



General Assembly

February Session, 2004

Amendment

LCO No. 4390

HB0535504390HRO

Offered by:

REP. BOUCHER, 143rd Dist.

To: Subst. House Bill No. 5355

File No. 292

Cal. No. 210

(As Amended by House Amendment Schedule "A")

"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."

1 Strike section 7 in its entirety and insert the following in lieu thereof:

2 "Sec. 7. (NEW) (*Effective October 1, 2004*) (a) A physician shall not be
3 subject to arrest or prosecution, penalized in any manner, including,
4 but not limited to, being subject to any civil penalty, or denied any
5 right or privilege, including, but not limited to, being subject to any
6 disciplinary action by the Connecticut Medical Examining Board or
7 other professional licensing board, for providing a written certification
8 for the medical use of marijuana if:

9 (1) The physician has diagnosed the qualifying patient as having a
10 debilitating medical condition;

11 (2) The physician has explained the potential risks and benefits of
12 the medical use of marijuana to the qualifying patient and, if the
13 qualifying patient lacks legal capacity, to a parent, guardian or person

14 having legal custody of the qualifying patient; and

15 (3) The written certification issued by the physician is based upon
16 the physician's professional opinion after having completed a full
17 assessment of the qualifying patient's medical history and current
18 medical condition made in the course of a bona fide physician-patient
19 relationship.

20 (b) Notwithstanding the provisions of subsection (a) of this section,
21 a physician who provides a written certification for the medical use of
22 marijuana shall be subject to an action based on negligence pursuant to
23 section 52-572h of the general statutes, as amended by this act."

24 After the last section, add the following and renumber sections and
25 internal references accordingly:

26 "Sec. 501. Subsection (a) of section 52-572h of the general statutes is
27 repealed and the following is substituted in lieu thereof (*Effective from*
28 *passage*):

29 (a) For the purposes of this section: (1) "Economic damages" means
30 compensation determined by the trier of fact for pecuniary losses
31 including, but not limited to, the cost of reasonable and necessary
32 medical care, rehabilitative services, custodial care and loss of earnings
33 or earning capacity excluding any noneconomic damages; (2)
34 "noneconomic damages" means compensation determined by the trier
35 of fact for all nonpecuniary losses including, but not limited to,
36 physical pain and suffering and mental and emotional suffering; (3)
37 "recoverable economic damages" means the economic damages
38 reduced by any applicable findings including but not limited to
39 set-offs, credits, comparative negligence, additur and remittitur, and
40 any reduction provided by section 52-225a; (4) "recoverable
41 noneconomic damages" means the noneconomic damages reduced by
42 any applicable findings including but not limited to set-offs, credits,
43 comparative negligence, additur and remittitur; (5) "health care
44 institution" means a health care institution licensed pursuant to
45 chapter 368v; and (6) "health care provider" means an individual

46 provider of health care licensed pursuant to chapters 370 to 373,
47 inclusive, chapters 375 to 383c, inclusive, or chapter 400j.

48 Sec. 502. Section 52-572h of the general statutes is amended by
49 adding subsection (p) as follows (*Effective from passage*):

50 (NEW) (p) In any action filed on or after October 1, 2004, to recover
51 damages resulting from personal injury or wrongful death, whether in
52 tort or in contract, in which it is alleged that such injury or death
53 resulted from the professional negligence of a health care provider or
54 health care institution, or both, in the medical diagnosis, care or
55 treatment of the claimant:

56 (1) The amount of recoverable noneconomic damages allowed the
57 claimant shall not exceed three hundred fifty thousand dollars for each
58 claimant with respect to defendant health care providers, regardless of
59 the number of defendant health care providers against whom the claim
60 is asserted or the number of separate causes of action on which each
61 claim is based, except that if the conduct of the defendant is found by
62 the trier of fact to constitute gross, wilful or wanton negligence, the
63 amount of recoverable noneconomic damages allowed each claimant
64 under this subdivision shall not exceed one million fifty thousand
65 dollars;

66 (2) The amount of recoverable noneconomic damages allowed the
67 claimant shall not exceed six hundred fifty thousand dollars for each
68 claimant with respect to defendant health care institutions, regardless
69 of the number of defendant health care institutions against which the
70 claim is asserted or the number of separate causes of action on which
71 each claim is based, except that if the conduct of the defendant is
72 found by the trier of fact to constitute gross, wilful or wanton
73 negligence, the amount of recoverable noneconomic damages allowed
74 each claimant under this subdivision shall not exceed one million nine
75 hundred fifty thousand dollars;

76 (3) An award or combination of awards in excess of the limitations
77 set forth in subdivisions (1) and (2) of this subsection shall be reduced

78 to the applicable limits by the court. The limits in subdivisions (1) and
79 (2) of this subsection shall not be disclosed to a jury;

80 (4) The Chief Court Administrator shall adjust the amount of
81 recoverable noneconomic damages set forth in subdivisions (1) and (2)
82 of this subsection annually on February first to reflect the percentage
83 increase, if any, in the most recent calendar year average in the
84 consumer price index for urban consumers over the average for the
85 previous calendar year."