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# The Medical Use of Cannabis:

A Guide to Hawai'i's Law for Patients & Medical Professionals

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2021 Edition

## **To the Reader**

**Nothing herein constitutes medical or legal advice.**

You should consult a health care professional or attorney if you have any questions about medical cannabis as it applies to your individual circumstances. The purpose of this guide is to help patients, their caregivers, and medical professionals understand Hawai'i's medical cannabis laws and policies and to provide the best and most accurate information available to us at this time.

### **This Guide Includes Information From**

- Hawai'i's State Medical Cannabis Laws, codified in Hawai'i Revised Statutes part IX, Chapter 329 (HRS329 sections 121–128).
- An Act to Permit the Medical Use of Marijuana in Hawai'i (Act 228 in 2000).
- The Medical Marijuana Dispensary Bill (Act 241 in 2015) and subsequent reform bills.
- Hawai'i Department of Health's Medical Cannabis Program's Administrative Rules (HAR Chapter 11–160).

This guidebook does not include laws pertaining to industrial hemp or products made from hemp such as CBD. This other type of Cannabis Sativa L. is regulated by the USDA and potentially the FDA.

The landscape of cannabis law and regulation is changing very rapidly, both at the state and federal level. Information in this 2021 Edition is current as of August 2021.

### **Notes on Terminology**

- Registration cards are called “329 cards” because state laws are found in the Hawai'i Revised Statutes, Chapter 329.
- As of 2017, the program in Hawai'i uses the term “medical cannabis.” Cannabis Sativa L. is the botanical name and therefore, the correct term to describe the medicinal plant. While there is no plant named “marijuana,” the term is still used interchangeably with cannabis, due to the usage in older laws.
- References to the “DOH” mean Hawai'i's Department of Health, Office of Medical Cannabis Control and Regulation (OMCCR).

### **Mahalo (Thanks)**

Mahalo nui loa to the Cooke Foundation, the NME Fund, and Kosasa Family Fund of the Hawai'i Community Foundation for their generous support in the production and distribution of this guide.

Mahalo to those who helped in its creation, especially Dee & Miles Tuttle, Destiny Brown, Randy A. Gonce, and most of all, our own Wendy Gibson.

Mahalo nui loa to Governor Benjamin Cayetano for his compassion and foresight in introducing the original legislation in 1999.

Mahalo also to the Drug Policy Alliance for their ongoing support.

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 has a dispensary system to serve the state's tens of thousands of patients. Over its 21 years of existence, the program has grown to serve more than 34,000 patients.

We are especially grateful to the Hawai'i Department of Health's Harm Reduction Services Branch for its role in helping Hawai'i's patients and for the use of its services.

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## What Hawai‘i’s Law Does

### Protects Physicians and APRNs at the State and Local Levels

The law states that, if a physician or APRN complies with the procedures and registration requirements specified in Act 228 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 a written recommendation for the medical use of cannabis for a qualifying patient.

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

Act 228 allows a patient to designate one caregiver to assist with acquiring, cultivating, and using medical cannabis. Patients and their “primary caregiver” who comply with this law by obtaining certification from a physician or APRN, registering with the Department of Health’s medical cannabis registry program, and remaining 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. The law allows growing, limited transportation and possession (of specified quantities) of cannabis, and “paraphernalia,” but only for medical purposes in private (not public) spaces.

**NOTE:** For more information about federal laws regarding medical cannabis use and conflict with Hawai‘i’s state laws, see pages 22–27.

### Requires a Physician’s or APRN’s Certification for Registry

Act 228 protects only patients whose physician (MD or DO) or nurse (APRN) has filled out and submitted a written certification to the state Department of Health for use of medical cannabis and for whom the Department of Health has issued a corresponding registration card.

“Physician” means a person who is licensed to practice under chapter 453 and is licensed with authority to prescribe drugs and is registered under section 329-32.

“Advanced practice registered nurse” means an advanced practice registered nurse with prescriptive authority as described in section 457-8.6 and registered **under section 329-32**.

A physician or APRN licensed in Hawai‘i must diagnose one of the qualifying conditions and certify in writing that the potential benefits of medical cannabis use would likely outweigh the health risks for the particular patient. Simply having a qualifying disease or

symptoms does not automatically qualify anyone for protection under the Hawai'i medical cannabis act.

**NOTE:** A physician's or APRN's written certificate, in and of itself, is insufficient to protect the qualifying patient based on Hawai'i's law. Patients must be in possession of and present a 329 card and ID to be protected.

### States What the Physician or APRN MUST DO to Certify a Qualifying Patient

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

- Complete a full in-person, face-to-face assessment of the patient's medical history and current medical condition.
- Diagnose the patient as having a debilitating medical condition covered by the medical cannabis act.
- Explain potential risks and benefits of medical cannabis use to the patient or her/his guardian.
- Certify, in writing, that in the physician's or APRN's professional opinion, the potential benefits of the medical use of cannabis would likely outweigh the health risks to that particular patient.
- Document all of this in the patient's medical record.

### States What the Physician or APRN MUST NOT Do:

- "Prescribe" medical cannabis (Schedule I drugs cannot be prescribed).
- Certify patients without establishing and maintaining a bona fide physician-patient relationship.
- Certify patients without an approved, debilitating medical condition.
- Cultivate or possess cannabis for patient use.
- Physically assist patients in using cannabis.
- Assist patients in obtaining cannabis by doing more than that required by the Act. For example, health care professionals cannot "aid and abet" a patient with procurement (or purchase) of a Schedule I drug.

### Limits Qualifying Medical Conditions – List of Qualifying Conditions

In order to use cannabis 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:

- ALS – Amyotrophic Lateral Sclerosis (Lou Gehrig's disease).
- Cancer.
- Epilepsy.
- Glaucoma.
- Lupus.
- Rheumatoid Arthritis.

- Post-traumatic stress disorder (PTSD), positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), or the treatment of these conditions.
- A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:
  - Cachexia or wasting syndrome (severe weakness, malnutrition, or weight loss).
  - Severe pain.
  - Severe nausea.
  - Seizures, including those characteristics of epilepsy.
  - Severe and persistent muscle spasms, including those characteristics of Multiple Sclerosis or Crohn’s Disease.
- Any other medical condition approved by the DOH in response to a request (petition) from a physician, APRN, or qualifying patient.

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

Under Hawai’i law, “adequate supply” means an amount of usable cannabis 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 ten cannabis plants, whether immature or mature, **and** four ounces of usable cannabis at any given time. This means that a patient, and their caregiver, can jointly have no more than ten plants of any maturity and four ounces of useable cannabis on hand at any given time. [§329-121].

### 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 cannabis. The primary caregiver must also register with the DOH. When registered, the primary caregiver may also be granted a defense from prosecution, assuming the caregiver has complied with all program and registration requirements specified in the law.

### Permits Changes to the Primary Caregivers’ Role in 2023

HB1488/ACT 041, passed in 2017, says that:

- After December 31, 2023, a qualifying patient shall obtain medical cannabis or manufactured cannabis products only from a dispensary; or by cultivating cannabis in an amount that does not exceed an adequate supply for the qualifying patient (pursuant to Section 329-122).



- After December 31, 2023, **no primary caregiver shall be authorized** to cultivate cannabis 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).

#### Allows Patients to Appeal, If Denied

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.

## What Hawai'i's Law Does NOT Do

### Does Not Legalize Cannabis for Recreational Use (**Does Not Change Federal Law**)

Federal laws banning cannabis remain in effect and Hawai'i's Act does not permit recreational use of cannabis.

### 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.

### Does Not Allow Just Anyone to Claim "Medical Use" of Cannabis to Be Covered

Under Hawai'i's medical cannabis law, a patient must register, have one of the listed medical conditions, and have been certified by her/his doctor or APRN for medical cannabis use.

### 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 cannabis they possess. This is limited to an "adequate supply" which shall not exceed TEN cannabis plants (immature or mature) **and** four ounces of usable cannabis 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 cannabis act defense will not protect someone who sells any amount of cannabis. Any evidence of sale of cannabis can result in prosecution and years of prison time, regardless of the buyer's or seller's medical condition or medical authorization to use cannabis. This prohibition does not apply to state licensed medical cannabis dispensaries.

### Does Not Allow Use of Medical Cannabis in a Public Place/Workplace or Vehicle

Hawai'i's "smoke-free" laws that pertain to smoking cigarettes (and vaping) also pertain to cannabis, regardless of registration into the program.

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.

The "use" also 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.

#### Does Not Allow Anyone to Transport Cannabis onto Federal Spaces

The inter-island transportation of medical cannabis is currently not allowed as this encroaches into federal air spaces. Cannabis is not allowed on federal lands. The states of Oregon and California have exceptions.

## “How To” Guides and Frequently asked Questions (FAQ) For Health Care Professionals (M.D., D.O. or APRN-Rx)

### **Q: Do Physicians or APRNs risk losing their license to prescribe controlled substances if they participate in the program?**

**A: No.** They are required to have a DEA license for prescribing controlled substances to be able to participate in the program. 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 the program’s 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.

### How to Become a Certifying Physician or APRN

Go to Hawai’i Department of Health Medical Cannabis Program’s website  
<https://health.hawaii.gov/medicalcannabisregistry/physician-aprns-getting-started/>.

Steps to take:

- Submit an Electronic Signature Agreement (mail it in).
- Once approved, you can go to <https://medmj.ehawaii.gov/medmj/welcome> to:
  - Link your MyPVL license (<https://medmj.ehawaii.gov/medmj/login>)
  - Create an Online Application for yourself
  - Help the patient create and submit an online application (if needed)

### **First Step – Electronic Signature Agreement**

You must complete an Electronic Signature Agreement. This form is required **before** the physician or nurse can use the new electronic system which allows DOH to accept the physician’s or nurse’s electronic signature for BOTH the patient’s application AND the issued 329 card. You need to download the form, complete it on a computer (or type), print it out, sign and date it, and mail the ORIGINAL to:

State of Hawai’i Department of Health – MCRP  
348 Waialae Avenue, #648, Honolulu, Hawai’i 96816.

A link to the Electronic Signature Agreement form can be found at:  
<https://health.hawaii.gov/medicalcannabisregistry/files/2018/06/329-Electronic-Signature-Agreement-01.10.2018.pdf>.

### **Next Steps – The Electronic Registration Process**

#### **Link your MyPVL license, Create an Account and Online Application**

#### **Before creating your first online application, you MUST:**

Link your MyPVL license. This requires a valid and current Hawai’i Medical License number and a state Controlled Substance Registration number (usually begins with an

“E”). Click the “Doctor’s **First Time Log In**” at <http://medmj.hawaii.gov> and enter ALL of your information.

**To Certify a Qualifying Patient** – Remember that you must follow Hawai‘i’s DOH Administrative Rules to establish a “bona fide physician-patient” or “APRN-patient” relationship. This requires a full in-person, face-to-face assessment of a patient’s medical history and current medical condition(s), a diagnosis of a qualifying condition(s), an explanation of potential risks and benefits to the patient or his/her guardian, and a written professional opinion that the risks outweigh the benefits.

**NOTE:** Telemedicine is allowed for follow up visits, after the initial face-to-face visit.

The Electronic Registration Process Allows Physicians and APRNs to:

- Electronically create a patient record for the patient who is unable to enter their own data and submit to DOH. **NOTE:** These patients may also need assistance with uploading copies of their ID, making electronic payments, and printing cards. These patients will not have online access to their application or be able to print their own cards.
- Review the patient applications. You will be able to view information such as the patient’s name, caregiver’s name, address, and grow site.
- 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).
- Certify the patient’s condition and ensure that all the requirements for certifying a patient have been met.
- Submit the electronic application to the Hawai‘i DOH.
- Change any information entered. Physicians or nurses 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.

**Having Trouble? Steps a physician or APRN should take BEFORE contacting Customer Support:**

- Make sure you are using a valid/current Medical License number and a state-controlled substance registration number.
- See if your medical license number is linked to your MyPVL account by visiting: <https://pvl.ehawaii.gov/mypvl>.
- Click the ‘Doctors, first time logging in’ link on the landing screen of <https://medmj.ehawaii.gov>.
- Make sure your log in is done using the same email and password that was used to create your MyPVL account.

If you are still having difficulty, please call Customer Support at (808) 695-4620 from Oahu and (866) 448-0725 from neighbor islands.

## Change Form? What Changes Need to be Reported Within Ten Days?

### **Q: When should a Change Form be filled out to void a 329 Card?**

**A:** The Change Form (Packet R.4.12.19) should be filled out by the provider when the applicant:

- No longer has a debilitating condition.
- Is no longer benefitting from the use of medical cannabis.
- Is deceased.
- Has a firearm permit or will be applying for a firearm permit and **requests voiding** the 329 card.

## “How To” Guides and Frequently asked Questions (FAQ) for Patients and Caregivers

### 329 Cards – Frequently Asked Questions

**Q: Why is getting the 329 registration card important?**

**A:** 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 cannabis is confirmed. According to S329-128, if you misrepresent yourself as a certified patient to law enforcement and are NOT in the registry, you may be arrested and charged with a misdemeanor (and any other penalties associated with the non-medical use of cannabis or drug paraphernalia).

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

**A: Yes.** You must carry both your 329 Card and a valid ID whenever you are in possession of your medical cannabis. This is for your protection and is a requirement in the DOH Administrative Rules 11-160-31 (a).

**Q: Is there a list of doctors or APRNs who may be willing to advise me on the medicinal use of cannabis and certify me?**

**A: Yes.** Although the DOH registry has a short list of names of doctors and APRNs who certify patients. As they note, it is not comprehensive.

<https://health.hawaii.gov/medicalcannabisregistry/find-a-medical-provider/>

### Minors

**Q: Can minors use cannabis under Hawai‘i’s Act?**

**A: Yes.** Minors under 18 are protected under Hawai‘i’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 cannabis. A parent or guardian must serve as the minor’s primary caregiver and follow the certification and registration procedures outlined above. A special application must be filled out:

<https://health.hawaii.gov/medicalcannabisregistry/patients/minor-applicants/>

## How to Apply for the Medical Cannabis Patient Registry Program

### **Q: What information do I need to register to get a 329 card?**

**A:** To register you must:

- Have a qualifying debilitating medical condition (you may need to provide your medical records).
- Set up an appointment with a qualified doctor or APRN.
- Set up an account and complete an application online.
- Provide a clear copy of your **valid identification** (for yourself and for a caregiver grower if you have one). Valid ID means a valid driver's license, state ID issued by a U.S. state, or a valid passport book. Cell phone photos may be uploaded to a computer and submitted online.
- Pay a registration fee.

At your appointment, the qualified physician or APRN must complete your application and verify your debilitating medical condition(s). The DOH will process your application. If you created your own application online, you can follow the progress online. And, once you are approved, you can print your own card.

### **Q: Do I have to be a Hawai'i resident to get a 329 card?**

**A: NO.** There are two types of 329 cards and applications:

- Instate patients. Certifications are good for one to three years – that's up to the provider to decide.
- Out-of-state patients who are certified in their "home" state with one or more of the qualifying conditions recognized in Hawai'i. These certifications are good for sixty days. Visit <https://health.hawaii.gov/medicalcannabisregistry/travel> for more information.

## How to Apply to Hawai'i's Medical Cannabis Patient Registry Program

### **Main Website:**

<https://health.hawaii.gov/medicalcannabisregistry/>

### **Patient Registration Process:**

<https://medmj.ehawaii.gov/medmj/welcome>

### **To Submit Your New Application:**

1. Schedule an appointment with your chosen qualified Physician or APRN (you can email [cannbis@dpfhi.org](mailto:cannbis@dpfhi.org) for a list).
2. Create a free, secure account at <https://medmj.ehawaii.gov/medmj/welcome>.
3. Remember your username and password so you can check on the status of your application
4. Log into your account at <https://medmj.ehawaii.gov>.



5. Fill out the online application giving your physician or nurses full name and a valid email address for contacting you. Also, give caregiver and grow site information (if you have one).
6. Upload any required documents, e.g., a clear copy of your valid ID (and one for your caregiver if you have one). You may be able to use a cell phone photo that you have uploaded to a computer.
7. Pay the application and portal administration fees. You must pay with a credit/debit card or direct withdrawal from a savings or checking account. Applications that utilize credit/debit have the shortest turnaround time. Applications that utilize direct withdrawals from savings or checking accounts will not be processed until a minimum of ten business days from the date of debit (after it clears your account). All fees are non-refundable, even if a card is NOT issued.
8. Agree to the Applicant Statement of Understanding and Certification and Consent to Release information (to allow the transfer of medical information from your physician/APRN to the DOH).
9. Go to your appointment with the physician or APRN. Once your physician or APRN certifies your condition and submits your application to the DOH, it will be in line for processing.
10. DOH will review the items submitted and, if approved, will issue the ONLINE 329 card for completed applications, in the order they are received. Incomplete applications will be electronically returned to the patient for corrections. All corrections must be made within thirty days of notification, or the application may be denied. The DOH recommends that applicants check the status of the application or registration weekly.

**NOTE:** You will need to download and print an e-copy of your 329 card(s). Ensure that the caregiver gets their card too. If your doctor or APRN created your application for you, you **will not have internet access to your account** to check on progress **or print 329 cards**. Instead, you will receive a hard copy of your 329 card(s) in the mail (USPS).

You can watch this Hawai'i Department of Health video to learn more.

<https://www.youtube.com/watch?v=BM7LLz0gjRE>

### 329 Card – Making Changes to Information

**Q: What if I need to make changes to information on my 329 card?**

**A:** Changes need to be reported within ten days of the change. Failure to notify DOH of any change to your application information can result in the revocation of your 329 card. You may need to pay a change fee.

**Q: What CHANGES need to be reported to the DOH within ten days?**

**A:** All these need to be reported:

- Need for a replacement 329 card.
- Need to VOID a 329 card.
- Change of name, address, or contact information.

- Change of caregiver or grow site.

**Q: When should a Change Form be filled out to void a 329 card?**

**A:** The Change Form (Packet R.4.12.19) should be filled out when the applicant:

- No longer has a debilitating condition.
- Is no longer benefitting from the use of medical cannabis.
- Is moving out of state.
- Is deceased (Provider must fill out the form).
- Has a firearm permit or will be applying for a firearm permit and requests voiding the 329 card.

### 329 Card Renewal

You may start the renewal process within sixty days of the expiration date. The process for renewing is the same as submitting your first application except that you may not be able to make an appointment with your physician or nurse until you complete an application for renewal with the DOH.

## Medical Cannabis Laws in Hawai'i from 2000 to 2021

**On June 14, 2000**, Governor Benjamin Cayetano signed Hawai'i's Act 228 into law, making Hawai'i the first state to permit the medicinal use of marijuana via an act of the state legislature. The initial rules were developed by the State Department of Public Safety (DPS) where the program was initially housed. Oversight was provided by the Narcotics Enforcement Division (NED).

Starting on December 28, 2000, all qualifying and certified patients and caregivers must register in a confidential, state patient/caregiver registry.

Only certified patients (with 329 Cards) are allowed to use cannabis. Each patient (or one designated caregiver) is allowed to grow a limited number of plants and possess a limited supply of usable medicine and the drug paraphernalia required for medication. The law remains silent on how or where patients could acquire seeds, cuttings, or plants. Limited transportation is also allowed.

**In 2015**, the patient registry program was moved to the Hawai'i State Department of Health (DOH).

**HB321/Act 241**, a long-awaited dispensary program bill, became law when Governor David Ige signed it. This allowed for eight vertically integrated medical cannabis dispensary licenses: three for Honolulu, two each for the counties of Hawai'i and Maui, and one license for the county of Kaua'i. Each licensee is allowed to have two production centers limited to no more than three thousand cannabis plants. Each licensee may establish up to two retail dispensing locations. This also added Post Traumatic Stress Disorder (PTSD) to the list of qualifying conditions.

**SB1291/Act 242** was signed into law, adding patient and caregiver protections that address non-discrimination for:

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

**In 2016**, eight medical cannabis dispensary licenses were awarded. The eight licenses are required to be vertically integrated which means each licensee owns and controls the entire supply chain from manufacturing to retail locations (seed to sale).

**UH Authorized to establish medical marijuana testing and research programs §304A** – Medical cannabis testing and research programs; established. (a) **To the extent permitted by federal and state law**, and subject to applicable certification by

the department of health, the **University of Hawai'i may establish medical cannabis testing and research programs.**

**HB2707/Act 230** was enacted, amending both the registry and dispensary laws. Key changes:

- Allowing Advanced Practice Registered Nurses (APRNs) with specific prescriptive privileges to certify patients.
- Allowing the University of Hawai'i to establish medical cannabis testing and research programs.
- Establishment of the Act 230 Medical Cannabis Oversight Working Group to give recommendations to legislators on needed improvements to the medical cannabis and dispensary programs.

**In 2017**, the first medical cannabis dispensaries and testing labs (with seed-to-sale computer tracking systems) opened.

**SB786/ACT 170 passed**, amending all references to "Medical Marijuana" to read "Medical Cannabis."

**HB1488/ACT 041 passed.** It permits:

- An increase in plant count from seven to ten plants at any stage of growth.
- Qualified patients and primary caregivers access to laboratory testing.
- Ending allowing a caregiver to grow for a patient (December 2023).
- A limit of no more than five qualifying patient cards/grows per location (December 2023).
- The addition of five more medical conditions to the list of qualifying conditions: Lupus, epilepsy, multiple sclerosis, and rheumatoid arthritis.
- ALS (Amyotrophic Lateral Sclerosis) was added through a new DOH petitioning process. The petition and studies can be viewed here:  
<https://health.hawaii.gov/medicalcannabisregistry/files/2017/08/Amyotrophic-Lateral-Sclerosis-ALS-08.09.17-Redacted.pdf>.

**In 2018, HB2729** was signed into law (as Act 116). It allows for:

- An extension of the certification date up to three years.
- Dispensaries to sell Safe Pulmonary Administration products (such as vaporizers).
- The use of telehealth for follow up visits (after the provider-patient relationship has been established by a face-to-face visit).
- One or both parents/guardians to register as caregivers for one or more qualifying minor patients.
- Rules for out-of-state patient certifications and reciprocity, and to allow qualifying patients to use dispensaries.
- Establishment of a working group to make recommendations regarding a) employment discrimination and b) allowing dispensaries to sell edibles.

**SB2488 passed** (as Act 161) and created a working group to address reimbursement by health insurance (including Worker's Compensation).

**In 2019**, Hawai'i's Department of Health merged the patient registry and dispensary programs under the Office of Medical Cannabis Control and Regulation.

**HB673 passed**, allowing for sale or transfer of dispensary licenses; retail sales on holidays; building a dispensary within 750 feet of public housing; and expansion of interisland transport for dispensary lab testing.

**In 2020**, during the COVID-19 pandemic lockdowns, dispensaries were deemed to be an "essential service" and allowed to operate with COVID-19 precautions in place. Multiple requests to Governor Ige, asking for provisions that allow dispensaries to provide delivery services and to allow physicians and APRNs to use telemedicine for initial certification visits were denied.

**HB2097 passed**, allowing dispensaries to make and sell edibles and to provide science-based education. It allows the DOH to set rulemaking for the remediation of products that fail lab testing.

**In 2021**, Governor David Ige proclaimed June 14 to be Medical Cannabis Day in Hawai'i.

**SB1139 passed**, allowing the DOH to set patient registration fees. It requires the office of medical cannabis control and regulation to convene a task force on the effects of (adult-use) legalization of cannabis on qualifying medical cannabis patients and report to the legislature by the end of 2022.

**HCR132 passed**. It asks Hawai'i's DOH to petition the Drug Enforcement Agency asking for acknowledgement that the Schedule I drug classification does not apply to protected activities in Hawai'i revised statutes. The resolution states that the lack of uniformity between state and federal cannabis laws has had repercussions for medical cannabis patients and the State's medical cannabis dispensaries.

## Federal Laws and Conflict with State Laws

To date, Cannabis sativa L. (also known as marijuana or marihuana) is categorized as a Schedule I drug in the United States Controlled Substances Act of 1970 (the CSA). This category is reserved for substances that have:

- A high potential for abuse.
- No currently “accepted” medical treatment use in the U.S.
- A lack of accepted safety for use of the drug or substance under medical supervision.

While the U.S. Justice Department and DEA play a key role in federal scheduling, a medical and scientific review by both the U.S. Department of Health and Human Services (DHHS) and the Food and Drug Administration is binding on the U.S. Attorney General’s classification decision.

The federal government does not recognize any “**accepted**” medical use for cannabis and will not allow medical use evidence to be introduced in a federal court trial. Federal law maintains that possessing, distributing, and/or **selling or** using any amount of marijuana (or **drug paraphernalia**) remains a federal crime. Federal crimes also include transporting cannabis into federal spaces, such as onto a military base, into a national park, on an airplane, or ocean-going vessels (such as a boat).

In spite of the Schedule I classification, the federal government has maintained a medical cannabis program called the “Compassionate Investigational New Drug Program” (IND), **since 1978**. It still supplies the last remaining patient (Irv Rosenfeld) with 300 rolled cannabis cigarettes per month.

**The Controversial Schedule I status** continues to: interfere with patient access to cannabis, hinder medical care, and impede medical research and legislation. It restricts federal funding for safety studies and those assessing its therapeutic use. It allows for the unequal treatment of medical cannabis patients in health care, employment, housing, and at school. Patients who use medical cannabis in compliance with state law may still face a loss of employment; disability insurance coverage; eligibility for federally subsidized housing; access to opioid medications and pain management programs; school loans and/or a denial of an application for federal firearms permits.

Dispensary Licensees face many expensive hurdles, with restricted access to banking, insurance coverage, properties, and legal counsel, plus the rigorous security measures required for the transportation of plant products and cash.

### Banking and Taxes

Because of the federal government’s Schedule I Drug status, medical cannabis businesses (such as dispensaries) must conduct sales and payment of state and federal taxes and employee payrolls in cash. In 2017, dispensaries were allowed to use a debit payment application called “CanPay.” Using a credit union in Colorado,

payments are withdrawn from the participating patient's checking account.  
<https://cca.hawaii.gov/dfi/files/2017/09/MCD-FAQs.pdf>

## Enforcement of Federal Law – Department of Justice

Federal prosecutors tend to act against large drug operations and federal charges are rarely brought against patients for small-scale, personal possession or cultivation of cannabis (although this remains a possibility).

**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 cannabis laws against patients who possess or cultivate** cannabis. It did not address any issues related to medical cannabis nor did it overturn any of the state laws on medical cannabis. The power of state governments to enact and enforce state medical cannabis laws was not affected by this decision.

### Protections: The Cole Memo and Rohrabacher-Farr Amendment

**In 2013**, the Cole Memorandum was issued by the Obama Administration. The memo served as guidance to United States Attorneys (federal prosecutors) regarding prosecutorial discretion and prioritization of enforcement of federal cannabis law. The memo encouraged federal prosecutors to not prosecute people who distribute cannabis for medical purposes in accordance with state law.

The Cole Memo suggested that the focus be on the following priorities related to state-legal cannabis operations:

- Preventing the distribution of cannabis to minors.
- Preventing revenue from the sale of cannabis from going to criminal enterprises, gangs, and cartels.
- Preventing the diversion of cannabis from states where it is legal under state law in some form to other states.
- Preventing state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity.
- Preventing violence and **the use of firearms** in the cultivation and distribution of cannabis.
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use.
- Preventing the growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands.
- Preventing cannabis possession or use on federal property.

**In 2014**, the Rohrabacher-Farr Amendment (in the U.S. omnibus spending bill) passed. It prohibits the Justice Department from spending funds to interfere with the implementation of state medical cannabis laws. It does NOT change the legal status of cannabis and it must be renewed each fiscal year in order to remain in effect. The name changes to reflect the sponsors.

**In May 2017**, Attorney General Jeff Sessions announced that low-level drug offenders would once again be criminalized to the maximum extent possible. In 2018, he



encouraged federal prosecutors to go after states pursuing well-regulated, democratically enacted cannabis programs and he **rescinded the Cole Memo**. Also in 2017, the **Congressional Cannabis Caucus**, a bipartisan, registered caucus in the United States Congress, was formed to address cannabis reform legislation.

**In 2021**, Attorney General Merrick Garland indicated that it is NOT the best use of the Department's limited resources to pursue prosecutions of those who are complying with the laws in states that have legalized and are effectively regulating marijuana.

## State Medical Cannabis Laws and Protections from Federal Law

**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. The Tenth Amendment allows states to determine how they will regulate the practice of medicine and how controlled substances are used within the state.

**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 the potential risks and possible therapeutic benefits of cannabis.

The **anti-commandeering doctrine** limits the supremacy clause by prohibiting the federal government from forcing states to do its bidding. There is no controlling case law holding that Congress intended to preempt the field of regulation of cannabis use under its supremacy powers (*Beek v. City of Wyoming*, 2014; *Mikos*, 2012).

## Hawai'i's Medical Cannabis Law and Affirmative Defense

**\*\*As of May 2021**, thirty-five states, D.C., and four U.S. territories have “accepted” the medicinal use of whole plant, cannabis sativa. Another eleven states allow use of "low THC, high cannabidiol (CBD)" products for medical reasons in limited situations or as a legal defense. This provides qualifying patients (who follow the state laws) with **an affirmative defense status**. The same is true in states that only allow for the use of CBD products to treat medical conditions and research.

While cannabis use remains illegal at the federal level, the Hawai'i legislature opted not for legal status but rather for an **“affirmative defense”** status. So, if a state like Hawai'i has removed criminal penalties for the medical use of cannabis, then the patients, the physicians and nurses, and the dispensaries (who are compliant with state law) have an affirmative defense and are protected from arrest by state or local authorities. It is important to note that the protections of the Hawai'i medical cannabis laws do not protect patients, physicians, or nurses from possible federal prosecution.

Qualifying, licensed physicians and nurses in the state of Hawai'i can issue certifications to patients and caregivers. Whereas a prescription would afford legal privilege to the patient, these certifications simply protect patients from (state) criminal charges without affecting the legal status of the drug itself.

## Frequently Asked Questions (FAQ) A to Z

### CBD

**Q: Are CBD and CBD products (from Hemp) covered by the medical cannabis laws?**

**A: No.** The rules and regulations for CBD products made from hemp are regulated by the USDA and FDA. To learn more, please visit **ProjectCBD.org**.

### Child Custody

**Q: Does becoming a medical cannabis patient affect Child Custody?**

**A:** When SB1291 was passed in 2015, it added non-discrimination, medical cannabis patient protections, with no presumption of neglect or child endangerment regarding child custody, child visitation, or parenting time.

### Confidentiality

**Q: Is a patient's confidentiality protected?**

**A: Yes.** Although the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not apply — as it is a Federal/National program — Hawai'i's Department of Health regards medical cannabis patient information as protected, confidential medical records. The DOH publishes non-identifying statistics on their website.

**Confidentiality is also ensured at dispensaries.**

The patient and caregiver will be asked to provide their 329 cards and ID prior to being allowed to enter and purchase medical cannabis from a licensed dispensary. They will also verify registration with the DOH. However, if you pay using the CanPay app, the name of the dispensary will show on your checking account statements.

**Q: Will the police have access to my medical information?**

**A: NO.** Only a small number of authorized Law enforcement agents 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. No personal details will be shared with law enforcement (such as your medical condition). The DOH may tell law enforcement whether the patient, caregiver, or grow site registration is "valid," "invalid," or "pending".

For more information about confidentiality see:

[https://health.hawaii.gov/medicalcannabisregistry/files/2014/11/2016-FINAL-signed-10-21-16\\_-filed-11-24-16-Amendment-to-11-160-56.pdf](https://health.hawaii.gov/medicalcannabisregistry/files/2014/11/2016-FINAL-signed-10-21-16_-filed-11-24-16-Amendment-to-11-160-56.pdf)

## Dispensary Locations and Contact Information

### **Hawai'i Island (Big Island)**

#### **Big Island Grown**

Website: [www.bigislandgrown.com](http://www.bigislandgrown.com)

Email: [info@bigislandgrown.com](mailto:info@bigislandgrown.com)

Patient handbook: <https://www.bigislandgrown.co/patient-handbook>

#### *Hilo:*

Phone: (808) 825-5533

Address: 750 Kanoiehua Ave., Ste. 104, Hilo, HI 96720

#### *Kailua-Kona:*

Phone: (808) 374-8210

Address: 74-5617 Pawai Pl., Kailua-Kona, HI 96740

#### *Waimea:*

Phone: (808) 825-5910

Address: 64-1040 Mamalahoa Hwy., Waimea, HI 96743

#### **Hawaiian Ethos**

Website: <https://www.hawaiianethos.com/>

#### *Hilo:*

Phone: (808) 731-5559

Address: 578 Kanoiehua Ave., Hilo, HI 96720

#### *Kailua-Kona:*

Phone: (808) 339-3205

Address: 73-5613 Olowalu St., Ste. 7, Kailua-Kona, HI 96740

#### *Waimea:*

Phone: (808) 731-5082

Address: 64-1035 Mamalahoa Hwy., Unit J., Kamuela, HI 96743

### **Kaua'i**

#### **Green Aloha + Dispensary**

Website: <https://greenaloha.com/>

#### *Kapa'a:*

Phone: (808) 320-3187

Address: 4-1565 Kuhio Hwy., #3, Kapaa, HI 96746

## **Maui**

### **Maui Grown Therapies**

Website: [www.mauigrown.com](http://www.mauigrown.com)

#### *Kahului*

Phone: (808) 866-7576

Address: 44 Pa'a St., Kahului, HI 96732

#### *Lahaina:*

Phone: (808) 866-6651

Address: 1087 Limahana Pl., Unit 4B, Lahaina, HI 96761

### **Pono Life Sciences**

Website: [www.ponolifemaui.com](http://www.ponolifemaui.com)

#### *Kahului:*

Phone: (808) 489-9454

Address: 45 Dairy Rd., Kahului, HI 96732

## **O'ahu**

### **Aloha Green Apothecary**

Phone: (808) 369-2888

Website: <https://www.agapoth.com/>

#### *Airport Area Address:*

3131 N. Nimitz Hwy., Honolulu, HI 96816 (Camp Catlin Rd. off Nimitz Hwy)

#### *Downtown Address:*

1314 S. King St., Honolulu, HI 96814

#### *Waikiki Address:*

2113 Kalakaua Ave., Honolulu, HI 96815 (Saratoga Road Entrance)

### **Cure Oahu**

Phone: (808) 208-8770

Website: [www.cureoahu.com](http://www.cureoahu.com)

#### *Kaimuki Address:*

27 Kapahulu Ave., Honolulu, HI 96816

### **Noa Botanicals**

Phone: (808) 800-2126

Website: [www.noacares.com](http://www.noacares.com)

*Aiea Address:*

98-302 Kamehameha Hwy., Aiea, HI 96701

*Honolulu Address:*

1308 Young St., Honolulu, HI 96814

*Kaneʻohe Address:*

Windward Centre, 46-028 Kawa St., Kaneʻohe, HI 96744

## Dispensary Rules and Regulations

**In 2016**, eight dispensary applicants were awarded licenses. Each of the licensees is responsible for the seed-to-sale tracking and security of plants they are growing, manufacturing, and selling. Delivery service is not allowed.

**Dispensaries are allowed to sell** (1) capsules, (2) lozenges, (3) pills, (4) oils and oil extracts, (5) tinctures, (6) ointments and skin lotions, (7) transdermal patches, (8) pre-filled and sealed containers used to aerosolize and deliver cannabis orally, such as with an inhaler or nebulizer, (9) edibles (added in 2020), and (10) other DOH approved products.

## Banking and Taxes

Because of the federal government’s Schedule I Drug status, medical cannabis businesses (such as dispensaries) must conduct sales and payment of state and federal taxes and employee payrolls in cash. In 2017, dispensaries were allowed to use a debit payment application called “CanPay.” Using a credit union in Colorado, payments are withdrawn from the participating patient’s checking account. <https://cca.hawaii.gov/dfi/files/2017/09/MCD-FAQs.pdf>

## Driving

It is NEVER OKAY to drive while intoxicated. Please do not mix cannabis with alcohol and drive. That can increase the risk that you are in a motor vehicle accident at a rate much higher than for either substance alone.

If you are considering transporting cannabis, please see Transport.

## Employment and Drug Testing

**Q: What should I tell my employer if I am subjected to a drug test?**

**A:** Employees should consult their employer’s drug policy. The Act prohibits use of medical cannabis in the workplace but is silent regarding the employee’s rights and duties regarding medical cannabis. It is suggested that employers treat medical cannabis like any other prescription drug that might impair ability -- however many do not.

The Federal Drug-Free Workplace Act does not actually require drug testing and does not prohibit federal contractors from employing people who use medical cannabis outside of the workplace in accordance with state law. However, most of the employers with designated “zero-tolerance, drug-free workplaces” do require pre-employment and randomized drug testing.

Currently, employers are free to refuse to hire applicants and fire employees who test positive for THC metabolites.

This practice is being challenged around the nation. Currently twelve U.S. states ban employment discrimination against medical cannabis users. Hawai‘i is not one of them.

**Q: Do I have any legal recourse if I am fired for testing positive?**

**A:** Currently, no, but contact an attorney to learn more. You **may have a claim** if you can prove that your termination caused you harm.

### Growing/Tagging Cannabis Plants – Grow Sites Inspection

#### **Patient Information – Identification Tags for Plants (Effective July 2015)**

The DOH is allowed to conduct inspections of grow sites. 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).

#### **Tagging Plants**

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 (see section 11-160-31(b), HAR). The tag shall be tied to or encircle the base of each plant and shall be clearly visible on the outside of the plant.

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.

**No more than TEN (10) cannabis plants for a single patient**, may be tagged with the same registration number and expiration date (section 329-121 Hawai‘i Revised Statutes).

Patients and caregivers must select/purchase or make their own tags, but it **MUST** meet the DOH guidelines. Acceptable tags are available for sale online OR can be made with items found in most hardware stores. Tags must meet the guidelines listed at <http://health.hawaii.gov/medicalmarijuanaregistry>.



### **Guidelines for Proper Identification Tags:**

- Material/Durability: Each tag shall be made of a durable water and weather resistant material.
- Color: Each tag shall be of SOLID color with black or blue lettering.
- Face Size: Each tag face shall be at least 3” long by 1/4” wide.
- Location: Each tag shall be tied to or encircle the base of the plant.
- Visibility: Each tag shall be clearly visible on the outside of the plant.
- Content: Each tag shall be CLEARLY marked with the 329 registration number and expiration date.
- 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.

**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, Hawai'i Revised Statutes.

### [Gun Ownership/New Permits](#)

#### **Guns and Ammunition – Federal Laws Regarding Gun Ownership**

As of October 2017, [the state gun permit form](#) has a question asking whether the applicant is a medical cannabis patient. Presumably, if the applicant answers "yes," then a designated HPD officer conducts a verification check. If that comes back as "valid," then the permit is denied. Cannabis users are not allowed to obtain permits for or own guns or ammunition for **one year after surrendering/voiding their 329 cards**.

Submission of misleading, incorrect, false, or fraudulent information on any portion of the application may result in the revocation of your 329 Registration Card and may negate your ability to assert the medical use of cannabis as an affirmative defense to any prosecution involving cannabis under this part or chapter 712.

### [Guns](#)

#### **Q: If I own a gun, can I still become a medical cannabis patient?**

**A:** By law, DOH is not required to verify if you are already a gun owner when you register for the program. Federal law does not allow users of cannabis (medicinal or otherwise) to legally own a firearm. Under the provisions of the Hawai'i Revised Statutes, Section 134-7(a), you are disqualified from firearms ownership.

If you wish to own a gun or **ammunition you need to void your 329** registration card for one year before the application will be considered.

Former Honolulu Police Chief Susan Ballard was quoted saying: “A medical doctor's clearance letter is required for any future firearms applications or return of firearms from HPD evidence.” <https://reason.com/2017/11/29/hawaii-which-requires-registration-of-al/>

This interpretation of federal law is also informed by [a recent controversial 9th Circuit Court of Appeals decision](#).

The decision: being a medical cannabis card holder, even if the person is not currently using the medicine, poses a **demonstrated connection to "illegal drugs" that cause impairment and violence**. The evidence presented to back up this claim was negligible.

The Ninth Circuit is the [federal appeals district](#) that includes Hawai'i, making its rulings binding on federal districts courts here, but *not* on our state courts (though they may see them as "persuasive."). Oklahoma and Illinois have made exceptions, Hawai'i has not.

**Please see our special FAQ at:**

<http://dpfhi.org/q-a-about-hawaii-gun-permits-and-medical-cannabis/>

## Hospital Policy

### **Official Hospital and Medical Residential settings policy**

If you are admitted into a hospital, skilled nursing facility, or assisted living facility you will likely not be allowed to bring your medicine with you. Policies regarding allowing the patient to keep their cannabis medicines are being challenged in many states.

## Housing

**HOUSING See SB1291/ACT242, HB1503/Act 60 and DOH Website.**

### **Q: Can patients living in federally subsidized housing participate in the program?**

**A:** Despite Hawai'i's medical marijuana act, federal law or federal rules and regulations **still prohibit** the use, possession, cultivation, or distribution of cannabis. Any federal laws or rules prohibiting the use of marijuana in federally subsidized housing would likely override Hawai'i's law. Patients occupying rental units or federally subsidized housing who wish to use medical marijuana should seek legal guidance on this issue.

### **Q: What about use in hotels, apartments, and condos with smoking rules?**

**A:** As a general rule of thumb, if the entire “footprint” of the property is “smoke free,” registered (in-state and out-of-state) patients cannot smoke or ingest via pulmonary devices (a.k.a. vape) medical cannabis anywhere on that property. Other methods of ingestion may be acceptable.

Patients must observe all Smoke-Free Laws in Hawai'i. Owners or tenants should be able to obtain a copy of the By-Laws from their Board of Directors.

**Q: What protections do registered medical cannabis patients have?**

**A:** Discriminatory practices against any person with a valid 329 card (in certain housing situations) have been prohibited by the state of Hawai'i (see Hawai'i Revised Statutes: §421J, §514A, and §514B.)

In 2014, HB 1503/Act 60 passed, stating that any provision in a rental agreement allowing for the eviction of a tenant with a valid certificate for the medical use of marijuana is void, unless the rental agreement allows for eviction for any kind of smoking (including tobacco). Exceptions are included for community associations and condo rules, and the law does not affect duties, penalties, or proceedings that occurred or began before its effective date (Nov. 1st, 2014).

In 2015, SB1291 was signed into law (as Act 242). This states that no landlord shall refuse to lease property to, or otherwise penalize, a person solely for the person's status as a qualifying patient or primary caregiver in the medical marijuana program under this part, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation; provided that the qualifying patient or primary caregiver strictly complied with the requirements of this part; provided further that the qualifying patient or primary caregiver shall present a medical marijuana registry card or certificate and photo identification, to ensure that the qualifying patient or **primary caregiver is validly registered with the department of health pursuant to 20 section 329-123.**

Further, "Nothing herein shall be construed to diminish the obligation of a planned community association to provide reasonable accommodations for persons with disabilities pursuant to section 515-3(9)."

<https://health.hawaii.gov/medicalcannabisregistry/files/2015/05/2015-Approved-SB-1291-Act-242.pdf>

Summary: <https://health.hawaii.gov/medicalcannabis/submenu/read-patient-and-caregiver-protection-sb1291-cd1/>

**From DOH**

Nondiscriminatory language was added to the following Hawai'i Revised Statutes: §421J – Planned Community Associations, §514A – Condominium Property Regimes, and §514B – Condominiums – that prohibits discriminatory practices against any person with a valid 329 card for the medical use of marijuana in certain housing situations as described therein.

<https://health.hawaii.gov/medicalmarijuana/files/2015/05/2015-Approved-SB-1291-Act-242.pdf>

Insurance

**Q: Is my medical cannabis covered by insurance?**

**A: No.** The Act explicitly states that insurance companies are not required to pay for medical cannabis. That could change through the legislative process or court decision.

## Labs and Testing

### Lab Locations and Testing Information

**Q:** What substances are the labs testing for?

**A1:** For the dispensaries, the labs must test for:

- Cannabinoid profile.
- Pesticides.
- Mycotoxins.
- Heavy metals.
- Moisture content.
- Microbial impurities.
- Solvents (if applicable).
- They also include Terpenes, a class of natural products consisting of over 30,000 different unsaturated hydrocarbons (e.g., the major component of turpentine).

**A2:** For patients, labs may offer simpler panels of testing for home-grow products. They are generally:

- Cannabinoid profile.
- Terpene profiles and/or pesticides or mold.
- Not all labs offer testing for patients.

**Q: How do I get my home-grown plants tested?**

**A:** You need to:

- Make an appointment with the lab.
- Decide what type of test you want done (potency, cannabinoid and/or terpene profile, contaminants, etc.) to find out how much plant material you need to bring.
- Bring your state issued ID and 329 card to your appointment.
- Pay the fees.

Please remember that inter-island transportation is not allowed as it is in conflict with Federal law.

## Lab Locations

### Labs in Hawai'i That Provide Testing for Dispensaries and/or a Patient's Home-Grown Cannabis

**Aeos Labs, Inc** – Testing done for dispensaries only, not for patients.

Multiple locations – Operated by Clinical Labs of Hawai'i. <https://www.aeoslabs.com/>

**Steep Hill Hawai'i** – Testing done for dispensaries AND patients.  
<https://www.steePhill.com/locations/hawaii>

**O'ahu** (808) 735-5227  
1150 S King St. (Penthouse), Honolulu, HI, 96814

**Hawai'i (Big) Island** (808) 746-5530  
73-5590 Kauhola St., Ste. B, Kailua-Kona, HI 96740

## Law Enforcement

### **Q: What should a patient do if a Law Enforcement officer asks for Verification?**

**A:** 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 O'ahu is (808) 586-2200. On Neighbor Islands the numbers are: Hilo (808) 974-4571; Kona (808) 323-1945; Kaua'i (808) 241-7128; 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 (for example, smoking in public, driving under the influence, sales, or distribution, etc.).

## Medical Cannabis – What is it? Where Can I Get It? Where Can I Use It?

### **Q: What is medical cannabis?**

**A:** Medical cannabis is the same as any other form of cannabis (marijuana) except that it is used as medicine. Most parts of the plant can be used to produce medicines. It is generally accepted that there are 3 varieties: sativa, indica, and ruderalis. Most of the strains are a hybrid of all three. Generally, female flowers produce the best medicines, so male plants are weeded out.

The medicines found in the dispensaries generally do not include HEMP-derived CBD products (unless the dispensary has a special license to grow hemp).

Patients use their medicines many ways including: chewing on or juicing raw flowers or leaves; smoking or vaping flowers or concentrates; ingesting edibles or concentrates (oils or tinctures); absorbing sublingually (under the tongue); applying topically (creams or patches); or by inserting suppositories (rectally or vaginally).

### **Q: Why can't patients get medical cannabis at a pharmacy?**

**A:** Cannabis cannot be prescribed because marijuana continues to be classified by the federal government as a "Schedule I" drug with NO currently "accepted" medical treatment use in the U.S. All pharmacies are federally regulated and can only dispense medications that are approved by the FDA and prescribed by a licensed health care

professional. FDA approved medications are generally one single, synthetic substance, not whole plant medicines.

**Q: Where can I obtain medical cannabis?**

**A:** A registered patient (or a caregiver) may grow up to 10 plants and/or buy products from a dispensary. The law is silent on where patients may obtain seeds, cuttings, or plants to grow-their-own. Dispensaries are available on Hawai'i Island, O'ahu, Maui, and Kaua'i.

**Q: What is the definition of “usable” cannabis?**

**A:** “Usable cannabis” is defined as any mixture of the dried leaves and flowers of the cannabis plant that is appropriate for the medical use of cannabis.

Useable cannabis does not include seeds, stalks, and roots of the plant. A variety of cannabis and manufactured cannabis products are available at dispensaries where a system of equivalency has been established.

**Q: Where can I use my medicine? (From 329-122)**

**A:** You may use medical cannabis in the privacy of your own home. To protect the health and well-being of another person, cannabis cannot be used in a moving vehicle, on a school bus or public bus, on any school grounds, in any public park or public beach, recreation center or youth center, any place open to the public, or in the workplace.

**Q: Is it legal for patients to share their medicine?**

**A: No.** However a registered caregiver can transfer cannabis and paraphenalia to their one registered patient.

[Program Statistics](#)

**Current as of July 2021**

In-state Patients: 33,995

Out-of-state Patients: 956

Total Valid Patients: 34,982

Total State Licenses: 8

Total Dispensary Locations Statewide: 17

Number of Patients that Utilize the Dispensaries for Medicine: Approximately 13,000

Percentage of Hawaii's Population who are Registered Cannabis Patients: 2.4%

[Safety](#)

**Storage**

Treat medical cannabis as you would any other medication – responsibly.  
Do not share your medicines with other individuals.

Avoid accidental consumption by putting labels on it, especially for home baked or repackaged products.

Your plants and medicines should be:

- Kept out of the view and reach of children and pets.
- Locked up if needed

Do not drive or engage in hazardous activities while **under the influence** of your medicine.

## Medical and Legal Resources

### Medical Resources

ACT 228 [https://www.capitol.hawaii.gov/session2000/acts/Act228\\_SB862\\_HD1\\_.htm](https://www.capitol.hawaii.gov/session2000/acts/Act228_SB862_HD1_.htm)

- Hawai'i Department of Health's Administrative Rules (HAR Chapter 11–160)  
<https://health.hawaii.gov/medicalcannabisregistry/files/2019/02/11-160-Administrative-Rules-2019.pdf>

### CBD Hemp Law

<https://harrisbricken.com/cannalawblog/the-laws-and-regulations-on-hemp-cbd-in-all-50-states/>

DOH Office of Medical Cannabis Control and Regulation (OMCCR)

Some of the Information you will find on the DOH website – see pages 17–18

[Medical Cannabis Laws and Rules](#)

[CBD in Hawai'i](#)

[Dispensaries in Hawai'i](#)

**Resources – Hawai'i – Department of Health – Office of Medical Cannabis Control and Regulation.**

**Office of Cannabis Control and Regulation (OMCCR) organizational chart 2019**

<https://health.hawaii.gov/orgchart/files/2019/12/2019-OMCCR-Charts.pdf>

State of Hawai'i, Department of Health, **Medical Cannabis Registry**

<https://health.hawaii.gov/medicalcannabisregistry/>

### Legal Resources

#### The Cole Memo

[U.S. Department of Justice "Update to Cannabis Enforcement Policy"](#) Aug. 29, 2013.

#### Dispensaries

Act 230 Medical Cannabis Oversight Working Group

<https://health.hawaii.gov/medicalcannabisregistry/files/2014/11/2016-7-11-Act-230-signed-by-gov.pdf>



## **“How to” Guides**

### **329 Cards – How to Guides**

<https://health.hawaii.gov/medicalcannabisregistry/329-forms/>

In-State Patient Video Tutorial

### **Application Process**

[How to Start and Submit an Online 329 Application \(2020\)](#)

<https://health.hawaii.gov/medicalcannabisregistry/files/2020/10/How-to-Start-and-Submit-an-Online-329-Application-2020.pdf>

[How to check the status of your 329 Application](#)

<https://health.hawaii.gov/medicalcannabisregistry/files/2020/08/Check-the-Status-of-your-329-Application.pdf>

[How to access your 329 card online](#)

<https://health.hawaii.gov/medicalcannabisregistry/files/2019/04/Access-Your-329-Card-Online.pdf>

[How to Renew Your 329 Online Application](#)

<https://health.hawaii.gov/medicalcannabisregistry/files/2020/09/How-to-Renew-Your-329-Online-Application.pdf>

### **To Make Changes to Your Card**

<https://health.hawaii.gov/medicalcannabisregistry/patients/changes-to-information/>

### **DOH**

<https://login.ehawaii.gov/lala/account/new.lala?lalaSignUp=true&returnUri=https://medmj.ehawaii.gov/medmj/welcome&returnName=Medical%20Cannabis%20Registry>

### **Application Instructions Video**

<https://health.hawaii.gov/medicalcannabisregistry/application-information/>

### **Patient Account Access**

<https://medmj.ehawaii.gov/medmj/welcome>

Hawai'i DOH Information Hotline:

General Information **(808) 733-2177**

Please call on Tuesday, Wednesday, or Thursday to speak to staff between 8:00AM–12:00PM (HST):

Hawai'i Island: (808) 974-4000, ext. 32177

Maui: (808) 984-2400, ext. 32177

Kaua'i: (808) 274-3141, ext. 32177

OR email [medicalcannabis@doh.hawaii.gov](mailto:medicalcannabis@doh.hawaii.gov).

## [Back Cover – Image]

### **ABOUT US – DPFH**

The Drug Policy Forum of Hawai'i is a nonprofit 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.

Our vision is for 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 including medical cannabis, overdose prevention, the impact of crystal methamphetamine, effective drug education, over incarceration, 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 speaker's bureau, and publishes legislative updates and newsletters.

For more information about the Drug Policy Forum of Hawai'i visit our website:  
[www.dpfhi.org](http://www.dpfhi.org)

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