their caregivers who follow the law may have a legal defense available to them if they are following the Act's procedures, using the cannabis only for medical purposes, and complying with all aspects of the law.[2] The law allows growing, transporting and possession of cannabis (in specified quantities) and "paraphernalia," but only for medical purposes.

Protects Physicians and APRNs at the State, Local, and Federal Levels

The law states that, if a physician or APRN complies with the procedures and registration requirements specified in the Act and all corresponding administrative rules, she or he shall not be subject to arrest or prosecution, penalized in any manner, or denied any right or privilege for providing written recommendation for the medical use of cannabis for a qualifying patient. As explained below, since September 2001, the physician (and now APRN) is protected from state prosecution.

On October 29, 2002 the Ninth Circuit Court of Appeals unanimously upheld the right of doctors to recommend cannabis to their patients. The Justices ruled that it is the role of the states, not the federal government, to regulate the practice of medicine. In October 2003 the U.S. Supreme Court let this ruling stand (Conant v. Walters, 309F.3d 629, 2002). At the heart of the Conant decision is the First Amendment's protection of a physician's right to speak openly and candidly about cannabis' potential risks and its therapeutic benefits. Hawaii physicians may discuss and, where applicable, certify qualifying patients for the medical cannabis program.

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1 Part IX, chapter 329, Hawai'i Revised Statutes

2 See State v. Woodhall (Hawai'i Supreme Court 2013)

Limits Qualifying Medical Conditions

In order to use marijuana as a medicine, a patient must be diagnosed by a physician or APRN licensed to practice in Hawai‘i as having one or more of the following “debilitating” medical conditions:

1. Cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), 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 (severe weakness, malnutrition or weight loss)
    b) Severe pain
    c) Severe nausea
    d) Seizures, including those characteristics of epilepsy
    e) Severe and persistent muscle spasms, including those characteristics of multiple sclerosis or Crohn’s Disease; or
    f) Post-traumatic stress disorder (PTSD, added by statute in 2015); or

3. Any other medical condition approved by the Department of Health pursuant to administrative rules in response to a request from a physician, APRN or potentially qualifying patient.

Sets Limits on a Patient’s Protected Supply of Medical Cannabis

Under Hawai‘i law, “adequate supply” means an amount of marijuana possessed by the qualifying patient and the primary caregiver *together* that is “not more than is reasonably necessary” to alleviate the symptoms or effects of a debilitating medical condition.

An “adequate supply” must not exceed seven marijuana plants, whether immature or mature, and four ounces of usable marijuana at any given time. This means that a patient, and their caregiver, can jointly have no more than 7 plants of any maturity and 4 ounces of useable marijuana on hand at any given time. [§329-121].

Requires a Doctor's or APRN's Certificate

The Act protects only patients whose physician or APRN has filled out and submitted a written certification to the state Department of Health for use of medical cannabis and the Department of Health has issued a corresponding registration card. A physician or APRN, licensed in Hawai'i, must diagnose one of the aforementioned conditions and certify in writing that the potential benefits of medical cannabis use would likely outweigh the health risks for the particular patient. S*imply having a qualifying disease or symptoms does not automatically qualify anyone for protection under the Hawai'i medical marijuana act.*

NOTE: A physician's or APRN's written certificate, in and of itself, is insufficient to protect the qualifying patient based on Hawaii's law.

States What Health Professionals Should Do To Certify a Patient for Medical Cannabis Use

To certify a patient for medical marijuana use, a physician or APRN must do the following:

1) Complete a full in-person, face-to-face assessment of the patient's medical history and current medical condition;
2) Diagnose the patient as having a debilitating medical condition covered by the medical marijuana act;
3) Explain potential risks and benefits of medical marijuana use to the patient or her/his guardian; and
4) Certify, in writing, that in the health professional's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks to that particular patient. This should all be documented in the patient's medical record.

What Health Professionals Can <u>NOT</u> Do:

- "Prescribe" medical cannabis;
- Assist patients in obtaining marijuana by doing more than that required by the Act;
- Cultivate or possess marijuana for patient use;
- Physically assist patients in using marijuana;
- Certify patients without establishing and maintaining a bona fide physician-patient relationship; or certify patients without an approved debilitating medical condition.

New Patient Registration Process:

1. Schedule an appointment with your physician or APRN to be certified or re-certified, i.e., annual renewals.

2. Go to **https://login.ehawaii.gov** and create a **free** secure account. Be sure to remember your username and password so you can check on the status of your application! ***DOH video: https://www.youtube.com/watch?v=BM7LLz0gjRE***

3. Then go to **https://medmj.ehawaii.gov** and login.

4. Fill out the online application and upload any required documents, e.g., a clear copy of your valid ID. (If you need help with this, please reach out to DPFHI.)

5. Pay. The cost is $38.50 ($35 application fee + $3.50 portal administration fee); you must pay with a credit/debit card or direct withdrawal from a savings or checking account. All fees are non-refundable, even if a card is NOT issued. Applications that utilize direct withdrawals from savings or checking accounts will not be processed until a minimum of 10 business days from the date of debit (to be sure it clears your account). Applications that utilize credit/debit card payment will have the shortest turnaround time.

6. Submit your application to your physician.

7. Once your physician certifies your condition and submits your application to DOH-MMRP, your application will be in line for processing. Patients can NOT submit their application directly to DOH-MMRP.

8. DOH will review the items submitted and issue the 329 card for completed applications, in the order received.

9. Incomplete applications will be electronically returned to the patient for corrections. All corrections must be made within 30 days of notification or the application may be denied.

10. DOH-MMRP recommends that applicants check their registration status WEEKLY to ensure a speedy issuance of the 329 card.

11. All 329 cards, including a caregiver's, will be mailed directly to the patient.

12. Patients must ensure that their caregiver gets a caregiver 329 card.

If Denied, You Can Appeal

DOH is required by law to notify you in writing regarding the reasons for any denial and when you may reapply. Further, within a short time frame following the denial, you may also file a "request for reconsideration" with DOH. If this also proves unsuccessful, you can ask for judicial review by the Hawai‘i circuit court.

Permits Patients to Name a "Primary Caregiver"

Patients may appoint a "primary caregiver" who can be any person at least 18 years old other than their physician or APRN, who has agreed to undertake responsibility for managing the well-being of only one qualifying patient with respect to the medical use of marijuana. The primary caregiver must also register with the DOH. When registered, the primary caregiver may also be granted a defense from prosecution for possession and/or cultivation of medical marijuana brought under state law, assuming the caregiver has complied with all program and registration requirements specified in the law.

In the case of a patient who is a minor (under 18) or an adult lacking legal capacity, a primary caregiver *must* be designated. This person can be one of the parents of a minor, his or her guardian, or a person having legal custody.

Change in Primary Caregivers' Role in 2019
(Unless this provision is amended in upcoming legislative sessions)

Change to Hawaii Revised Statute 329, Part IX

After December 31, 2018, a qualifying patient shall obtain medical marijuana or manufactured marijuana products only from a dispensary; or by cultivating marijuana in an amount that does not exceed an adequate supply for the qualifying patient (pursuant to Section 329-122).

After December 31, 2018, no primary caregiver shall be authorized to cultivate marijuana for any qualifying patient, UNLESS the qualifying patient resides on an island that does not have a dispensary, OR if the qualifying patient is a minor/adult lacking legal capacity (and the primary caregiver is the parent, guardian, or person having legal custody of a qualifying patient).

What Hawai`i's Law Does NOT Do

Does Not Legalize Cannabis
Federal laws banning marijuana remain in effect and the Hawai`i Act does not permit recreational use of marijuana.

Does Not Allow Just Anyone to Claim "Medical Use" of Cannabis
To be covered under Hawai'i's medical marijuana law, a patient must register and must have one of the listed medical conditions and have been certified by her/his doctor or APRN for medical marijuana use. If a doctor does not provide a written certification, that person does not qualify. If that qualifying individual does not register, regardless of having a physician's or APRN's written certification, the individual is not protected under Hawai'i law.

Does Not Allow Unlimited Supplies of Medical Cannabis
Even patients who qualify under the law must still adhere to strict limits on the quantity of medical marijuana they possess. This is limited to an "adequate supply' which shall not exceed seven marijuana plants, whether immature or mature, and four ounces of usable marijuana at any given time in accordance with Act 178 that Amended sections of HRS 329 Part IX.

Does Not Permit the Sale of Cannabis
The medical marijuana act defense will not protect someone who sells any amount of marijuana. Any evidence of sale of marijuana can result in prosecution and years of prison time, regardless of the buyer's or seller's medical condition or medical authorization to use marijuana. This prohibition does not apply to state-licensed medical cannabis dispensaries.

Does Not Allow Use of Medical Cannabis in a Public Place/Workplace/Moving Vehicle
Even when registered in the program, the Act specifically prohibits use of medical cannabis in any public place, in a bus or moving vehicle, in the workplace, on school grounds, or any use that endangers the health or well being of another person. In addition, "use" includes "transportation" which is expressly prohibited in public places unless the medical cannabis is:

1) In a sealed container,
2) Not visible to the public, and
3) Not removed from the sealed container or consumed in any way while it is in the public place.

In addition, the inter-island transportation of medical cannabis is currently not allowed and all "smoke-free" laws that pertain to smoking cigarettes (and vaping) also pertain to marijuana, regardless of registration into the program.

Does Not Force a Physician or APRN to Provide a Certification for Medical Cannabis
No doctor or APRN is required to authorize the medical use of cannabis.

General
Frequently Asked Questions

Q - What is Medical Cannabis?

Medical cannabis is the same as any other form of marijuana or cannabis except that it is used as medicine. It is often offered in different strains or formulations especially suited for addressing a specific medical complaint or symptom.

Q - What if I have a Medical Condition Covered by the Medical Marijuana Act but Do Not Have a Statement from My Doctor or APRN?

You do not receive the protections of the Act unless you have followed its requirements and procedures, which include being certified and registering into the program. Once registered, you will be issued a 329 Card through the Department of Health.

Q - What If My Doctor or APRN Isn't Willing To Give Me a Certification or Says I Do Not Qualify?

The Act does not force physicians or APRNs to offer certifications for medical cannabis use. The Department of Health recommends that you begin the discussion with the physician who is treating you for the (qualifying) debilitating medical condition.

Q - If my Doctor or APRN Wants Information on The Medical Uses of Cannabis, Where Can They Find It?

Contact the Medical Cannabis Coalition of Hawai'ifor a list of resources
E-mail: info@mcchi.org Phone: (808) 853-3231

Q - How Long Does My Certification Last?

The certification lasts for one year from the date issued for both patients and primary caregivers. Qualifying patients may begin the renewal process 60 days before the expiration of their current 329 Card. For all patients that applied using the electronic application process (on or after 12/1/15), electronic email notifications will be sent to the email used to register. If you did not provide a valid email address, you should keep track of your expiration date (it is stated on your 329 Card).

Q - Can My Physician Assistant, Naturopath, or Family Nurse Practitioner Authorize Medical Use of Cannabis?

No, Physician Assistants, Naturopaths, and Nurse Practitioners are not covered by the Hawai`i medical marijuana act. However, Advanced Practice Registered Nurses were added to those who can meet the certification requirements of the Act in 2016.

Q - Why Can't I Get Medical Cannabis at a Pharmacy?

Pharmacies are federally regulated and can only dispense medications that are approved by the FDA and prescribed by a physician. Because marijuana continues to be classified by the federal government as a "Schedule I" drug, it cannot be prescribed by any health care professional. There are efforts underway to convince federal lawmakers to allow medical marijuana to be rescheduled and treated the same as other controlled medicines.

Q - Is There a List of Doctors or APRNs Who Are Willing to Advise Me On the Medical Use of Cannabis?

No, the names of doctors and APRNs who have sent written certifications to the DOH-MMRP are confidential. The Drug Policy Forum of Hawai`i may be able to assist you in finding a provider. Contact DPFHI at info@dpfhi.org.

Q - Where Can I Obtain Medical Marijuana?

The 2015 legislative session passed a bill to permit a system of state-licensed dispensaries to sell cannabis products. DOH's Office of Health Care Assurance issued 8 licenses in May of 2016 to selected applicants. Up to 16 dispensaries are expected to be in operation by early 2017.

See DOH site: health.Hawai'i.gov/medicalmarijuanadispensary/dispensaries/; the Medical Cannabis Coalition of Hawai'i website www.mcchi.org & the Hawai'i Dispensary Alliance www.Hawai'idispensaryalliance.org for updated lists.

Q - What If My Condition or Illness Is Not Covered by Hawaii's Law?

Hawaii's law provides that the state Department of Health set up a procedure for physicians and potentially qualifying patients to request that other medical conditions and diseases be added to the list of those debilitating medical conditions currently covered in the Act.

Any physician, APRN, or potentially qualifying patient seeking to add a medical condition to the list of debilitating medical conditions shall file a written petition with the department, on forms, and in a manner prescribed by the Department of Health.

Q - What Is the Definition of "Usable" as It Relates to the Amount of Cannabis a Patient or Caregiver Is Allowed To Possess?

"Usable marijuana" is defined in the Act as any mixture of the dried leaves and flowers of the Cannabis plant that is appropriate for the medical use of cannabis. Useable marijuana does not include seeds, stalks, and roots of the plant. Manufactured cannabis products will soon be available through dispensaries. A system of equivalency will need to be established.

Q - Do Physicians or APRNs Risk Losing Their License To Prescribe Controlled Substances If They Participate in the Program?

No. As a practical matter, participating health professionals should be protected from loss of their licenses to prescribe controlled substances if they confine their actions to those required by the Act, comply with all of the programs requirements, and conduct themselves with integrity and in accordance with the professional and ethical standards of conduct explicitly articulated or inherently implied by their profession.

Q - Is My Medical Cannabis Covered by Insurance?

No. The Act explicitly states that insurance companies are not required to pay for medical cannabis.

Q - Is a Patient's Confidentiality Protected?

Yes. However, upon an inquiry by a law enforcement agency, the DOH-MMRP will verify whether a particular qualifying patient has registered with the Department of Health and may provide reasonable access to the registry information for official law enforcement purposes. In addition, prior to being allowed to enter and purchase medical cannabis from a licensed dispensary, the dispensary will be able to verify that the patient or caregiver is indeed registered with the Department of Health.

Q - Why Is Getting the Registration Card Important?

The registration card is evidence of compliance with the law and should ordinarily prevent an arrest. Without the card, the patient or caregiver may be arrested and held under arrest until the patient's right to use medical marijuana is confirmed.

Q - What Should a Patient Do if Subject to Verification?

Politely show the officer your registration card and/or your properly tagged plants They may then contact the DOH-MMRP to verify your registration. If the officer still questions the validity of your registration, you may wish to contact an attorney. If you do not have and cannot afford a lawyer, ask to call the state Public Defender's office. On Oahu is (808) 586-2200. On Neighbor Islands the numbers are: Hilo (808) 974-4571; Kona (808) 323-7562; Kaua`i (808) 274-3418; and Maui (808) 984-5018.
NOTE: Possession of a 329 Card does not exempt the card holder from complying with any and all other state laws that pertain to cannabis (driving under the influence, sales or distribution, etc.).

Q - Can Minors Use Cannabis Under Hawaii's Act?

Yes. Minors under 18 are protected under Hawaii's law if their physician or APRN has explained the potential risks and benefits to both the qualifying patient and to their parent or legal guardian, and if the parent or legal guardian has consented in writing to allow the use; to serve as the minor's caregiver, and to control the minor's acquisition, dosage, and frequency of use of the marijuana. A parent or guardian must serve as the minor's primary caregiver and follow the certification and registration procedures outlined above.

Q - What Should I Tell My Employer If I Am Subjected to a Drug Test?

The Act prohibits use of medical marijuana in the workplace but is silent regarding the employee's rights and duties regarding medical marijuana. It is suggested that employers treat medical marijuana like any other prescription drug that might impair ability. Employees should consult their employer's drug policy.

Q - Can Patients Living in Rental Units or Federally Subsidized Housing Participate in The Program?

Despite Hawaii's medical marijuana act, federal law or federal rules and regulations still prohibit the use, possession, cultivation, or distribution of cannbais. Any federal laws or rules prohibiting the use of marijuana in federally subsidized housing would likely override Hawaii's law. Patients occupying rental units or federally subsidized housing who wish to use medical marijuana should seek legal guidance on this issue. However, discriminatory practices against any person with a valid 329 card (in certain housing situations) have been prohibited by the state of Hawai‘i (Hawai‘i Revised Statutes: §421J, §514A, and §514B.)

Q - Are There Any Limits on Where Cannabis To Be Used for Medical Purposes Can Be Cultivated?

The State's medical marijuana act contains no requirements or limitations on where marijuana for medical use can be grown. However, the regulations of the Department of Health limit the places where marijuana can be grown to:

(1) the qualifying patient's home address;
(2) the primary caregiver's home address; or
(3) "Another location owned or controlled by the qualifying patient or the primary caregiver that is approved by the administrator and designated on the registry certificate issued by the department."

Q - If I'm Covered Under the Hawai‘i Medical Marijuana Act Can I Use Cannabis in Other States?

At this time Arizona, Nevada, New Hampshire, Maine, Michigan, Rhode Island and Washington, DC are the only jurisdictions to offer protections for out-of-state patients. Of these, only Michagan, Nevada, New Hampshire, Rhode Island and Washington DC allow out-of-state patients to purchase medical cannabis from dispensaries. Hawai‘i does not recognize medical cannabis certifications from any other state.

Beginning on January 1, 2018, qualifying patients from other states, territories of the United States, or the District of Columbia, may be able to purchase cannabis from any dispensary location in the state of Hawai‘i, provided that the patient is verified as a patient in their home state and registers with the Department of Health through a registration process to be established by the Department.

Hawai‘i patients should carefully check and understand the laws and requirements related to medical marijuana before using in any other state. Laws vary greatly from state to state and laws can change at any time.

Registration Frequently Asked Questions

Q - What do I need to register for the DOH Medical Marijuana Program?

To register you must:

- have a qualifying debilitating medical condition
- have a physician or advance practice registered nurse CERTIFY your debilitating medical condition(s) on your application
- complete an application online
- provide a clear copy of your valid identification
- pay a registration fee of $38.50

For details see http://health.hawaii.gov/medicalmarijuanaregistry/

Q - What is a "bona fide" relationship?

In the DOH Administrative Rules, a "bona fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a qualifying patient's debilitating medical condition with respect to the medical use of marijuana. (With the passage of Act 230, all references to "physician" in chapter 11-160, Hawaii Administrative Rules are also inclusive of "APRN".)

This relationship must include a full in-person, face-to-face assessement of a patient's medical history and current medical condition(s), a diagnosis of a qualifying condition(s), an explanation or potential risks and benefits to the patient or his/her guardian and a written professional opionion that the risks outweigh the benefits.

Q - Do I have to be a Hawai'i resident?

NO – however, you must be certified by a Hawaii-licensed physician or APRN with whom you have a "bona fide" professional relationship.

Q - Can DOH refer me to a physician?

NO – The DOH does not serve as a referral source. DOH recommends that you start with the physician that you see for the qualifying condition and begin the discussion. If this physician is not willing or not able to certify your condition for the program, you may contact the Drug Policy Forum (DPF) via email: info@dpfhi.org, for a third party list of physicians who may be able to assist you.

Q - Does the Department of Health Require a Registration Fee?

Yes, there is an annual fee of $38.50 for registration, this covers both the patient and the caregiver. Any change to the application information must be made within 10 days of the change by using submitting the appropriate forms to DOH. (DOH is planning to make this change process electronic in the near future.)

Failure to notify DOH of any change to your application information can result in the revocation of your 329 Card. There is a charge of $16.50 for any change that triggers the issuance of a new 329 Card (i.e. changes to any information printed on or omitted from your 329 card) or if you request a replacement 329 Card.

Q - What types of identification cards are acceptable?

DOH-MMRP will accept a valid driver's license or state photo ID card issued by any U.S. state, or a current passport.

Q - Will DOH accept partially completed applications?

NO – The online system will not allow you to submit an incomplete application. If you submit an application that is incomplete, it will be returned to either you or your physician electronically for completion or corrections, as applicable. Ultimately, this may cause a delay in your registration card being issued. and if you fail to make your corrections within 30 days of being notified that the application is incomplete, your application can be denied and you may need to reapply. All application fees are non-refundable.

Q - If I register, is my confidentiality protected?

YES – All information collected on the application forms and other documents that you provide to the DOH is confidential and not subject to public disclosure, except in specific situations as defined in the DOH Administrative Rules (see 11-160-56, HAR).

Q - Will the police have access to my medical information?

NO – Law enforcement may contact DOH to verify if an individual is a registered participant (patient or caregiver) in the program, or verify if a specific location has been registered as a grow site. The DOH will verify both the registration of an individual, and the registration of a grow site location, should law enforcement inquire for any official law enforcement purpose.

Q - Where can I find more in-depth information on the DOH-MMRP?

The DOH-MMRP maintains information on the State of Hawaii's medical marijuana program on their website:

health.hawaii.gov/medicalmarijuanaregistry/

329 Card
Frequently Asked Questions

Q - I have not applied for my renewal card just yet, is there a cutoff date to apply for renewal?

NO – but you are only protected while the card is valid and you can only apply for a renewal up to 60 days before the expiry date. COMPLETE applications are processed in the order received. To avoid interruption of coverage and protection under the law, you should apply as soon as allowable.

Q - Will the new DOH cards look the same as the PSD card?

NO – DOH-MMRP will be issuing cards that are smaller, about the size of a business card, and that resemble other medical cards. The DOH-MMRP Cards (329 Cards) are NOT blue. They will be white with the DOH logo in color.

Q - Is it a requirement that I carry my 329 card?

YES, you must carry both your 329 Card and a valid ID whenever you are in possession of your medical marijuana. This is for your protection and is a requirement in the DOH Administrative Rules 11-160-31 (a).

Q – What if I no longer need/want my 329 Card?

You may submit a void request to DOH to invalidate your registration into the program. No fee is required.

Miscellaneous

Q – If I own a gun, can I still become a medical cannabis patient?

By law, DOH is not required to verify if you are already a gun owner when you register into the program. However, federal law does not allow users of cannabis (medicinal or otherwise) to legally own a firearm. If owning a firearm is important to you, you may want to check with the firearms permitting department in the county that you reside in.

Identification Tags REQUIRED for Medical Marijuana Plants

effective July 18, 2015

The Hawaii Administrative Rules (HAR) for the Medical Use of Marijuana were approved by the governor on July 6, 2015 with an effective date of July 18, 2015. As such, "The person who has been designated to cultivate marijuana shall have a legible identification tag, in a form and manner as determined by the department, on each marijuana plant being cultivated for the qualifying patient." (see, section 11-160-31(b), HAR) Simply put, any registered patient or caregiver who is designated to grow medical marijuana MUST place on each of their medical marijuana plants, an identification tag that **CLEARLY shows their 329 registration number and expiration date.**

Who is responsible?
The individual (patient or caregiver) who the qualifying patient has designated in the DOH registration application to cultivate marijuana is RESPONSIBLE to ensure that all plants are tagged. Plants that are not tagged or that are improperly tagged are subject to removal by law enforcement.

How many plants can be tagged with the same registration number?
No more than seven (7) marijuana plants, at a single registered location, may be tagged with the same registration number and expiration date. (Section 329-121 Hawaii Revised Statutes.)

Can I keep a few plants at my house and a few at my caregiver's house or other location? NO, each registered patient must select a single location for all of their plants to be cultivated and this location must be identified on their 329 registration card. (See, section 11-160-2, HAR, definition of Grow Site.)

How/Where do I get the tags?
Patients and caregivers must select/purchase their own tags. The tag MUST meet the DOH guidelines. Acceptable tags are available for sale online OR can be made with items found in most hardware stores.

Where (on the plant) do I put the tag?
The tag shall be tied to or encircle the base of each plant and shall be clearly visible on the outside of the plant.

Can I make my own tags?
YES, as long as the tag meets the guidelines listed at http://health.hawaii.gov/medicalmarijuanaregistry

Guidelines for Proper Identification Tags:

1. Tag Material/Durability: Each tag shall be made of a durable water and weather resistant material.

2. Tag Color: Each tag shall be of SOLID color with black or blue lettering.

3. Tag Face Size: Each tag face shall be at least 3” long by 1/4” wide.

4. Tag Location: Each tag shall be tied to or encircle the base of the plant.

5. Tag Visibility: Each tag shall be clearly visible on the outside of the plant.

6. Tag Content: Each tag shall be CLEARLY marked with the 329 registration number and expiration date.

7. Tag Lettering:
   -Shall be large and legible enough to be readable.
   -Shall remain readable if/when plant is subjected to watering or the elements. If any lettering on the tag becomes difficult to read then the tag shall be replaced immediately with the same registration number and expiration date.

8. Updating Tags: All tags shall be updated immediately upon the issuance of a new registration card (i.e. renewal, change of information on card, reissue of card and a change of registration number) or anytime the tag contents are no longer legible.

WARNING: Untagged or improperly tagged cannabis plants (not meeting the above requirements) are subject to confiscation and removal by law enforcement, and the grower or property owner is not guaranteed the protections available in Chapter 329, Hawaii Revised Statues.

Information for Physicians & APRNs

To certify a patient for medical cannabis use, a physician or APRN must do the following:

1. A certifying physician must be a Hawaii-licensed physician (Medical Doctor or Doctor of Osteopathy) or Advanced Practice Registered Nurse who holds a current and valid license with authority to prescribe drugs and who is registered with the Department of Public Safety to prescribe controlled substances.
2. Certifying physicians and APRNs are REQUIRED to maintain a bona fide health professional-patient relationship with the qualifying patient.
   At a minimum, all certifying physicians or APRNs must do the following:
   a) Complete a full in-person, face-to-face assessment of the patient's medical history and current medical condition;
   b) Diagnose the patient as having a debilitating medical condition covered by the medical marijuana act;
   c) Explain potential risks and benefits of medical marijuana use to the patient or her/his guardian; and
   d) Certify, in writing, that in the health professional's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks to that particular patient. This should all be documented in the patient's medical record.
3. Each health professional must complete an Electronic Signature Agreement - download the form, complete it on a computer (or type), print it out, sign and date it, and return the ORIGINAL to DOH. Mail completed form to: 4348 Waialae Avenue, #648, Honolulu, Hawaii 96816. Electronic signatures are NOT acceptable for this form. This form is required BEFORE the physician can use the new electronic system which allows DOH to accept the physician's electronic signature for BOTH the patient's application AND the issued 329 Card.
4. MUST "link" their MyPVL license before creating their first online application. This requires a valid and current, Hawaii Medical License Number (without the "MD" or "DOS") AND State Controlled Substance Registration Number (usually begins with an "E").
5. MUST click the "Doctor's First Time Log In" the first time they go to medmj.hawaii.gov and enter ALL of their information. To change any information entered, physicians may do so in a subsequent patient's record. For example, you entered the wrong email address for the office and you want to change it. In the NEXT record that you enter, you can make the change on the physician/APRN's certification page.

Department of Health - MMRP
4348 Waialae Avenue, #648
Honolulu, HI 96816
email: medicalmarijuana@doh.gov

THE NEW REGISTRATION PROCESS WILL ALLOW THE PHYSICIAN or APRN TO:

1. Electronically create a patient record for patients who are unable to enter their own data, at the health professional's discretion, and submit to DOH. Only electronic payments are accepted.
2. Review patient applications (that is, the information that a patient includes in the application such as their name, address, caregiver, grow site, etc.).
3. Electronically return a patient's application to a patient if there is a need for corrections (e.g. patient decides to add a caregiver or wants to change the grow site address).
4. Certify their patient's condition.
5. Upload documents on behalf of a patient – OPTIONAL (application can not be submitted to DOH without the required documents uploaded; patient has the ability to upload their own documents).
6. Submit the electronic application to DOH.

Steps a Physician or APRN Should Take BEFORE Contacting Customer Support

1. Does the physician/APRN have a valid/current Medical License number and a state controlled substance registration number?
2. Has the physician/APRN linked their medical license to their MyPVL account by visiting: https://pvl.ehawaii.gov/mypvl?
3. Did the physician/APRN click the 'Doctors, first time logging in?' link on the landing screen of https://medmj.ehawaii.gov?
4. Did the physician/APRN log in with the same email and password that was used to create their MyPVL account?

(If the physician/APRN has done #1 has done #2 – 4, and is still having difficulty, please call Customer Support at (808) 695-4620 from Oahu and (866) 448-0725 from neighbor islands.)

Hawai`i Dispensary Licensees

Please reach out to them for updates on dispensary locations and products

O`AHU:

Aloha Green Holdings
www.alohagreen.org
info@alohagreen.org
(808) 679-6737

Manoa Botanicals
www.manoabotanicals.com
info@manoabotanicals.com
(808) 800-2126

TCG Retro Market LLC dba Cure Oahu
www.cureoahu.com

HAWAI`I (The Big Island):

Hawaiian Ethos
www.hawaiianethos.com

Lau Ola
www.lauola.com
(808) 981-0805

MAUI:

Maui Grown Therapies (Maui Wellness Group)
www.mauigrowntherapies.com
info@mauigrowntherapies.com
(808) 755-9355

Pono Life Sciences Maui
www.ponolifesciences.com
admin@ponolifesciences.com
(808) 489-9454

KAUA`I:

Green Aloha
www.greenaloha.com
patients@greenaloha.com
(808) 212-9598

P.O. Box 83
Honolulu, HI 96810
Phone: 808-518-3213
info@dpfhi.org
website: www.dpfhi.org

ABOUT US

The Drug Policy Forum of Hawai‘i is a non-profit organization founded in 1993 to educate policymakers and the public about effective ways of addressing drug issues in Hawai‘i with sensible and humane policies that reduce harm, expand treatment options, and adopt evidence-based practices while optimizing the use of scarce resources. The Drug Policy Forum of Hawai‘i envisions a just society where drug laws are grounded in science, compassion, and public health, and where criminalization is reserved for those who pose a genuine danger to public safety.

DPFH sponsors local, national, and international drug-policy professionals at community forums and conferences on topics such as medical cannabis, overdose prevention, the impact of crystal methamphetamine, effective drug education and drug law reform.

DPFH also presents films and videos, maintains a reference library on drug policy, acts as a resource for the media on drug policy issues, sustains an active speakers bureau, and publishes legislative updates and newsletters.

For more information about the Drug Policy Forum of Hawai`i or to obtain additional free copies of this brochure, please contact our office at (808) 518-3213 or e-mail us at info@dpfhi.org. This complete brochure is also available on our website: http://dpfhi.org/