



HAWAI‘I CIVIL RIGHTS COMMISSION **KOMIKINA PONO KIWILA O HAWAI‘I**

830 PUNCHBOWL STREET, ROOM 411, HONOLULU, HI 96813 · PHONE: (808) 586-8636 · FAX: (808) 586-8655 · TDD: (808) 568-8692

MINUTES

Hawai‘i Civil Rights Commission Office

via Zoom

November 19, 2024

2:00 p.m.

- Present: Chair Dr. William Puette, Jon Matsuoka, Arsima Muller, Jo-Ann Adams
- Staff: Chief Counsel Constance Yonashiro, Adjudications Secretary Sandy Yoshimura, Executive Director Marcus Kawatachi, Deputy Executive Director Heather McVay, Staff Attorney Joey Badua
- Public: Tonga Hopoi, Kendra Kawai, Arynn Nagahiro

Chair Puette called the meeting to order.

Chair Puette’s Report on Proposed Administrative Rules and Public Hearing

- Chair conducted discussion after the Nov. 4th public hearing on the proposed administrative rules, post-hearing revision in response to public comments.
- Chief Counsel explained background of changes from the 2023 version of the proposed rules to the 2024 version with input from the Attorney General’s office on the language.
- Tonga Hopoi, Chamber of Commerce Hawaii provided oral comments in opposition of amendment to HAR § 12-46-187.
- No other oral comments.
- Chief Counsel discussed rationale for the proposed post-hearing changes to the proposed administrative rules in response to concerns by members of the public. Comments/testimony on HAR § 12-46-187 was a result of concerns over:
 - Employer’s ability to create safe environments for their workers and the public if an individual used or was under the influence of medical cannabis at work.
 - Use of medical cannabis at work is not authorized and is unlawful under the state’s uniform controlled substances act for medical marijuana. HRS § 329-122. Being under the influence at work and endangering the health and wellbeing of another person is also not authorized under HRS § 329-122. Therefore, those

types of uses of medical cannabis would be an unauthorized or “illegal use” under statute and administrative rules.

- Analysis is highly fact specific, taking into account specific job duties, responsibilities, etc.
- Also concerned about complying with federal standards/laws and had issue with conflicts between state and federal law
 - Under HAR 12-46-192, employers are specifically permitted to comply with federal regulations for certain jobs/positions and to hold same standards for all employees

Motion:

Chair asked for a motion to adopt the proposed changes to these administrative rules as advertised and circulated.

- Moved by Commissioner Matsuoka. Seconded by Commissioner Adams.

Discussion:

Commissioner Adams discussed the written comments that William Hoshijo had submitted in support of the proposed amendments. Specifically, the comments made clear that the HCRC does not protect medical cannabis itself, the HCRC protects the individual with a disability who may use medical cannabis. Also, the HCRC distinguishes medical cannabis from the disability. Commissioner Adams asked if the Commission should put forth a statement regarding the separation of medical cannabis and the individual with a disability. Chair and Chief Counsel believed that this would have to be a separate discussion and motion, and could be done upon request.

- Chair asked for any further discussion, and there was no further discussion from Commissioners.

Hearing no objections, the motion was adopted.

Next Meetings

Tuesday, January 21, 2025, at 2:00 p.m. via Zoom; Tuesday, January 28, 2025, at 2:00 p.m. via Zoom

Adjournment

Draft minutes circulated by Marcus Kawatachi, Executive Director.

Approved by Commission, as circulated, on February 13, 2025.