

• DEPARTMENT OF HEALTH

- Amendment and Compilation of Chapter 11-160
- Hawaii Administrative Rules
- [Date]

SUMMARY

1. §§11-160-1 and 11-160-2 are amended.
2. §11-160-4 is amended.
3. §§11-160-6 through 11-160-8 are amended.
4. §§11-160-11 through 11-160-13 are amended.
5. §§11-160-16 and 11-160-17 are amended.
6. §§11-160-19 and 11-160-20 are amended,
7. §§11-160-26 and 11-160-27 are amended.
8. §§11-160-31 through 11-160-35 are amended.
9. §11-160-37 is repealed.
- 10.. §§11-160-38 through 11-160-40 are amended.
11. A new subchapter 6.5, consisting of §§11-160-43.01 through 11-160-43.12, is added.
12. §11-160-46 is amended
13. §11-160-51 is amended.
14. §11-160-56 is amended.
15. Chapter 11-160 is compiled.

DEPARTMENT OF HEALTH

Amendments to and compilation of chapter 11-160, Hawaii Administrative Rules, on the Summary Page dated _____, were adopted on _____, following public hearings held on December 26, 2018, after public notice was given in the Honolulu Star-Advertiser, West Hawaii Today, Hawaii Tribune-Herald, The Garden Island, and The Maui News on November 25, 2018.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ _____

BRUCE S. S. ANDERSON, Director

Department of Health

/s/ _____

DAVID Y. IGE

Governor

State of Hawaii

Dated: 02-15-2019

APPROVED AS TO FORM:

/s/ _____

Deputy Attorney General

Filed

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 160

MEDICAL USE OF CANNABIS

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SUBCHAPTER 1

GENERAL PROVISIONS

§11-160-1 Purpose. The purpose of this chapter is to set forth rules for the medical use of cannabis program pursuant to part IX of chapter 329, Hawaii Revised Statutes (HRS), including the process for the department to approve debilitating medical conditions, physician and advanced practice registered nurse requirements to participate in the medical cannabis program, registration of qualifying patients, primary caregivers, qualifying out-of-state patients, and caregivers of qualifying out-of-state patients, monitoring and investigations, administrative procedure, and confidentiality of information. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §§321-9, 329-121) (Imp: HRS §§329-121 to 329-128; SLH 2017, Act 170, §2)

§11-160-2 Definitions. As used in this chapter:

"Adequate supply" has the same meaning as defined in section 329-121, HRS.

"Adequate supply for a qualifying out-of-state patient" has the same meaning as defined in section 329-121, HRS.

"Advanced practice registered nurse" has the same meaning as defined in section 329-121, HRS.

"Applicant" means a physician, advanced practice registered nurse, qualifying patient, or primary caregiver submitting an application to register or to renew the registration of a qualifying patient or primary caregiver pursuant to section 329-123, HRS.

"Bona fide advanced practice registered nurse-patient relationship" means a relationship in which the advanced practice registered nurse has ongoing responsibility for the assessment, care, and treatment of a qualifying patient's debilitating medical condition with respect to the medical use of cannabis which means:

(1) The advanced practice registered nurse 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 initial in-person consultation;

(2) The advanced practice registered nurse 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 cannabis; and

(3) The advanced practice registered nurse maintains records of the qualifying patient's treatment and condition in accordance with medically accepted standards;

provided that the relationship may be established via telehealth, as defined in section 457-2, HRS, only after an initial in-person consultation between the advanced practice registered nurse and the qualifying patient.

"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 cannabis 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 initial in-person consultation;

(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 cannabis; and

(3) The physician maintains records of the qualifying patient's treatment and condition in accordance with medically accepted standards;

provided that the relationship may be established via telehealth, as defined in section 453-1.3(j), HRS, only after an initial in-person consultation between the physician and the qualifying patient.

"Cannabis" has the same meaning as defined in section 329-121, HRS.

"Caregiver of a qualifying out-of-state patient" has the same meaning as defined in section 329-121, HRS.

"Certifying advanced practice registered nurse" means an advanced practice registered nurse who issues a written certification for a qualifying patient.

"Certifying medical provider" means the medical provider who certifies or otherwise determines that a qualifying out-of-state patient qualifies for the medical use of cannabis in the issuing entity's jurisdiction.

"Certifying physician" means a physician who issues a written certification for a qualifying patient.

"Debilitating" means impairing the ability of a person to accomplish activities of daily living.

"Debilitating medical condition" has the same meaning as defined in section 329-121, HRS, and includes any other medical condition approved by the department pursuant to subchapter 2.

"Department" means the department of health.

"Director" means the director of the department of health, State of Hawaii, or the director's authorized agent.

"Effective date" means the date on which a registration for the medical use of cannabis becomes effective.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Expiration date" means the date on which a registration for the medical use of cannabis expires.

"Grow site" means a specific location designated by a qualifying patient to cultivate cannabis for medical use by the qualifying patient and identified by a street address, tax map key number, or a sufficient description to identify the physical location; provided that the department shall determine which type of identifier shall be used. The grow site shall be the qualifying patient's or primary caregiver's residential address or other location owned or controlled by the qualifying patient or primary caregiver.

"Issuing entity" means the out-of-state government entity that registered or otherwise authorized a qualifying out-of-state patient for the medical use of cannabis in that out-of-state jurisdiction.

"Medical use" has the same meaning as defined in section 329-121, HRS.

"Minor" means a person under the age of eighteen years.

"Out-of-state applicant" means a qualifying out-of-state patient or caregiver of a qualifying out-of-state patient applying to register or to renew the registration of a qualifying out-of-state patient or caregiver of a qualifying out-of-state patient pursuant to Act 116, Session Laws of Hawaii 2018, section 2.

"Parent, guardian, or person having legal custody" means a custodial parent or legal guardian with legal authority to make health care decisions for a minor or an adult lacking legal capacity.

"Patient identification number" means the unique number on the qualifying patient's valid driver's license issued by a state or territory of the United States or the District of Columbia, state photo identification card issued by a state or territory of the United States or the District of Columbia, or current passport; provided that if the qualifying patient is a minor and does not have any of these identification documents, the patient identification number means the unique number on the minor's birth certificate issued by a state or territory of the United States or the District of Columbia or a unique number issued by the department.

"Petition" means a written request submitted pursuant to section 11-160-7 that requests adding a medical condition to the list of debilitating medical conditions that qualify for the medical use of cannabis.

"Physician" has the same meaning as defined in section 329-121, HRS.

"Primary caregiver" has the same meaning as defined in section 329-121, HRS.

"Qualifying out-of-state patient" or "registered qualifying out-of-state patient" has the same meaning as defined in section 329-121, HRS.

"Qualifying patient" has the same meaning as defined in section 329-121, HRS.

"Registration card", "registry card", "registration certificate", or "329 card" means an identification card or other document issued by the department, in hard copy or electronic form, that identifies a person as a registered qualifying patient, registered primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient.

"Signature" means a person's name written by the person in a distinctive way as a form of identification, including an electronic signature.

"Usable cannabis" has the same meaning as defined in section 329-121, HRS.

"Written certification" has the same meaning as defined in section 329-121, HRS. [Eff 7/18/15; am and comp] (Auth: HRS §321-9) (Imp: HRS §§329-121 to 329-128, SLH 2017, Act 170, §2)

§11-160-3 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter

which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff 7/18/15; comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-121 to 329-128)

§11-160-4 Disclaimer. Nothing in this chapter is intended to represent anything about the legality of the use or possession of cannabis pursuant to federal law. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: SLH 2000, Act 228, §1; SLH 2017, Act 170, §2)

SUBCHAPTER 2

DEBILITATING MEDICAL CONDITIONS

§11-160-6 List of debilitating medical conditions. A qualifying patient shall have a written certification from a physician or an advanced practice registered nurse for at least one of the following debilitating medical conditions for the medical use of cannabis:

- (1) A statutorily-approved medical condition pursuant to section 329-121, HRS; or
- (2) Any other medical condition that is approved by the director pursuant to section 11-160-7. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-121; SLH 2017, Act 170, §2)

§11-160-7 Department-approved conditions; petition process. (a) Any physician, advanced practice registered nurse, or potentially qualifying patient seeking to add a medical condition to the list of debilitating medical conditions shall file a written petition with the department on forms and in a manner prescribed by the department. For purposes of this section, "potentially qualifying patient" means a person who has been diagnosed with the medical condition for which the petition is being made.

(b) The petition shall, at a minimum, contain:

- (1) The specific medical condition or its treatment for which the petition is being made;
- (2) An explanation stating the reasons why the medical condition or its treatment should be added to the list of qualifying debilitating medical conditions;
- (3) The extent to which the medical condition is generally accepted by the medical community as a valid, existing medical condition;
- (4) A description of the symptoms and other physiological or psychological effects experienced by an individual suffering from the medical condition or its treatment and the extent to which these symptoms and physiological or psychological effects are debilitating;

(5) If one or more treatments for the medical condition, rather than the condition itself, are alleged to be the cause of a person's suffering, the extent to which the treatments causing suffering are generally accepted by the medical community as valid treatments for the medical condition;

(6) The availability of conventional medical therapies other than those that cause suffering to alleviate symptoms caused by the medical condition or its treatment;

(7) The extent to which evidence supports a finding that the use of cannabis alleviates symptoms caused by the medical condition or its treatment;

(8) Any information or studies regarding any beneficial or adverse effects from the use of cannabis in patients with the medical condition; and

(9) Letters of support from physicians or other licensed health care professionals knowledgeable about the medical condition.

(c) If a medical condition in a petition has been previously considered and denied by the department, or is determined by the department to be substantially similar to a denied condition, the department may deny the petition without further review unless new scientific research supporting the request is included in the petition.

(d) The department may make a final determination that a petition is frivolous and deny the petition without further review.

(e) If the petition does not meet the requirements of this section or is denied under subsection (c) or (d), the department shall notify the petitioner that the petition does not meet the requirements of this section and give the specific reason for the determination.

(f) If the petition meets the requirements of this section, the department shall notify the petitioner that the department will conduct a public hearing to discuss the petition.

(g) At least once per calendar year, if there are pending petitions, the department shall conduct a public hearing to receive public oral or written testimony on those petitions; provided that the department shall have the discretion to establish time deadlines for the inclusion of petitions in the public hearings.

(h) At least thirty calendar days before a public hearing, the department shall publish on its website the date, time, and location of the hearing, a list of the medical conditions that the department will be considering at the public hearing, and the procedure for submitting public comments. The department shall also maintain a list of names and mailing or electronic mail addresses of persons who request notification of public hearings to consider petitions and shall transmit a copy of the notice to those persons at their last known addresses at least fifteen calendar days before a public hearing.

(i) The department in its discretion may conduct an investigation, to the extent the department deems necessary, which may include:

(1) Consulting with one or more persons knowledgeable in the medical use of cannabis and one or more experts on the medical condition that is the subject of a petition;

(2) Conducting a literature review of peer-reviewed published scientific studies related to the use of cannabis for the medical condition that is the subject of the petition; and

(3) Gathering any other information the department believes relevant to making a decision on the petition.

(j) The director shall approve, deny, or defer a petition within ninety calendar days following the public hearing at which a petition was considered. In reaching a decision on a petition, the director may consider the following:

(1) The petition;

(2) Public comments and testimony; and

(3) The department's investigation pursuant to subsection (i).

(k) The director shall:

(1) Approve the petition if in the director's discretion the evidence supporting the petition justifies adding the condition as a debilitating medical condition;

(2) Deny the petition if in the director's discretion the evidence supporting the petition does not justify adding the condition as a debilitating medical condition; or

(3) Defer consideration of the petition if additional time is needed to review the evidence.

(l) The director's written decision shall include the factors supporting the decision and shall be sent to the petitioner and posted on the department's website, subject to redaction of any information protected under chapter 92F, HRS.

(m) A decision by the department to deny a petition pursuant to subsection (c) or (d) or a decision of the director issued pursuant to subsection (j) is final agency action. [Eff 7/18/15; comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-121; SLH 2017, Act 170, §2)

§11-160-8 Department-approved conditions; removal or modification of conditions. The director may remove or modify a department-approved debilitating medical condition if the director determines,

on the basis of substantial credible medical and scientific evidence that in the director's opinion the use of cannabis by patients who have the approved condition would more likely than not result in substantial harm to the patients' health. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-121; SLH 2017, Act 170, §2)

SUBCHAPTER 3

PHYSICIAN AND ADVANCED PRACTICE

REGISTERED NURSE REQUIREMENTS

§11-160-11 Physician and advanced practice registered nurse requirements for issuing written certifications. Any physician or advanced practice registered nurse issuing a written certification shall:

- (1) Hold a current and valid Hawaii license to practice pursuant to chapter 453, HRS, for physicians, or section 457-8.5, HRS, for advanced practice registered nurses, and have authority to prescribe drugs;
- (2) Be registered with the department of public safety pursuant to section 329-32, HRS;
- (3) Have a bona fide physician-patient relationship or a bona fide advanced practice registered nurse-patient relationship, as applicable, with the qualifying patient;
- (4) Diagnose the qualifying patient as having a debilitating medical condition;
- (5) Be of the professional opinion that the potential benefits of the medical use of cannabis would likely outweigh the health risks for the qualifying patient; and
- (6) Explain the potential risks and benefits of the medical use of cannabis to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient if the qualifying patient is a minor or an adult lacking legal capacity [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-121, 329-122, 329-123, 329-126; SLH 2017, Act 170, §2)

§11-160-12 Written certifications. (a) An applicant shall submit a written certification on a form and in a manner prescribed by the department.

(b) A written certification shall contain:

- (1) The physician's or advanced practice registered nurse's full name, office and mailing addresses, electronic mail address, and telephone number;
- (2) The physician's license number as issued by the Hawaii medical board or the advanced practice registered nurse's license number as issued by the Hawaii board of nursing;

(3) The physician's or advanced practice registered nurse's controlled substances registration number as issued by the department of public safety pursuant to section 329-32, HRS;

(4) The qualifying patient's full name, address, date of birth, and patient identification number;

(5) A photocopy of the qualifying patient's identification document showing the patient identification number;

(6) An attestation that the physician has a bona fide physician-patient relationship with the qualifying patient or that the advanced practice registered nurse has a bona fide advanced practice registered nurse-patient relationship with the qualifying patient;

(7) An attestation that the physician or advanced practice registered nurse has made a diagnosis of a debilitating medical condition for the qualifying patient;

(8) The qualifying patient's debilitating medical condition;

(9) If the physician or advanced practice registered nurse determines that the qualifying patient's debilitating medical condition is chronic in nature, an attestation of that determination and the physician's or advanced practice registered nurse's recommended length of certification, which shall not be more than two years;

(10) An attestation that, in the physician's or the advanced practice registered nurse's professional opinion, the potential benefits of the medical use of cannabis would likely outweigh the health risks for the qualifying patient;

(11) An attestation that the physician or the advanced practice registered nurse has explained the potential risks and benefits of the medical use of cannabis to the qualifying patient and also to a parent, guardian, or person having legal custody of the qualifying patient if the qualifying patient is a minor or an adult lacking legal capacity; and

(12) The physician's or advanced practice registered nurse's signature and date.

(c) Unless revoked or voided, a written certification shall be valid for one year from the time of signing by the physician or advanced practice registered nurse; provided that, as recommended by the certifying physician or certifying advanced practice registered nurse, the written certification may be valid for up to two years if the qualifying patient's debilitating medical condition is chronic in nature. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-121, 329-122, 329-123, 329-126; SLH 2017, Act 170, §2)

§11-160-13 Medical records. (a) Physicians and advanced practice registered nurses shall maintain a record-keeping system for all patients for whom the physician or advanced practice registered nurse has issued a written certification for the medical use of cannabis.

(b) Physicians and advanced practice registered nurses shall maintain records that support the decision to recommend the medical use of cannabis, including records of the diagnosis and treatment of the debilitating medical condition for which the medical use of cannabis is recommended.

(c) Pursuant to an investigation of a certifying physician or a certifying advanced practice registered nurse, the physician or advanced practice registered nurse shall produce and make available copies of all medical records for state and local law enforcement agencies or any other relevant authority for law enforcement purposes, including the investigation or prosecution of a violation of any provision of this chapter or part IX of chapter 329, HRS. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-123, 329-126; SLH 2017, Act 170, §2)

SUBCHAPTER 4

QUALIFYING PATIENT AND PRIMARY CAREGIVER REGISTRATION

§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:

(1) The qualifying patient's full name, residential, mailing, and email addresses, date of birth, and signature;

(2) For a qualifying patient who is a minor or an adult lacking legal capacity, the full name, residential, mailing, and email addresses, and date of birth of a parent, guardian, or person having legal custody of the minor or the adult lacking legal capacity;

(3) A written certification from the qualifying patient's certifying physician or certifying advanced practice registered nurse;

(4) A statement of whether the qualifying patient or the primary caregiver will be cultivating cannabis, if at all, for the qualifying patient's use;

(5) The location of the grow site, if any;

(6) Whether the qualifying patient or the primary caregiver is claiming the grow site as the qualifying patient's or primary caregiver's residential address or other location under the qualifying patient's or primary caregiver's ownership or control;

(7) An attestation by the qualifying patient or the primary caregiver that the qualifying patient or the primary caregiver resides at, owns, or controls the grow site;

(8) A clear photocopy of the qualifying patient's identification document showing the patient identification number;

(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 or certifying advanced practice registered nurse to release health information pertaining to the qualifying patient's debilitating medical condition to the department for the purpose of registration, monitoring, or investigation;

(10) If the qualifying patient is a minor or an adult lacking legal capacity, written consent by the parent, guardian, or person having legal custody of the qualifying patient to:

(A) Allow the qualifying patient's medical use of cannabis;

(B) Serve as the qualifying patient's primary caregiver; and

(C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient;

(11) If the qualifying patient is a minor or an adult lacking legal capacity, an attestation by the person applying to register the minor or the adult lacking legal capacity that the person is a parent, guardian, or person having legal custody; provided that the department may require documentation confirming the legal status of the parent, guardian, or person having legal custody of the qualifying patient, including, but not limited to, a birth certificate, power of attorney, guardianship documents, divorce decrees, or other court orders;

(12) An attestation that the information provided in the application is true and correct;

(13) An attestation that the qualifying patient has read, understands, and agrees to abide by part IX of chapter 329, HRS, and this chapter;

(14) Payment of registration fees in accordance with section 11-160-17; and

(15) Any other information reasonably required by the department to process a qualifying patient's registration, to determine the qualifying patient's suitability for registration, or to protect public health and safety.

(b) If the qualifying patient is designating a primary caregiver, an applicant shall submit the following to the department on a form and in a manner prescribed by the department:

- (1) The primary caregiver's full name, residential and mailing addresses, date of birth, and signature;
- (2) A photocopy of the primary caregiver's valid driver's license issued by a state or territory of the United States or the District of Columbia, identification card with photo issued by a state or territory of the United States or the District of Columbia, or current passport;
- (3) An attestation by the primary caregiver that the primary caregiver agrees to undertake responsibility for managing the well-being of the qualifying patient with respect to the medical use of cannabis;
- (4) An attestation by the primary caregiver that the primary caregiver meets all of the primary caregiver requirements pursuant to section 11-160-26; and
- (5) Any other information reasonably required by the department to process a qualifying patient's registration, to determine the qualifying patient's suitability for registration, or to protect public health and safety.

(c) The department may register two primary caregivers for a qualifying patient who is a minor; provided that each primary caregiver is a parent, guardian, or person having legal custody of the qualifying patient; provided further that each primary caregiver shall comply with subsection (b) and sections 11-160-26 and 11-160-27. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-121, 329-123; to 329-123; SLH 2017, Act 170, §2)

§11-160-17 Registration fees. (a) Fees for a new or renewal registration of a qualifying patient are \$35 for each year of registration or portion thereof.

(b) Fees for a replacement registration card of a qualifying patient are \$15.

(c) Payment of registration fees shall be made in a form and manner as prescribed by the department.

(d) Value added electronic services provided through the portal manager may incur a separate fee pursuant to section 27G-2, HRS.

(e) Registration fees and value added electronic services fees are non-refundable. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-30.1 to 329-123)

§11-160-18 Incomplete applications. (a) If the department determines that a registration application is inaccurate or incomplete, the department shall notify the applicant by telephone, by electronic mail, or in writing by mail and shall explain what documents or information is necessary for the department to deem the application complete.

(b) An applicant shall have thirty days from the date of notification to submit the materials required to complete the application; provided that for the purposes of this subsection, "date of notification" shall

mean the date the department contacted an applicant by telephone or sent an electronic mail to an applicant, or three days after the department mailed a letter to an applicant; provided further the department may grant an extension for good cause prior to the expiration of the thirty days.

(c) If the applicant fails to submit the materials required to complete the application as required by subsection (b), the department shall notify the applicant that the incomplete application will not be processed, and the applicant may submit a new application at any time with all required documents and applicable fees in accordance with sections 11-160-16 and 11-160-17. [Eff 7/18/15; comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123)

§11-160-19 Verification of information. The department may verify information on an application and accompanying documentation submitted for a qualifying patient or a primary caregiver by any or all of the following methods:

(1) Contacting an applicant by telephone, mail, or electronic mail, or, if proof of identity is uncertain, the department may require a face-to-face meeting and the production of additional identification materials;

(2) Contacting the parent, guardian, or person having legal custody of a minor or an adult lacking legal capacity;

(3) Contacting other state agencies to verify licenses or registration as required under this chapter;

(4) Contacting the physician or advanced practice registered nurse to obtain further documentation to verify that the qualifying patient's medical diagnosis and medical condition meet the requirements of this chapter; and

(5) Contacting any other person or agency for the purpose of verifying information on the application and accompanying documentation. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123)

§11-160-20 Time limits. The department shall approve or deny an application for registration or renewal of registration for a qualifying patient or primary caregiver within thirty calendar days of receipt of an application that has been deemed complete by the department or as soon thereafter as is practicable. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §;329-123)

§11-160-21 Denial of application for registration or renewal of registration. (a) The department may deny an application for or renewal of a qualifying patient's or primary caregiver's registration for any of the following reasons:

(1) Failure to provide the information required in section 11-160-16;

(2) Failure to meet the requirements set forth in this chapter or part IX of chapter 329, HRS, for registration;

(3) Provision of misleading, incorrect, false, or fraudulent information;

(4) Revocation of registration in the previous one hundred eighty days pursuant to section 11-160-38(a)(1), (2), (3), or (4);

(5) Failure to pay all applicable fees as required; or

(6) Any other ground that serves the purposes of this chapter or part IX of chapter 329, HRS.

(b) If the department denies an application or a renewal of an application, the department shall notify the applicant in writing of the department's denial decision, the reason therefor, and when the applicant may reapply.

(c) A person aggrieved by a decision made pursuant to this section may request a reconsideration of the action in accordance with section 11-160-51. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §:329-123)

SUBCHAPTER 5

PRIMARY CAREGIVER REQUIREMENTS

§511-160-26 Primary caregiver requirements. To register with the department as the primary caregiver of a qualifying patient, a person shall:

(1) Be at least eighteen years of age;

(2) Not be the qualifying patient or the qualifying patient's physician;

(3) Agree to undertake responsibility for managing the well-being of the qualifying patient with respect to the medical use of cannabis;

(4) Be a parent, guardian, or person having legal custody of the qualifying patient where the qualifying patient is a minor or an adult lacking legal capacity;

(5) Be responsible for the care of only one qualifying patient at any given time, unless the primary caregiver is the parent, guardian, or person having legal custody of more than one minor qualifying patient, in which case the primary caregiver may be responsible for the care of more than one minor qualifying patient at any given time; provided that the primary caregiver is the parent, guardian, or person having legal custody of all of the primary caregiver's minor qualifying patients;

(6) Be the only primary caregiver for the qualifying patient; provided that a minor qualifying patient may have two primary caregivers only where both primary caregivers are the parent, guardian, or person having legal custody of the minor qualifying patient; and

(7) Be designated by the qualifying patient as the qualifying patient's primary caregiver. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-121, 329-122, 329-123; SLH 2017, Act 170, §2)

§11-160-27 Primary caregiver responsibilities. Upon the effective date of a registration card issued by the department to a primary caregiver, the primary caregiver may:

(1) Cultivate cannabis on behalf of a registered qualifying patient only at the grow site and in an amount that, jointly possessed between the qualifying patient and the primary caregiver, does not exceed an adequate supply;

(2) Prepare cannabis for consumption by a registered qualifying patient; and

(3) Administer cannabis to a registered qualifying patient. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-122, 329-123; SLH 2017, Act 170, §2)

SUBCHAPTER 6

REGISTRATION CARDS FOR QUALIFYING PATIENTS AND PRIMARY CAREGIVERS

§11-160-31 Possession of registration card; identification tags on cannabis plants. (a) A qualifying patient or primary caregiver to whom the department has issued a registration card shall carry the registration card on his or her person whenever the qualifying patient or primary caregiver is in possession of medical cannabis.

(b) The qualifying patient or primary caregiver who has been designated to cultivate cannabis shall have a legible identification tag, in a form and manner as determined by the department, on each cannabis plant being cultivated for the qualifying patient. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §§321-9) (Imp: HRS §329-123; SLH 2017, Act 170, §2)

§11-160-32 Registration card; content. A registration card issued to a qualifying patient or primary caregiver shall, at a minimum, contain:

(1) The qualifying patient's name and date of birth;

(2) The primary caregiver's name and date of birth;

(3) The location of the grow site, if any;

(4) The registration identification number;

(5) The registration card's effective and expiration dates; and

(6) The signature of the qualifying patient's physician; provided that the department may use an electronic signature [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123)

§11-160-33 Notification of changes in information. (a) After obtaining a registration card, a qualifying patient shall notify the department, on forms and in a manner prescribed by the department, within ten working days after any change to the information the qualifying patient or the qualifying patient's primary caregiver previously submitted to the department pursuant to section 11-160-16.

(b) Pursuant to a notification of change, the department shall charge a replacement registration card fee pursuant to section 11-160-17 and issue a replacement registration card to the qualifying patient and primary caregiver, if any, only when there is a change to the information contained on the registration card.

(c) Upon receiving a replacement registration card, a qualifying patient or primary caregiver, if any, shall surrender the prior registration card to the department within five working days of receipt of the replacement registration card; provided that the department may make exceptions based on good cause. Failure to return the prior registration card to the department shall be cause for the department to revoke the replacement registration card.

(d) When changing primary caregivers, the new primary caregiver is not authorized to act as primary caregiver until the effective date on the registration card issued by the department to the new primary caregiver.

(e) A qualifying patient shall immediately notify the qualifying patient's primary caregiver of any changes in status including, but not limited to:

(1) The qualifying patient has assigned another person to be the qualifying patient's primary caregiver; and

(2) The qualifying patient is no longer eligible for the medical use of cannabis.

(f) Failure to make a notification of change with the department pursuant to this section may result in the department revoking the registration card of the qualifying patient or primary caregiver pursuant to section 11-160-38. [Eff 7/18/15; am and comp] (Auth: HRS §321-9) (Imp: HRS §329-123; SLH 2017, Act 170, §2)

§11-160-34 Term. A registration card issued to a qualifying patient or primary caregiver shall be valid for up to one year from the effective date established by the department unless revoked or voided.

Where a qualifying patient's certifying physician or certifying advanced practice registered nurse attests in the written certification that the qualifying patient's condition is chronic, the registration card may be valid for up to two years, as recommended by the certifying physician or certifying advanced practice registered nurse and approved by the department. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §§321-9) (Imp: HRS §§329-121 to 329-123)

§11-160-35 Renewals. (a) A registration card issued to a qualifying patient or primary caregiver may be renewed, on forms and in a manner prescribed by the department, by meeting the requirements of subchapter 4.

(b) The department shall process renewal applications in the same manner as specified in subchapter 4.

(c) A qualifying patient or primary caregiver shall initiate an application for a renewal of a registration no earlier than sixty days before the expiration date of the current registration. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-122 to 329-123)

§11-160-36 Non-transferable. No registration card issued to a qualifying patient or primary caregiver shall be assigned or otherwise transferred to any other person [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123)

§11-160-37 Repealed. [R FEB 25 2019]

§11-160-38 Revocation of registration card. (a) The department may revoke a registration card issued to a qualifying patient or primary caregiver for any of the following reasons:

- (1) Violation of any provision of this chapter or part IX of chapter 329, HRS;
- (2) Submission of misleading, incorrect, false, or fraudulent information;
- (3) Fraudulent use of a registration card;
- (4) Tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate a registration card;
- (5) Failure to make a notification of change with the department in accordance with section 11-160-33;
- (6) Where immediate action is required to comply with the law or protect the health and safety of the general public; or
- (7) Any other reason consistent with applicable laws.

(b) The department shall send written notification of a revocation by certified mail to the qualifying patient, the certifying physician or certifying advanced practice registered nurse, and the primary caregiver, if any, and include the specific reason or reasons for the revocation and the process to request a reconsideration of the department's action pursuant to section 11-160-51.

(c) Registration cards issued in hard copy by the department shall be surrendered to the department upon receipt of revocation notification pursuant to subsection (b). Notwithstanding a person's failure to surrender a revoked hard copy registration card to the department, upon inquiry by a law enforcement agency for official law enforcement purposes, the department shall verify that the registration is revoked.

(d) A qualifying patient aggrieved by a decision made pursuant to this section may request a reconsideration of the action in accordance with section 11-160-51. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123)

§11-160-39 Void registration card. (a) A registration card issued to a qualifying patient shall automatically be void:

(1) Upon the day following its expiration date;

(2) Upon the issuance of a replacement registration card due to a change in information pursuant to section 11-160-33;

(3) Upon the death of the qualifying patient;

(4) Upon receipt by the department of written notification from a certifying physician or certifying advanced practice registered nurse that the qualifying patient no longer has a debilitating medical condition or that the benefits of the medical use of cannabis would no longer likely outweigh the health risks for the qualifying patient; or

(5) Upon receipt by the department of a written request from a qualifying patient.

(b) A registration card issued to a primary caregiver shall automatically be void:

(1) Upon the day following its expiration date;

(2) Upon the issuance of a replacement registration card due to a change in information pursuant to section 11-160-33;

(3) Upon the death of the primary caregiver's qualifying patient;

(4) Upon written notification by the qualifying patient to the department that the individual registered as the primary caregiver is no longer the primary caregiver for the qualifying patient;

(5) When the primary caregiver's qualifying patient is no longer registered with the department or when the qualifying patient's registration card has been revoked; and

(6) Upon receipt by the department of written notification from a certifying physician or certifying advanced practice registered nurse that the qualifying patient no longer has a debilitating medical condition or that the benefits of the medical use of cannabis would no longer likely outweigh the health risks for the qualifying patient.

(c) Except at the expiration of a registration card's term, the department shall send written notification of a voided registration card by regular mail to the last known address of the qualifying patient, the certifying physician or certifying advanced practice registered nurse, and the primary caregiver, as applicable.

(d) Registration cards issued in hard copy by the department shall be surrendered to the department upon receipt of voiding notification pursuant to subsection (c). Notwithstanding a person's failure to surrender a voided hard copy registration card to the department, upon inquiry by a law enforcement agency for official law enforcement purposes, the department shall verify that the registration is void.

(e) The department shall have the discretion to reissue a registration card at no additional cost to the qualifying patient or primary caregiver if the department determines the card was voided in error. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123; SLH 2017, Act 170, §2)

§11-160-40 Disposal of unused cannabis. Upon the revocation or voiding of a qualifying patient's or primary caregiver's registration card, all unused cannabis in the possession of the qualifying patient or primary caregiver shall be disposed of immediately by rendering the unused cannabis unusable in a manner approved by the department. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123; SLH 2017, Act 170, §2)

SUBCHAPTER 6.5.

REGISTRATION FOR QUALIFYING OUT-OF-STATE PATIENTS AND CAREGIVERS OF QUALIFYING OUT-OF-STATE PATIENTS

§11-160-43.01 Registration requirements for qualifying out-of-state patients and caregivers of qualifying out-of-state patients. (a) To apply for or renew a qualifying out-of-state patient's registration, an out-of-state applicant shall submit the following to the department electronically on a form and in a manner prescribed by the department:

(1) The qualifying out-of-state patient's full name, residential, mailing, and email addresses, date of birth, and signature;

(2) For a qualifying out-of-state patient who is a minor, the full name, residential, mailing, and email addresses, and date of birth of a caregiver of the qualifying out-of-state patient;

(3) A clear photocopy of the valid government-issued medical cannabis card issued to the qualifying out-of-state patient by another state or territory of the United States or the District of Columbia; provided that the medical cannabis card has an expiration date and has not expired;

(4) A clear photocopy of the valid photo identification card or driver's license issued to the qualifying out-of-state patient or the caregiver of the qualifying out-of-state patient from the same jurisdiction as the issuing entity;

(5) An attestation by the qualifying out-of-state patient or the caregiver of the qualifying out-of-state patient, under penalty of law pursuant to section 710-1063, HRS, that the condition for which the qualifying out-of-state patient is legally authorized to use cannabis for medical purposes is a debilitating medical condition as defined in section 329-121, HRS;

(6) A consent by the qualifying out-of-state patient or the caregiver of the qualifying out-of-state patient for the certifying medical provider and the issuing entity to release information to the department for the purpose of verifying registration, monitoring, or investigation;

(7) If the qualifying out-of-state patient is a minor, written consent by the caregiver of the qualifying out-of-state patient to:

(A) Allow the qualifying out-of-state patient's medical use of cannabis;

(B) Undertake the responsibility for managing the well-being of the qualifying out-of-state patient with respect to the medical use of cannabis; and

(C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying out-of-state patient;

(8) If the qualifying out-of-state patient is a minor, an attestation that the caregiver of the qualifying out-of-state patient is a parent, guardian, or person having legal custody of the qualifying out-of-state patient; provided that the department may require documentation confirming the legal status of the parent, guardian, or person having legal custody of the qualifying out-of-state patient, including, but not limited to, a birth certificate, power of attorney, guardianship documents, divorce decrees, or other court orders;

(9) An attestation that the information provided in the application is true and correct;

(10) An attestation that the qualifying out-of-state patient or the caregiver of the qualifying out-of-state patient has read, understands, and agrees to abide by part IX of chapter 329, HRS, and this chapter;

(11) Payment of registration fees in accordance with section 11-160-43.02; and

(12) Any other information reasonably required by the department to process the registration of a qualifying out-of-state patient or the caregiver of a qualifying out-of-state patient, to determine the suitability for registration of a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient, or to protect public health and safety.

(b) The department may register two caregivers for a qualifying out-of-state patient who is a minor; provided that each caregiver is a parent, guardian, or person having legal custody of the qualifying out-of-state patient; provided further that each caregiver shall comply with subsection (a) and section 11-160-43.05.

(c) A qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient shall submit an application for a new registration or renewal of a registration no earlier than sixty days before the desired effective date of the registration or renewal. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-121, 329-122, 329-123.5)

§11-160-43.02 Registration fees. (a) Fees for a new or renewal registration of a qualifying out-of-state patient are \$45 for each sixty-day term or portion thereof.

(b) Payment of registration fees shall be made in a form and manner as prescribed by the department.

(c) Value added electronic services provided through the portal manager may incur a separate fee pursuant to section 27G-2, HRS.

(d) Registration fees and value added electronic service fees are non-refundable. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§321-30.1, 329-123.5)

§11-160-43.03 Verification of information. The department may verify information on an application and accompanying documentation submitted for a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient by any or all of the following methods:

(1) Contacting an out-of-state applicant by telephone, mail, or electronic mail, or, if proof of identity is uncertain, requiring the production of additional identification materials;

(2) Contacting a caregiver of a qualifying out-of-state patient;

(3) Contacting the issuing entity to verify licenses or registration as required under this chapter;

(4) Contacting the certifying medical provider to obtain further documentation to verify that the qualifying out-of-state patient's medical diagnosis and medical condition meet the requirements of this chapter; and

(5) Contacting any other person or agency for the purpose of verifying information on the application and accompanying documentation. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123.5)

§11-160-43.04 Denial of application for registration or renewal of registration. (a) The department may deny an application for or renewal of a registration for a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient for any of the following reasons:

- (1) Failure to provide the information required or in the time period required in section 11-160-43.01;
- (2) Failure to meet the requirements set forth in this chapter or part IX of chapter 329, HRS, for registration;
- (3) Provision of misleading, incorrect, false, or fraudulent information;
- (4) Revocation of registration in the previous one hundred eighty days pursuant to section 11-160-43.11;
- (5) Failure to pay all applicable fees as required; or
- (6) Any other ground that serves the purposes of this chapter or part IX of chapter 329, HRS.

(b) If the department denies an application or a renewal of an application, the department shall notify the out-of-state applicant in writing of the department's denial decision, the reason therefor, and when the out-of-state applicant may reapply.

(c) A person aggrieved by a decision made pursuant to this section may request a reconsideration of the action in accordance with section 11-160-51. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123.5)

§11-160-43.05 Requirements for caregivers of qualifying out-of-state patients. (a) To register with the department as a caregiver of a qualifying out-of-state patient, a person shall:

- (1) Be at least eighteen years of age;
- (2) Be a parent, guardian, or person having legal custody of the qualifying out-of-state patient;
- (3) Consent in writing to:
 - (A) Allow the qualifying out-of-state patient's medical use of cannabis;
 - (B) Undertake the responsibility for managing the well-being of the qualifying out-of-state patient with respect to the medical use of cannabis; and

(C) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying out-of-state patient.

(b) Upon the effective date of a registration card issued by the department to a caregiver of a qualifying out-of-state patient, the caregiver of a qualifying out-of-state patient may:

(1) Purchase cannabis on behalf of a registered qualifying out-of-state patient only from retail dispensing locations of dispensaries licensed to 329D, HRS;

(2) Prepare cannabis for consumption by a registered qualifying out-of-state patient; and

(3) Administer cannabis to a registered qualifying out-of-state patient. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-121, 329-122, 329-123.5, 329-130)

§11-160-43.06 Possession of registration card. A qualifying out-of-state patient or caregiver of a qualifying out-of-state patient to whom the department has issued a registration card shall carry the registration card on his or her person whenever the person is in possession of medical cannabis. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123.5)

§11-160-43.07 Registration card; content. A registration card for a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient shall, at a minimum, contain:

(1) The name and date of birth of the qualifying out-of-state patient;

(2) The name and date of birth of the caregiver of a qualifying out-of-state patient;

(3) The registration identification number; and

(4) The registration card's effective and expiration dates. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123.5)

§11-160-43.08 Registration card; term. (a) Unless revoked or voided, a registration card issued to a qualifying out-of-state patient or, if applicable, a caregiver of a qualifying out-of-state patient shall be valid for no more than sixty days from the effective date established by the department.

(b) A registration card issued to a qualifying out-of-state patient or, if applicable, a caregiver of a qualifying out-of-state patient may be renewed for one additional term of no more than sixty days; provided that the renewal effective date shall occur within the same calendar year as the previous registration's effective date; provided further that a qualifying out-of-state patient and a caregiver of a qualifying out-of-state patient may apply for a new registration in the succeeding calendar year.

(c) The department shall not register any qualifying out-of-state patient for a term that exceeds the expiration date of the qualifying out-of-state patient's medical cannabis card from the issuing entity.

(d) During any maximum sixty-day term of a registration card, if a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient requests changes to the information submitted to the department pursuant to section 11-160-43.01 that are determined to be substantive by the department, a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient may be required to submit an application for a new or renewal registration. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-121, 329-123.5)

§11-160-43.09 Renewals. (a) A registration card issued to a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient may be renewed, on forms and in a manner prescribed by the department, by meeting the requirements of section 11-160-43.01.

(b) The department shall process renewal applications in the same manner as specified in sections 11-160-43.01 to 11-160-43.05. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-122, 329-123.5)

§11-160-43.10 Non-transferable. No registration card issued to a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient shall be assigned or otherwise transferred to any other person. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123.5)

§11-160-43.11 Revocation of registration card. (a) The department may revoke a registration card issued to a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient for any of the reasons:

- (1) Violation of any provision of this chapter or part IX of chapter 329, HRS;
- (2) Submission of misleading, incorrect, false, or fraudulent information;
- (3) Fraudulent use of a registration card;
- (4) Tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate a registration card;
- (5) Where immediate action is required to comply with the law or protect the health and safety of the general public; or
- (6) Any other reason consistent with applicable laws.

(b) The department shall send written notification of a revocation by electronic mail to the qualifying out-of-state patient or a caregiver of the qualifying out-of-state patient and include the specific reason or

reasons for the revocation and the process to request a reconsideration of the department's action pursuant to section 11-160-51.

(c) A qualifying out-of-state patient aggrieved by a decision made pursuant to this section may request a reconsideration of the action in accordance with section 11-160-51. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123.5)

§11-160-43.12 Void registration card. (a) A registration card issued to a qualifying out-of-state patient or a caregiver of a qualifying out-of-state patient shall automatically be void:

(1) Upon the day following its expiration date;

(2) Upon the death of the qualifying out-of-state patient;

(3) Upon receipt by the department of written notification from the issuing entity that the registration of the qualifying out-of-state patient has been revoked or suspended;

(4) Upon receipt by the department of written request from the qualifying out-of-state patient; or

(5) Upon the death of the sole caregiver of a qualifying out-of-state patient.

(b) The department shall have the discretion to reissue a registration card at no additional cost to the qualifying out-of-state patient or caregiver of a qualifying out-of-state patient if the department determines the card was voided in error. [Eff and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §329-123.5)

SUBCHAPTER 7

MONITORING AND INVESTIGATIONS

§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, certifying physician, certifying advanced practice registered nurse, qualifying out-of-state patient, caregiver of a qualifying out-of-state patient, certifying medical provider, or issuing entity by telephone, mail, or in person to verify the current accuracy of information included in the registration system.

(b) If the department is unable to verify the current accuracy of information included in the registration system due to a failure by the qualifying patient, primary caregiver, certifying physician, certifying advanced practice registered nurse, qualifying out-of-state patient, caregiver of a qualifying out-of-state patient, certifying medical provider, or issuing entity to provide the department with relevant access or information, the department may revoke the registration of the qualifying patient, primary caregiver, qualifying out-of-state patient, or of a out-of-state patient.

(c) The department, when it has reason to believe a violation of any provision of this chapter or part IX of chapter 329, HRS, has occurred, may conduct an investigation to collect evidence of a violation or notify the proper state or local authorities. Violations may include, but are not limited to:

(1) Failure by a qualifying patient to notify the department of any change in the information in accordance with section 11-160-33;

(2) Failure by a qualifying patient or primary caregiver to surrender to the department a void or revoked hard copy registration card; or

(3) Submission of false or inaccurate information by a qualifying patient, primary caregiver, certifying physician, certifying advanced practice registered nurse, qualifying out-of-state patient, caregiver of a qualifying out-of-state patient, or certifying medical provider during the registration or renewal of registration process. [Eff 7/18/15; comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-123, 329-123.5)

SUBCHAPTER 8

ADMINISTRATIVE PROCEDURE

§11-160-51 Request for reconsideration. (a) A person aggrieved by a decision made pursuant to section 11-160-21, 11-160-38, 11-160-43.04, or 11-160-43.11 may request a reconsideration of the action.

(b) A request for reconsideration shall be submitted to the department within five working days from the date of notification; provided that for the purposes of this subsection, "date of notification" shall mean the date the department sent an electronic mail to the aggrieved person or three days after the department mailed a letter to the aggrieved person.

(c) A request for reconsideration shall include an explanation of why the aggrieved person believes the action was improper and shall include all arguments, authorities, factors, affidavits, exhibits, and any other matter which the aggrieved person may deem relevant.

(d) The director shall issue a written final decision to the aggrieved person within fifteen working days of the receipt of a request for reconsideration, unless the director determines that an extension is necessary and provides written notice of the extended deadline to the aggrieved person.

(e) The director's final decision shall, at a minimum, contain the decision of whether to uphold the action and a detailed statement of the reasons for the final decision, including factual findings.

(f) A request for reconsideration shall not operate as a stay of the decision made pursuant to sections 11-160-21, 11-160-38, 11-160-43.04, or 11-160-43.11.

(g) A final decision by the director on a request for reconsideration is a final agency action, of which jurisdiction and venue for judicial review are vested in the Hawaii circuit court. [Eff 7/18/15; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§329-123, 329-123.5)

SUBCHAPTER 9

CONFIDENTIALITY OF INFORMATION

§11-160-56 Confidential information; exceptions. (a) All information received and records kept by the department for purposes of administering this chapter are confidential and not subject to disclosure except to:

- (1) Employees or agents of the department as necessary to perform their official duties under this chapter;
- (2) Federal, state, or local law enforcement agencies for the purpose of verifying registration with the department pursuant to this chapter or for official law enforcement purposes;
- (3) A person or entity pursuant to an order or subpoena from a court or agency of competent jurisdiction;
- (4) A person or entity with the written permission of the qualifying patient or, if the qualifying patient is a minor or an adult lacking legal capacity, of the qualifying patient's parent, guardian, or person having legal custody;
- (5) A person or entity with the written permission of the qualifying out-of-state patient or, if the qualifying out-of-state patient is a minor, of a caregiver of a qualifying out-of-state patient;
- (6) Employees or agents of the State's medical cannabis dispensary system;
- (7) Employees or agents of the department's contracted computer software tracking system used within the State's medical cannabis dispensary system;
- (8) Medical cannabis dispensary system licensees as deemed necessary by the department for purposes of:
 - (A) Verifying the status of a person as a qualifying patient, primary caregiver, qualifying out-of-state patient, or caregiver of a qualifying out-of-state patient; and
 - (B) Tracking a qualifying patient's or a qualifying out-of-state patient's allowable cannabis limits; and
- (9) Other persons or entities deemed necessary by the department to administer this chapter or the State's medical cannabis dispensary system.

(b) Nothing in this section precludes the department from the following:

(1) Notifying law enforcement or relevant authorities about falsified or fraudulent information submitted to the department;

(2) Notifying state or local law enforcement about suspected criminal violations; and

(3) Publishing non-identifying aggregated data or statistics of program information. [Eff 7/18/15; am 11/24/16; am and comp FEB 25 2019] (Auth: HRS §321-9) (Imp: HRS §§92F-13, 329-123, 329-123.5; SLH 2017, Act 170, §2)