



General Assembly

**Substitute Bill No. 6715**

January Session, 2007

\* \_\_\_\_\_ HB06715APP \_\_052207 \_\_\_\_\_ \*

**AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) As used in sections 1 to 9,  
2 inclusive, of this act, unless the context otherwise requires:

3 (1) "Debilitating medical condition" means cancer, glaucoma,  
4 positive status for human immunodeficiency virus or acquired  
5 immune deficiency syndrome, Parkinson's disease, multiple sclerosis,  
6 damage to the nervous tissue of the spinal cord with objective  
7 neurological indication of intractable spasticity, epilepsy, cachexia or  
8 wasting syndrome;

9 (2) "Marijuana" has the same meaning as provided in section 21a-  
10 240 of the general statutes;

11 (3) "Palliative use" means the acquisition and distribution,  
12 possession, cultivation, use or transportation of marijuana or  
13 paraphernalia relating to marijuana to alleviate a qualifying patient's  
14 symptoms or the effects of such symptoms, but does not include any  
15 such use of marijuana by any person other than the qualifying patient.  
16 For the purposes of this subdivision, "acquisition and distribution"  
17 means the transfer of marijuana and paraphernalia relating to  
18 marijuana from the primary caregiver to the qualifying patient;

19 (4) "Physician" means a person who is licensed under the provisions  
20 of chapter 370 of the general statutes, but does not include a physician  
21 assistant, as defined in section 20-12a of the general statutes;

22 (5) "Primary caregiver" means a person, other than the qualifying  
23 patient and the qualifying patient's physician, who is eighteen years of  
24 age or older and has agreed to undertake responsibility for managing  
25 the well-being of the qualifying patient with respect to the palliative  
26 use of marijuana, provided (A) in the case of a qualifying patient  
27 lacking legal capacity, such person shall be a parent, guardian or  
28 person having legal custody of such qualifying patient, and (B) the  
29 need for such person shall be evaluated by the qualifying patient's  
30 physician and such need shall be documented in the written  
31 certification;

32 (6) "Qualifying patient" means a person who is eighteen years of age  
33 or older and has been diagnosed by a physician as having a  
34 debilitating medical condition;

35 (7) "Usable marijuana" means the dried leaves and flowers of the  
36 marijuana plant, and any mixtures or preparations thereof, that are  
37 appropriate for the palliative use of marijuana, but does not include  
38 the seeds, stalks and roots of the plant; and

39 (8) "Written certification" means a statement signed by the  
40 qualifying patient's physician stating that, in such physician's  
41 professional opinion, the qualifying patient has a debilitating medical  
42 condition and the potential benefits of the palliative use of marijuana  
43 would likely outweigh the health risks of such use to the qualifying  
44 patient.

45 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) A qualifying patient shall  
46 not be subject to arrest or prosecution, penalized in any manner,  
47 including, but not limited to, being subject to any civil penalty, or  
48 denied any right or privilege, including, but not limited to, being  
49 subject to any disciplinary action by a professional licensing board, for  
50 the palliative use of marijuana if:

51 (1) The qualifying patient has been diagnosed by a physician as  
52 having a debilitating medical condition;

53 (2) The qualifying patient's physician has issued a written  
54 certification to the qualifying patient for the palliative use of marijuana  
55 after the physician has prescribed, or determined it is not in the best  
56 interest of the patient to prescribe, prescription drugs to address the  
57 symptoms or effects for which the certification is being issued;

58 (3) The combined amount of marijuana possessed by the qualifying  
59 patient and the primary caregiver for palliative use does not exceed  
60 four marijuana plants, each having a maximum height of four feet, and  
61 one ounce of usable marijuana; and

62 (4) The cultivation of such marijuana occurs in a secure indoor  
63 facility.

64 (b) Subsection (a) of this section does not apply to:

65 (1) Any palliative use of marijuana that endangers the health or  
66 well-being of another person; and

67 (2) The palliative use of marijuana (A) in a motor bus or a school  
68 bus, as defined respectively in section 14-1 of the general statutes, or in  
69 any moving vehicle, (B) in the workplace, (C) on any school grounds  
70 or any public or private school, dormitory, college or university  
71 property, (D) at any public beach, park, recreation center or youth  
72 center or any other place open to the public, or (E) in the presence of a  
73 person under the age of eighteen. For the purposes of this subdivision,  
74 "presence" means within the direct line of sight of the palliative use of  
75 marijuana or exposure to second-hand marijuana smoke, or both.

76 (c) A qualifying patient shall have not more than one primary  
77 caregiver at any time. A primary caregiver may not be responsible for  
78 the care of more than one qualifying patient at any time. A primary  
79 caregiver who is registered in accordance with subsection (a) of section  
80 3 of this act shall not be subject to arrest or prosecution, penalized in

81 any manner, including, but not limited to, being subject to any civil  
82 penalty, or denied any right or privilege, including, but not limited to,  
83 being subject to any disciplinary action by a professional licensing  
84 board, for the acquisition, distribution, possession, cultivation or  
85 transportation of marijuana or paraphernalia related to marijuana on  
86 behalf of a qualifying patient, provided the amount of any marijuana  
87 so acquired, distributed, possessed, cultivated or transported, together  
88 with the combined amount of marijuana possessed by the qualifying  
89 patient and the primary caregiver, shall not exceed four marijuana  
90 plants, each having a maximum height of four feet, and one ounce of  
91 usable marijuana. For the purposes of this subsection, "distribution" or  
92 "distributed" means the transfer of marijuana and paraphernalia  
93 related to marijuana from the primary caregiver to the qualifying  
94 patient.

95 (d) Any written certification for the palliative use of marijuana  
96 issued by a physician under subdivision (2) of subsection (a) of this  
97 section shall be valid for a period not to exceed one year from the date  
98 such written certification is signed by the physician. Not later than ten  
99 days after the expiration of such period, or at any time before the  
100 expiration of such period should the qualifying patient no longer wish  
101 to possess marijuana for palliative use, the qualifying patient or the  
102 primary caregiver shall destroy all marijuana plants and usable  
103 marijuana possessed by the qualifying patient and the primary  
104 caregiver for palliative use.

105 Sec. 3. (NEW) (*Effective October 1, 2007*) (a) Each qualifying patient  
106 who is issued a written certification for the palliative use of marijuana  
107 under subdivision (2) of subsection (a) of section 2 of this act, and the  
108 primary caregiver of such qualifying patient, shall register with the  
109 Department of Consumer Protection not later than five business days  
110 after the issuance of such written certification. Such registration shall  
111 be effective until the expiration of the written certification issued by  
112 the physician. The qualifying patient and the primary caregiver shall  
113 provide sufficient identifying information, as determined by the  
114 department, to establish the personal identity of the qualifying patient

115 and the primary caregiver. The qualifying patient or the primary  
116 caregiver shall report any change in such information to the  
117 department not later than five business days after such change. The  
118 department shall issue a registration certificate to the qualifying  
119 patient and to the primary caregiver and may charge a reasonable fee,  
120 not to exceed twenty-five dollars, for a registration under this  
121 subsection. Any registration fees collected by the department under  
122 this subsection shall be paid to the State Treasurer and credited to the  
123 account established pursuant to section 10 of this act.

124 (b) Upon the request of a law enforcement agency, the Department  
125 of Consumer Protection shall verify whether a qualifying patient or a  
126 primary caregiver has registered with the department in accordance  
127 with subsection (a) of this section and may provide reasonable access  
128 to registry information obtained under this section for law  
129 enforcement purposes. Except as provided in this subsection,  
130 information obtained under this section shall be confidential and shall  
131 not be subject to disclosure under the Freedom of Information Act, as  
132 defined in section 1-200 of the general statutes.

133 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) The Commissioner of  
134 Consumer Protection may adopt regulations, in accordance with  
135 chapter 54 of the general statutes, to establish (1) a standard form for  
136 written certifications for the palliative use of marijuana issued by  
137 physicians under subdivision (2) of subsection (a) of section 2 of this  
138 act, and (2) procedures for registrations under section 3 of this act.

139 (b) The Commissioner of Consumer Protection shall adopt  
140 regulations, in accordance with chapter 54 of the general statutes, to  
141 establish a reasonable fee to be collected from each qualifying patient  
142 to whom a written certification for the palliative use of marijuana is  
143 issued under subdivision (2) of subsection (a) of section 2 of this act,  
144 for the purpose of offsetting the direct and indirect costs of  
145 administering the provisions of sections 1 to 9, inclusive, of this act.  
146 The commissioner shall collect such fee at the time the qualifying  
147 patient registers with the Department of Consumer Protection under

148 subsection (a) of section 3 of this act. Such fee shall be in addition to  
149 any registration fee that may be charged under said subsection. The  
150 fees required to be collected by the commissioner from qualifying  
151 patients under this subsection shall be paid to the State Treasurer and  
152 credited to the account established pursuant to section 10 of this act.

153       Sec. 5. (NEW) (*Effective October 1, 2007*) Nothing in sections 1 to 9,  
154 inclusive, of this act shall be construed to require health insurance  
155 coverage for the palliative use of marijuana.

156       Sec. 6. (NEW) (*Effective October 1, 2007*) (a) A qualifying patient or a  
157 primary caregiver may assert the palliative use of marijuana as an  
158 affirmative defense to any prosecution involving marijuana, or  
159 paraphernalia relating to marijuana, under chapter 420b of the general  
160 statutes or any other provision of the general statutes, provided such  
161 qualifying patient or such primary caregiver has strictly complied with  
162 the requirements of sections 1 to 9, inclusive, of this act.

163       (b) No person shall be subject to arrest or prosecution solely for  
164 being in the presence or vicinity of the palliative use of marijuana as  
165 permitted under sections 1 to 9, inclusive, of this act.

166       Sec. 7. (NEW) (*Effective October 1, 2007*) A physician shall not be  
167 subject to arrest or prosecution, penalized in any manner, including,  
168 but not limited to, being subject to any civil penalty, or denied any  
169 right or privilege, including, but not limited to, being subject to any  
170 disciplinary action by the Connecticut Medical Examining Board or  
171 other professional licensing board, for providing a written certification  
172 for the palliative use of marijuana under subdivision (2) of subsection  
173 (a) of section 2 of this act if:

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

176       (2) The physician has explained the potential risks and benefits of  
177 the palliative use of marijuana to the qualifying patient and, if the  
178 qualifying patient lacks legal capacity, to a parent, guardian or person

179 having legal custody of the qualifying patient; and

180 (3) The written certification issued by the physician is based upon  
181 the physician's professional opinion after having completed a full  
182 assessment of the qualifying patient's medical history and current  
183 medical condition made in the course of a bona fide physician-patient  
184 relationship.

185 Sec. 8. (NEW) (*Effective October 1, 2007*) Any marijuana,  
186 paraphernalia relating to marijuana, or other property seized by law  
187 enforcement officials from a qualifying patient or a primary caregiver  
188 in connection with a claimed palliative use of marijuana under sections  
189 1 to 9, inclusive, of this act shall be returned to the qualifying patient or  
190 the primary caregiver immediately upon the determination by a court  
191 that the qualifying patient or the primary caregiver is entitled to the  
192 palliative use of marijuana under sections 1 to 9, inclusive, of this act,  
193 as evidenced by a decision not to prosecute, a dismissal of charges or  
194 an acquittal. Law enforcement officials seizing live marijuana plants as  
195 evidence shall not be responsible for the care and maintenance of such  
196 plants. This section does not apply to any qualifying patient or  
197 primary caregiver who fails to comply with the requirements for the  
198 palliative use of marijuana under sections 1 to 9, inclusive, of this act.

199 Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Any person who makes a  
200 fraudulent representation to a law enforcement official of any fact or  
201 circumstance relating to the palliative use of marijuana in order to  
202 avoid arrest or prosecution under chapter 420b of the general statutes  
203 or any other provision of the general statutes shall be guilty of a class  
204 C misdemeanor.

205 (b) Any person who makes a fraudulent representation to a law  
206 enforcement official of any fact or circumstance relating to the  
207 issuance, contents or validity of a written certification for the palliative  
208 use of marijuana, or a document purporting to be such written  
209 certification, shall be guilty of a class A misdemeanor.

210 Sec. 10. (NEW) (*Effective July 1, 2007*) There is established a palliative

211 marijuana administration account which shall be a separate,  
 212 nonlapsing account within the General Fund. The account shall  
 213 contain any fees collected pursuant to subsection (a) of section 3 of this  
 214 act, the fees collected pursuant to subsection (b) of section 4 of this act,  
 215 and any other moneys required by law to be deposited in the account,  
 216 and shall be held in trust separate and apart from all other moneys,  
 217 funds and accounts. Any balance remaining in the account at the end  
 218 of any fiscal year shall be carried forward in the account for the fiscal  
 219 year next succeeding. Investment earnings credited to the account shall  
 220 become part of the account. Amounts in the account shall be expended  
 221 only pursuant to appropriation by the General Assembly for the  
 222 purpose of providing funds to the Department of Consumer Protection  
 223 for administering the provisions of sections 1 to 9, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	New section
Sec. 2	<i>October 1, 2007</i>	New section
Sec. 3	<i>October 1, 2007</i>	New section
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>October 1, 2007</i>	New section
Sec. 6	<i>October 1, 2007</i>	New section
Sec. 7	<i>October 1, 2007</i>	New section
Sec. 8	<i>October 1, 2007</i>	New section
Sec. 9	<i>October 1, 2007</i>	New section
Sec. 10	<i>July 1, 2007</i>	New section

**JUD**      *Joint Favorable Subst.*

**GL**        *Joint Favorable*

**PH**        *Joint Favorable*

**FIN**       *Joint Favorable*

**APP**       *Joint Favorable*