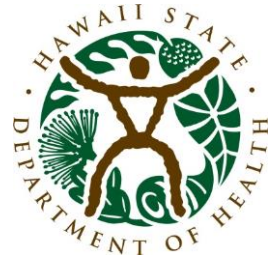


STATE OF HAWAII
DEPARTMENT OF HEALTH
4348 Waiālae Avenue, #648
Honolulu, Hawaii 96816



DOH Medical Marijuana Administrative Rules Timeline

Pursuant to Act 177, Session Laws of Hawaii 2013 (Act 177), the Legislature transferred the administration of Hawaii's Medical Marijuana Program from the Department of Public Safety (PSD) to the Department of Health (DOH) effective January 1, 2015.

On November 14, 2014, then Governor Neil Abercrombie, gave his approval for the DOH to schedule the proposed administrative rules for public hearing.

On December 25, 2014, DOH published a notice of public hearing in the *Honolulu Star Advertiser*, *West Hawaii Today*, *Hawaii Tribune Herald*, *The Garden Island* and *The Maui News*. This notice was also posted on the DOH website for the extent of the comment period.

Public hearings were held on the four major islands and are summarized as follows:

| Hearing Location | Hearing Date | Number of Persons Signed into Hearing | Number of Persons who Provided Oral Comments |
|------------------|------------------|---------------------------------------|--|
| Hilo, Hawaii | January 28, 2015 | 32 | 17 |
| Honolulu, Oahu | February 2, 2015 | 15 | 3 |
| Kahului, Maui | February 3, 2015 | 30 | 8 |
| Lihue, Kauai | February 5, 2015 | 31 | 4 |

DOH received written comments from 21 persons. In response to public comments received, DOH proposed, and ultimately received approval for, the following revisions to the initial draft of the administrative rules (deleted wording is bracketed and stricken; new wording is underscored):

(1) Section 11-160-2, HAR, Definitions: Change definition of "bona fide physician-patient relationship" to clarify that a physician must conduct a "medically appropriate" review of the qualifying patient's medical records and must provide follow up care and treatment "as medically appropriate" to the qualifying patient. New definition reads as follows:

"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 which means:

- (1) The physician has completed a full assessment of the qualifying patient's medical history and current medical condition, including conducting a review of the qualifying patient's medical records related to the debilitating condition as medically appropriate and conducting an in-person physical examination;

- (2) The physician provides follow up care and treatment as medically appropriate to the qualifying patient and assesses the qualifying patient's condition during the course of the qualifying patient's medical use of marijuana; and
- (3) The physician maintains records of the qualifying patient's treatment and condition in accordance with medically accepted standards.

(2) Section 11-160-16, HAR, Qualifying patient and primary caregiver registration requirements: Add a new paragraph (9) to clarify the registration requirement that qualifying patients or their guardians must consent to allow their certifying physician to release health information pertaining to their debilitating condition to the DOH. New paragraph (9) reads as follows:

§11-160-16 Qualifying patient and primary caregiver registration requirements. (a) To apply for or renew a qualifying patient's registration, an applicant shall submit the following to the department on a form and in a manner prescribed by the department:

- (9) A consent by the qualifying patient, or the qualifying patient's parent, guardian, or person having legal custody of the qualifying patient if the qualifying patient is a minor or an adult lacking legal capacity, for the certifying physician to release health information pertaining to the qualifying patient's debilitating medical condition to the department for the purpose of registration, monitoring, or investigation.

(3) Section 11-160-40, HAR, Disposal of unused marijuana: Amend wording as follows:

§11-160-40 Disposal of unused marijuana. Upon the revocation or voiding of a qualifying patient's or primary caregiver's registration card, all unused marijuana in the possession of the qualifying patient or primary caregiver shall be disposed of immediately by ~~[transporting]~~ rendering the unused marijuana ~~[to a local law enforcement office or by destroying the unused marijuana.]~~ unusable in a manner approved by the department.

(4) 11-160-46, HAR, Monitoring and investigations: Amend wording as follows:

§11-160-46 Monitoring and investigations. (a) The department may, at any time, during or after the registration or renewal process, contact a qualifying patient, primary caregiver, or certifying physician by telephone, mail, or in person to verify the current accuracy of information included in the registration system.

(5) Additionally, to clarify that the same or similar provisions that apply to minor qualifying patients also apply to qualifying patients who are incapacitated adults, all instances of the term "minor" that do not specifically refer to children, have been amended to include the words "or incapacitated adult." Those provisions occur in section 11-160-2, the definition of "parent," section 160-11(7), section 11-160-12(b)(10), twice in section 11-160-16(a)(2), section 11-160-16(a)(9), section 11-160-16(a)(10), twice in section 11-160-16(a)(11), section 11-160-19(2), and section 11-160-56(a)(4).

On July 6, 2015, Governor David Ige approved the DOH Administrative Rules for the Medical Use of Marijuana.