



Akamai Cannabis Consulting

3615 Harding Ave, Suite 304
Honolulu, HI 96816
808-233-8267

June 14, 2024

The Honorable Josh B. Green, MD
Governor, State of Hawaii
Executive Chambers, State Capitol
415 S Beretania Street
Honolulu, HI 96813

FINAL EP REQUEST

Dear Office of the Governor,

Because of feedback that I received from the Department of Health on June 10, 2024, I've decided to make an additional revision to this Emergency Proclamation Request.

Attached please find my final proposal.

Thank you for considering.

Aloha,

Clifton Otto, MD
cliftonotto@hotmail.com

FINAL EP PROPOSAL RELATING TO MEDICAL CANNABIS PATIENTS

By the authority vested in me by the Constitution and laws of the State of Hawaii, to provide relief for disaster damages, losses, and suffering, which shall include providing relief for Medical Cannabis Patients, and to protect the health, safety, and welfare of the people, I, JOSH GREEN, M.D., Governor of the State of Hawaii, hereby determine, designate, and proclaim as follows:

WHEREAS, under chapter 127A, Hawaii Revised Statutes (HRS), emergency powers are conferred on the Governor of the State of Hawaii to respond to disasters or emergencies, to maintain the strength, resources, and economic life of the community, and to protect the public health, safety, and welfare; and

WHEREAS, under section [127A-14\(a\)](#), HRS, the Governor may determine whether an emergency or disaster has occurred, or whether there is an imminent danger or threat of an emergency or disaster, and authorize actions under chapter 127A, HRS; and

WHEREAS, twenty-four years ago, during the 2000 Regular Session, Hawaii's Medical Use of Cannabis program was established with the provision that a patient can designate one person, a [primary caregiver](#), to assist with the cultivation of an [adequate supply](#) of medical cannabis for the registered patient; and

WHEREAS, during the 2015 Regular Session, this provision was [expanded](#) to also allow a primary caregiver to purchase medical cannabis with or for their designated patient from a dispensary, while at the same time establishing a [sunset](#) (see §5) of cultivation by primary caregivers on islands with a dispensary after December 31, 2018; and

WHEREAS, during the 2017 Regular Session, the sunset of cultivation by primary caregivers was [extended](#) (see §4) to December 31, 2023 to accommodate slow implementation of the dispensary system; and

WHEREAS, during the 2022 Regular Session, the sunset of cultivation by primary caregivers was [extended](#) again (see §3) to December 31, 2024; and

WHEREAS, during the 2024 Regular Session, House Bill [2443](#), and its companion, Senate Bill [3132](#), were introduced at the request of the Department of Health for the purpose of permanently removing the sunset of cultivation by primary caregivers; and

WHEREAS, HB2443 made it to Conference Committee, where the House and Senate Conference Committee Chairs [agreed](#) on CD1 language at the first Conference meeting, but a final vote was delayed five times, until HB2443 finally [died](#) at the very last minute because the House Conference Chair could not receive [release](#) (see 6d) or explanation from the House Committee on Finance ([FIN](#)); and

WHEREAS, because of the death of HB2443, 1440 medical cannabis patients are at risk of losing access to medical cannabis on January 1, 2025, because these patients depend upon assistance from their primary caregiver to cultivate medical cannabis; and

WHEREAS, patients who depend upon homegrown medical cannabis cannot simply switch to dispensary products when their primary caregiver will no longer be allowed to cultivate because these patients need to maintain control over how their medical cannabis is being cultivated and prepared; and

WHEREAS, one means of addressing and mitigating the impending loss of access for patients who depend upon cultivation of medical cannabis by their primary caregiver is to suspend the portion of section [329-130](#), HRS, that implements the sunset of cultivation by primary caregivers on islands with a dispensary; and

WHEREAS, without the suspension of laws under an emergency proclamation, the mitigation measures could not be implemented in an efficient and timely manner; and

WHEREAS, the current threat to the health, safety, and welfare of registered medical cannabis patients in the State caused by ending cultivation by primary caregivers on an island with a dispensary, as described above, constitutes an emergency under section 127A-14, HRS, and warrants preemptive and protective actions; and

WHEREAS, it is necessary for me to issue a proclamation relating to medical cannabis patients;

NOW, THEREFORE, I, JOSH GREEN, M.D., Governor of the State of Hawaii, hereby determine that an emergency or disaster contemplated by section 127A-14, HRS, has occurred in the State of Hawaii and do hereby authorize and invoke the following emergency provisions which are expressly invoked, if not already in effect upon this declaration of an emergency:

I. Suspension of Laws

The following specific provisions of law are suspended, under sections [127A-12\(b\)\(16\)](#) and [127A-13\(a\)\(3\)](#), HRS, to the extent that the law impedes or tends to impede or be detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws which by this chapter specifically are made applicable to emergency personnel: Section [329-130](#), HRS, authorized sources of medical cannabis, to the extent that it ends cultivation by primary caregivers for medical cannabis patients on islands with a dispensary on December 31, 2024.

II. Severability

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, the provision shall be modified or deleted, and the remainder of this Proclamation and the application of the provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

III. Enforcement

No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this Proclamation, or of any rule or regulation. Unless the Governor, Director of Hawaii Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that this Proclamation is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawaii, the counties of this State, or any State or county agencies, departments, entities, officers, employees, or any other person.

I FURTHER DECLARE that the emergency relief period shall commence immediately, and continue through June 30, 2025, unless terminated or superseded by separate proclamation, whichever shall occur first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into, started, amended, or continued by reason of the provisions of this Proclamation shall continue in full force and effect.

Done at the State Capitol, this
_____ Day of _____, 2024