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**PATIENTS OUT OF TIME SEMINAR**  
**NOVEMBER 19, 2016**  
**UPDATE ON LAWS AND REGULATIONS**

**I. FEDERAL LAW**

- a. Marijuana continues to be illegal, under Federal law, and listed on the Controlled Substance Act, Schedule I. Marijuana is defined as a drug with potential for abuse and having no accepted medical use or benefit.
- b. Cole Memo February 14, 2014. [U.S. Department of Justice "Update to Marijuana Enforcement Policy"](#) . Established 8 factors that, if adhered to by State legal Marijuana businesses, would leave the MJ business free from Federal Prosecution .
- c. Congressional action in both the Senate and House passed spending bills that denied funding to the DOJ and DEA to raid or prosecute State legal MJ businesses operating in compliance with the Cole Memo 8 criteria.
- d. Recently in California the Federal courts have dismissed four DOJ/DEA injunctions and prosecutions, with prejudice, against State legal MJ businesses holding that the under the Federal legislation, DOJ/DEA had no legal authority to prosecute.
- e. On November 8, 2016 four States, California, Maine, Massachusetts and Nevada legalized Recreational Marijuana. Three other states, Arkansas, Florida and North Dakota approved Medical Marijuana. Now 8 states, plus Washington D.C. have legalized Recreational MJ.

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In total 28 states and Washington DC have legalized some level of MJ use and possession.

- f. The NCIA <http://thecannabisindustry.org/federal-policy/> has introduced, and is currently lobbying for, 4 bills in the Senate and 8 bills in the House addressing the Cannabis business; addressing ending prohibition, access and research, banking, tax (280E), respect state laws, cut funding to DOJ and halting civil forfeitures. The open question is just what effect will the recent Presidential and Congressional results have on these bills?

**II. STATE OF HAWAII LAW**

- a. Act 241, July 14, 2015, created a Dispensary system that authorized the vertical licensing of Dispensary, Cultivation and Production (2 each) for eight (8) licenses that were awarded in April 29, 2016.
- b. Act 242 added non-discriminatory language protecting registered patients and caregivers for schools, medical care, custody and housing.
- c. Act 230 (bill 2707), in July 15, 2016, most importantly amended the definition of “Physician authorized to certify MMJ patients” to include APRN, added additional debilitating conditions, voided the application of IRS section 280E as applied to State tax law, removed criminal liability for registered patients, physicians/APRNs and Dispensary licensees and employee, expanded definition of “enclosed indoor facility”, added transdermal patch and prefilled cartridges to products that can be sold, provided that laboratories may transport MJ inter-island for testing, established a “legislative oversight working group”, .
- d. HRS 329D Hawaii’s Medical Marijuana **Dispensary** Law.

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- e. Chapter 11-850 HAR Medical Marijuana Dispensaries Regulations. Note that per 11-850-33 dispensaries may NOT sell any smokable product including pre-rolled joints, pipes, vaporizers that provide for the “smoking or inhaling” of MMJ.
- f. HRS 328J Hawaii’s Smoke Free Law – all of which are directly applicable to smoking or vaping marijuana according to DOH.
- g. Health.hawaii.gov/medicalmarijuana. DOH MMJ Dispensary and Registration website. All the rules and procedures for patient and physician/APRN registration.

### **III. DOH UPDATE**

The DOH Registry has 14,638 patients registered and 98 physicians as of September, 30 2016 and processes about 1200 patients per month. Some 44% of the patients are over 42 years old with a significant majority of those over 55+. 17% are between 36-45. Caregiver patients about 10% and those from 18-35 5%. Less than 1% are minors. There is a 2:1 male/female ratio. This is significant for Dispensary staffing knowledge and education, community outreach and physicians and APRNs.

The DOH MMJ website under Registration has complete instructions and videos for physicians and APRNs intending to become certified to recommend patients for MMJ 329 cards. Physicians and APRNs must be have their license registered with DCCA

The DOH MMJ Dispensary licensing has approved eight production centers with three of those close to completion, eight dispensing locations, NED has issued three CSA certifications for locations and at least one Dispensary is

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ready to begin cultivation----pending DOH implementation of the seed-to-sale tracking program.

DOH says it is “very close” to completing the contract with BioTrack THC to be the State’s STS provider. Then it will take 1-3 months to get up and running with the priority being to tie into the Dispensary Cultivation centers.

All other regulatory issues like additional Dispensary licenses, reciprocity, advertising and packaging, expanding products to be sold to include “smokable”, edibles, additional qualifying debilitating conditions and research are on the back burner with the priority to get the eight dispensaries up and running.