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POLICE DEPARTMENT

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February 17, 2010

Senator Donna Mercado Kim
Chair and Members
Committee on Ways and Means
State Capitol
415 South Beretania Street, Room 211
Honolulu, Hawai`i 96813

Re: Senate Bill 2213, SD 1, Relating To Counties

Dear Senator Kim and Members:

The Hawai`i Police Department strongly opposes the passage of the following Senate Bill:

- **SB 2213, SD1, Relating to Counties;** Provides that each county has the power to establish compassion centers for the dispensing of medical marijuana. Requires that compassion centers shall only provide service to qualified patients and primary caregivers registered with the department of public safety. Makes compassion centers subject to the general excise tax by making inapplicable the exemption for amounts received from sales of prescription drugs or prosthetic devices. Imposes a general excise tax on marijuana sales.

In *Gonzales v. Raich* (2005), the United States Supreme Court held that the federal government has the constitutional authority to prohibit marijuana for all purposes. Thus, federal law enforcement officials may prosecute medical marijuana patients and their caregivers, even if they grow their own medicine and even if they reside in a state where medical marijuana use is protected under state law.

In 2009, the California Police Chiefs Association was presented a white paper on Medical Marijuana Dispensaries and Associated Issues. A constant theme throughout the report was that dispensaries not only sold marijuana to "patients", but would often times blatantly sell to anyone, both adults and youth.

Oftentimes, the marijuana from these dispensaries would be re-sold on the street. They would also market edible marijuana in the form of baked items, candies, soft drinks and other products likely to entice children. Dispensary chains have boasted of annual cash sales in excess of a million dollars annually.

The Honorable Donna Mercado Kim
Chair and Members
Committee on Ways and Means
Re: Senate Bill 2213, SD1, Relating to Counties
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These dispensaries and their patrons have constantly been the target of violent crime to include murder, armed robbery, shootings and car-jackings. Since some of these dispensaries were located near schools, day care centers or churches, these violent incidents put many other innocent lives at risk.

Both street gangs and organized crime have facilitated much of the marijuana sales through these dispensaries and were just as responsible for the violent crime associated with the marijuana distribution.

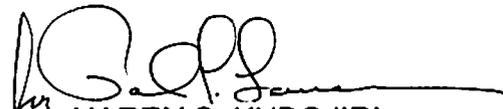
Marijuana is still a controlled substance under both Federal and Hawai'i state law. Therefore, it would be hypocritical for law enforcement to support the passage of a law seeking to circumvent federal and state laws. The message could be interpreted as the State of Hawai'i Legislature empowering county government to legalize drug trafficking within the state.

By allowing each county to establish compassion centers and expand present medical marijuana laws from their current restrictions only empowers those individuals now growing marijuana illegally and generating huge profits, by utilizing this proposed legislation to aid in avoiding detection. Passage of this bill would further hamper law enforcement organizations in their efforts to control this drug and the related crimes that come with it.

For the reasons above, we urge this committee to reject this piece of legislation.

Thank you for allowing the Hawai'i Police Department to testify on this bill.

Sincerely,


HARRY S. KUBOJIRI
POLICE CHIEF

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THE HONORABLE DONNA MERCADO KIM, CHAIR
SENATE WAYS AND MEANS COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2010
State of Hawai'i

February 18, 2010

RE: S.B. 2213, S.D. 1; RELATING TO COUNTIES.

Chair Kim and members of the Senate Ways and Means, the Department of the Prosecuting Attorney submits the following testimony in opposition to S.B. 2213, S.D. 1.

The purpose of this bill is to amend Hawaii Revised Statutes (HRS) chapter 46 which sets forth the general powers delegated to the counties to authorize the counties to establish compassion centers to dispense medical marijuana. In addition, the bill amends HRS chapter 329 to set forth the requirements and criteria for the compassion centers.

Hawaii's medical marijuana law, established in 2000, was specifically designed to require a one to one relationship between the designated patient and the caretaker who may provide the marijuana; the state law purposely required the one to one relationship to avoid the problems other states and cities are having with burgeoning numbers of marijuana dispensaries. In Los Angeles, it is estimated that there are 800 to 1,000 marijuana dispensaries. Los Angeles county officials have asserted that most of dispensaries are for-profit enterprises which often sell marijuana to persons who are not legitimately qualified under state law. Complaints from residents in areas with multiple medical marijuana dispensaries about a decreased quality of life and an increase in crime around the dispensaries have resulted in an effort by Los Angeles to place a cap on the number of dispensaries and suing dispensaries to close them. At least 120

cities and eight counties in California have moved to ban dispensaries. Given these problems, we believe that it is inadvisable to permit medical marijuana dispensaries in Hawaii.

Furthermore, we note that the bill states that the counties may authorize by ordinance the establishment of compassion centers for the **legal** distribution of marijuana. Since marijuana the distribution of marijuana is still illegal under federal law, we believe that until federal law is changed, there cannot be any **legal** distribution of marijuana.

We also observe that section 3 of the bill provides that the sale of marijuana pursuant to this section shall not constitute a criminal offense unless the sale exceeds the amount determined under subsection (c) of section 3. Since there is no amount provided in subsection (c) of section 3, we believe this provision is flawed. In addition, subsection (d) of section 3 of the bill allows for the county ordinance to provide for the amount of marijuana that may be dispensed at any single sale; this provision may be in conflict with the current provisions of HRS section 329-121 which permits the caregiver and patient to jointly possess no more than four ounces of usable marijuana as an “adequate supply.” Under subsection (d) of section 3, the counties could theoretically permit joint possession of more than four ounces of usable marijuana.

Lastly, we feel that the provision that the sale of marijuana pursuant to this section shall not constitute a criminal offense unless the sale exceeds the amount determined under subsection (c) of section 3 is further flawed by being absurdly narrow. Under its language, the sale of marijuana to a person who violates other provisions of subsection (c) or even under the current medical marijuana provisions of part IX of chapter 329 could not be charged with a criminal offense; thus for example, if a person who is not certified to use medical marijuana under state law bought or attempted to buy marijuana at a dispensaries/compassion center, the language suggests they could not be charged.

For these reasons, we oppose the passage of S.B. 2213, S.D. 1 and respectfully request that it be held.

Thank you for this opportunity to testify.



February 18, 2010

To: Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair and
Members of the Committee on Ways and Means

From: Jeanne Ohta, Executive Director

Re: SB 2213 SD1 Relating to Counties
Hearing: Thursday, February 18, 2010, 9:45 a.m., Room 211

Position: Support

The Drug Policy Forum of Hawai'i writes in support of SB 2213 SD1 Relating to Counties which would allow each county to establish medical marijuana compassion centers and makes them subject to a special medical marijuana tax and the general excise tax.

The most urgent need according to most patients is the establishment of a legal, safe, and reliable source for their medicine. Allowing the counties to establish their own system of dispensaries or compassion centers is certainly one way of fulfilling the need of patients and solving a gray area in the law that established the current medical marijuana program.

Although current law allows patients to grow their own plants, the law is silent as to where patients should acquire seeds or clones to start their supply. Even more confusing is that the Department of Public Safety has said that the only legal transfer of marijuana is between a registered patient and that patient's registered caregiver. Caregivers are difficult to find and they are currently limited to assisting only one patient.

These centers are necessary because many patients want a legal, reliable and safe source for their marijuana. Many patients are unable to grow their own medicine because some live in apartments or condominiums; others live in areas where their plants are not secure and are subject to vandalism or theft; others are just too sick to provide the care needed for their plants to grow to maturity. Patients should not be forced to go to neighborhood drug pushers for their medicine. **73% of Hawai'i patients responding to a survey by the Medical Cannabis Working Group expressed a preference to acquiring cannabis from a regulated establishment.**

It is difficult to find general agreement on taxing medical marijuana. While it may be appropriate to collect fees from the dispensary as a business, through licensing

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fees, for example; medical marijuana patients should not be singled out for excise tax when other medical goods and services are not. Medical marijuana is an expense which is not covered by health insurance. Many patients suffer from chronic illnesses and should not be burdened with additional expenses.

Estimated Tax Revenues

Although it is difficult to estimate the tax revenues that will result from the proposed \$30 per ounce tax and the current general excise tax; we provide three estimates which project revenue to the state of between \$3.5 million and \$10 million.

Estimate 1:

Cost of marijuana: \$400 per ounce (since this measure does not legalize marijuana, its price is not likely to decline from the current black market levels. Other jurisdictions have not seen a drop in price for medical use vs. black market use.)

Number of patients: 6,000 (the current level)

Usage per patient per month:

1,200 patients use ½ oz. per month

3,000 patients use 1 oz. per month

1,800 patients use 3 oz. per month

Medical Marijuana Tax Revenue: \$3.2 million (\$1.6 million to the state)

Excise Tax Revenue: \$1.9 million

Total State Revenue: \$3.5 million

Estimate 2:

Cost of marijuana \$400 per ounce

6,000 patients, average use of 2 oz. per month each

Medical Marijuana Tax Revenue: \$4.7 million (\$2.3 million to the state)

Excise Tax Revenue: \$2.7 million

Total State Revenue \$5.0 million

Estimate 3:

Cost of marijuana \$400 per ounce

6,000 patients, average use of 4 oz. per month each

Medical Marijuana Tax Revenue: \$9.4 million (4.7 million to the state)

Excise Tax Revenue: \$5.4 million

Total State Revenue: \$10.1 million

We urge the committee to pass this measure. Thank you for this opportunity to provide testimony.

INFORMATION ON MEDICAL MARIJUANA

Marijuana IS Medicine—NEW REPORT

UC Studies Show Marijuana Has Therapeutic Value (February 17, 2010)

First results in United States in 20 years from clinical trials of smoked cannabis

Researchers from the University of California's Center for Medicinal Cannabis Research (CMCR) have found "reasonable evidence that cannabis is a promising treatment" for some specific, pain-related medical conditions. Their findings, presented to the California legislature and public, are included in a report available on the CMCR web site at <http://www.cmcr.ucsd.edu>.

“We focused on illnesses where current medical treatment does not provide adequate relief or coverage of symptoms,” explained CMCR director, Igor Grant, MD, Executive Vice-Chair of the Department of Psychiatry at the UCSD School of Medicine. “These findings provide a strong, science-based context in which policy makers and the public can begin discussing the place of cannabis in medical care.”

Researchers have completed five scientific clinical trials, with more in progress. These studies showed that cannabis can be helpful in easing pain in selected syndromes caused by injury or diseases of the nervous system and possibly for painful muscle spasms due to multiple sclerosis.

“These scientists created an unparalleled program of systematic research, focused on science-based answers rather than political or social beliefs,” said Senator John Vasconcellos, original author of The Medical Marijuana Research Act of 1999 (SB847) which led to the creation of the CMCR.

Study results have been published in high-impact medical journals, garnering national and international attention which prompted leading experts to come together and foster scientific dialog on the possible uses of cannabis as a therapeutic agent. More study will be necessary to figure out the mechanisms of action and the full therapeutic potential of cannabinoid compounds, according to the UC researchers.

About The Center for Medicinal Cannabis Research:

The CMCR was created in 2000 (through the passage of SB847) to conduct clinical and pre-clinical trials of cannabinoids, including smoked marijuana, to provide evidence, one way or the other, to answer the question “Does marijuana have therapeutic value?” The program’s purpose is to oversee objective, high-quality, medical research that would enhance understanding of the efficacy and adverse effects of marijuana as a pharmacological agent. The project was never to be construed as encouraging or sanctioning the social or recreational use of marijuana. <http://www.cmcrc.ucsd.edu>

Federal Laws do not Preempt State Medical Marijuana Laws

In December 2008, the U.S. Supreme Court refused to review a landmark decision in which California state courts found that its medical marijuana law was not preempted by federal law. The state appellate court decision from November 28, 2007, ruled that “it is not the job of the local police to enforce the federal drug laws.”

Many Organizations Support Access to Therapeutic Cannabis

American Academy of Family Physicians, American Medical Association’s Council on Scientific Affairs, American Nurses Association, American Public Health Association, and many others.

“ACP urges an evidence-based review of marijuana's status as a Schedule I controlled substance to determine whether it should be reclassified to a different schedule. ... ACP strongly supports exemption from federal criminal prosecution; civil liability; or professional sanctioning, such as loss of licensure or credentialing, for physicians who prescribe or dispense medical marijuana in accordance with state law. Similarly, ACP strongly urges protection from criminal or civil penalties for patients who use medical marijuana as permitted under state laws. ... Evidence not only supports the use of medical marijuana in certain conditions but also suggests numerous indications for cannabinoids.”

— American College of Physicians, *Supporting Research into the Therapeutic Role of Marijuana*, 2008

Marinol is not the same as Marijuana

Marinol, available as a prescription pill, is THC, the active ingredient of marijuana. Many patients cannot tolerate marinol and have better results by using the whole plant. Scientists believe that the whole plant contains other ingredients that work with THC and thus is better tolerated and more effective for some patients.

Prescription Drugs

Available prescription drugs often come with far more serious side effects than marijuana, and many patients who find relief from marijuana simply do not respond to prescription medications. Smoking or vaporizing marijuana are much more effective delivery methods than pills for many patients: The drug works instantly, the dosage may be controlled by the patient, and there is no problem "keeping it down" since it cannot be vomited back up.

Cocaine, morphine, and methamphetamine may all be legally administered to patients — so why not marijuana, which has a far lower rate of dependency and on which no one has ever overdosed?

Marijuana is NOT a Gateway Drug

Marijuana is not now, nor has ever been a “gateway drug.” The National Academy of Sciences found, “there is no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs.”

From: [Matthew Hine](#)
To: [WAM Testimony](#)
Subject: Comments on S.B. 2213
Date: Tuesday, February 16, 2010 5:56:30 PM

RE: S.B. 2213 hearing Thursday February 18, 2010

Dear members of the Ways and Means Committee:

I have read SB 2213 and appreciate consideration of my comments.

Because voters have decided patients have the right to use marijuana (cannabis) for medical conditions, it is completely reasonable that legislation be enacted to allow safe and controlled delivery of the substance.

Even though marijuana is one of the safest therapeutic substances available (there are no recorded deaths due to this substance), policy makers should be guided by the public health principle of harm reduction.

A properly run cannabis dispensary ensures the dispensed products are free of contaminants, instructs patients in the use of a vaporizer delivery system (rather than the unhealthy process of inhaling smoke from burning leaves), and provides some degree of standardization and categorization of the potency of the dispensed product.

The concept of patients procuring unregulated material of unknown purity and potency from unknown sources is untenable. Our current approach is not in keeping with the spirit of allowing patients access to marijuana for treatment of their medical conditions.

As counties move toward implementing S.B. 2213 in August 2012, they will want to learn from the mistakes made by counties in California. Our county officials must take responsibility for regulation, determining the appropriate number of allowable dispensaries in a geographic area, and providing proper oversight.

Yours truly,

M. Martin Hine, M.D., M.P.H.
209 Muliwai Drive
Wailuku, HI 96793

Fellow, American College of Preventive Medicine

Master of Public Health

Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair and
Members of the Committee on Ways and Means

SB 2213, SD1 Relating to Counties

Hearing: Thursday, February 18, 2010, 9:45 am, Room 211

Position: Support

Aloha Senators,

My name is Jason Kamalu-Gruppen and I am testifying on behalf of the Windward Chapter of Students for Sensible Drug Policy.

SSDP Windward stands in support of SB 2213 which aims to address some of the current shortcomings in Hawaii's Medical Cannabis Laws. We feel that safe, immediate, and reliable access to this natural medicine is of vital importance to the patients that are registered with the program.

While the ability to grow your own medicine is absolutely valuable and helps patients keep their medical costs down, it doesn't offer any guarantees that a patient will be able to reliably supply their own needs, nor does it provide any medicine within a timely basis. Many of the registered patients are suffering from chronic, debilitating diseases and can't afford to wait for their medicine to reach maturity, a process which literally requires months of work. It is imperative that you keep this information in mind while you consider the merits of this bill.

We also understand that there are economic implications to this bill, the most important of which is the creation of a brand new industry in Hawaii, with all of the jobs and revenue such an industry might produce. With regards to taxation, we believe that cannabis sold as medicine should be treated as such, and be exempt from an excise tax in the same manner as prescription drugs. However, if taxes must be levied, we feel that it should be as a point of sale tax not to exceed the current excise tax already levied in the state.

Finally we would like to add that, with this bill, Hawaii State Lawmakers have been given an excellent opportunity to learn from and address the problems present in other state cannabis programs. We would urge the legislation to work closely with the Medical Cannabis

Working Group to enact a system that can adequately address the concerns of the people of Hawaii.

Thank You,

Jason Kamalu-Gruppen

President, SSDP Windward

From: [Cheryl Nelson](#)
To: [WAM Testimony](#)
Subject: SB2213 Sd1 Testimony
Date: Wednesday, February 17, 2010 4:52:28 PM

Respectfully to:

Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair and
Members of the Committee on Ways and Means

SB 2213, SD1 Relating to Counties
Hearing: Thursday, February 18, 2010, 9:45 a.m, Room 211
Position: Support

My name is Cheryl Nelson: I am a 10 year resident of the state of Hawaii Island and I am 53 years of age: I am a Medical Cannabis Patient and I support SB 2213 SD1: I support having each of the 4 Hawaii Counties Regulate the number of Medical Marijuana Compassion Centers for allowing safe access to patients and caregivers for Medical Cannabis and Plants to provide for the Patient / Caregiver program.

As a local small business owner I support the Taxation of Medical Marijuana as it relates to the \$30.00 per ounce amount herein the bill. By doing so, it could help bring in revenue that our state desperately needs, in all counties.

Mahalo for your consideration and time.

Aloha,

Cheryl Nelson

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: mattrifkin28@gmail.com
Subject: Testimony for SB2213 on 2/18/2010 9:45:00 AM
Date: Wednesday, February 17, 2010 5:38:48 PM

Testimony for WAM 2/18/2010 9:45:00 AM SB2213

Conference room: 211
Testifier position: support
Testifier will be present: No
Submitted by: Matthew Rifkin
Organization: Individual
Address: Hilo, HI 96720
Phone:
E-mail: mattrifkin28@gmail.com
Submitted on: 2/17/2010

Comments:

I am a medical marijuana patient and I do support this bill because it will help patients gain access to medicine by allowing dispensaries to be licensed. Allowing patients a safe place to buy medicine is the most important thing.

However, I would point out that the tax will be an additional burden to patients. Many patients are on disability or social security, and have limited financial resources, so any increase will be a hardship.

I pay only \$20 for a one month supply for Lipitor because it is covered by insurance. Medical marijuana is not covered by insurance, so I have to pay the full amount, about \$400 for one ounce, which is a one month supply for me. So, the tax would add \$47.20 a month, or \$566 per year. I could afford that amount, but many people can not (remember, so patients will smoke much more than I do). But, it is still a lot of extra money for medicine. I can hope that the base price will fall, as I would prefer to pay less. But, to have a safe place to go, that has a reliable supply of good quality cannabis, I would be willing to pay the tax.

I think it better to tax and regulate marijuana at the state wide level for all adults, as they are trying to do in California. That will generate real income for Hawaii, and it won't put an extra burden on sick people.

From: [Richard S. Miller](#)
To: [WAM Testimony](#)
Subject: Testimony Supporting Passage of SB2213, SD1
Date: Thursday, February 18, 2010 1:07:10 AM

Richard S. Miller
Professor of Law, Emeritus

E-mail: rmiller@aya.yale.edu
Tel.: (808) 254-1796

Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair and
Members of the Committee on Ways and Means

SB 2213, SD1 Relating to Counties
Hearing: Thursday, February 18, 2010, 9:45 a.m., Room 211
Position: Strong Support

This bill allows each county to license medical marijuana dispensaries

Passage of this bill would fill an important void and eliminate an anomaly in our current medical marijuana law, a measure with important compassionate purposes. Under current law, medical marijuana must be grown either by the certified patient or his or her registered caregiver. Unfortunately, growing marijuana for medical use is a difficult task which exceeds the ability and/or the growing capacity of many caregivers and certified patients. This forces many of them either to seek and purchase marijuana on the black market, which unfortunately removes them from the protection of the law, or forego the important benefits of marijuana use for debilitating conditions.

Lest there be any doubt about the potentially beneficial effects of medical marijuana, I reproduce here a chart with the breakdown of Peer-reviewed studies which demonstrate that most of that research has been pro-medical marijuana. The chart may be found on the web site of ProCon.org, a non-partisan, non-profit organization that seeks to present balanced and accurate information about a wide variety of controversial topics. ([ProCon.org says that its information has now been used by 1,009 schools in 26 countries and all 50 US states](#). They "are thrilled to have 176 elementary and middle schools, 435 high schools, and 398 colleges and universities using the free nonpartisan research we provide to stimulate critical thinking.")

65
Peer-
Reviewed
Studies
on
Marijuana

Medical Studies

Involving Cannabis
and Cannabis Extracts
(1990 - 2009)

Studies are listed as **Pro**, **Con**, or **Not Clearly Pro or Con**, based on their conclusions regarding cannabis' potential medical benefit. Extracts, such as Sativex, are derived directly from the plant, and are not synthetically created.

It is my understanding that a major reason why the total number of such studies is not higher is that for many years the U.S. government has prevented would-be qualified researchers from acquiring medical marijuana of a quality necessary for successful studies.

Type of Study	Pro		Not Clearly Pro or Con		Con		Totals	
	# of studies	% of total	# of studies	% of total	# of studies	% of total	# of studies	% of total
I. Double-Blind Human Studies	8	47.06%	7	41.18%	2	11.76%	17	100%
II. Human Studies	17	38.64%	15	34.09%	12	27.27%	44	100%
III. Animal Studies	4	100%	0	0%	0	0%	4	100%
TOTALS	29	44.61%	22	33.85%	14	21.54%	65	100%

From the point of view of fairness and compassion, making medical marijuana available to certified patients or their caregivers through licensed and regulated dispensaries, as provided in SB2213, SD1, will eliminate a serious and frustrating situation which has, in all too many cases, undermined the therapeutic purposes of the medical marijuana law.

Allowing counties to charge up to \$30 per ounce GET for medical marijuana would not only fund the program, but would be likely help to finance other programs that are today

suffering because of adverse economic conditions.

However, I do recommend that the following section (3) be amended to place a reasonable limit on the number of years (I recommend *not more* than two years) that records on marijuana purchases from dispensaries may be retained. There is no fair or appropriate reason for retaining such records for a longer period, and to do so might well discourage certified patients and their caregivers from purchasing needed medical marijuana.

“(3) That the compassion center make a record, to be kept for not less than two years following the sale, of every sale of marijuana or marijuana plant with the name, address, and patient identification number of the purchaser as appears on the written certification, and other identifying information as may be required by ordinance;”

Thank you for considering my testimony.

With much Aloha,



Richard S. Miller