



General Assembly

February Session, 2012

Amendment

LCO No. 4182

HB0538904182SR0

Offered by:
SEN. BOUCHER, 26th Dist.

To: House Bill No. 5389

File No. 597

Cal. No. 430

"AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA."

1 Strike lines 1 to 78, inclusive, in their entirety and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 16,
4 inclusive, of this act, unless the context otherwise requires:

5 (1) "Cultivation" includes planting, propagating, cultivating,
6 growing and harvesting;

7 (2) "Debilitating medical condition" means (A) cancer, glaucoma,
8 positive status for human immunodeficiency virus or acquired
9 immune deficiency syndrome, Parkinson's disease, multiple sclerosis,
10 damage to the nervous tissue of the spinal cord with objective
11 neurological indication of intractable spasticity, epilepsy, cachexia,
12 wasting syndrome, Crohn's disease, posttraumatic stress disorder, or
13 (B) any medical condition, medical treatment or disease approved by
14 the Department of Consumer Protection pursuant to regulations
15 adopted under section 14 of this act;

16 (3) "Licensed dispensary" or "dispensary" means a person licensed
17 as a dispensary pursuant to section 9 of this act;

18 (4) "Licensed producer" or "producer" means a person licensed as a
19 producer pursuant to section 10 of this act;

20 (5) "Marijuana" means marijuana, as defined in section 21a-240 of
21 the general statutes;

22 (6) "Optometrist" means an optometrist licensed under chapter 380
23 of the general statutes;

24 (7) "Palliative use" means the acquisition, distribution, transfer,
25 possession, use or transportation of marijuana or paraphernalia
26 relating to marijuana, including the transfer of marijuana and
27 paraphernalia relating to marijuana from the patient's primary
28 caregiver to the qualifying patient, to alleviate a qualifying patient's
29 symptoms of a debilitating medical condition or the effects of such
30 symptoms, but does not include any such use of marijuana by any
31 person other than the qualifying patient;

32 (8) "Paraphernalia" means drug paraphernalia, as defined in section
33 21a-240 of the general statutes;

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

37 (10) "Primary caregiver" means a person, other than the qualifying
38 patient and the qualifying patient's physician or optometrist, who is
39 eighteen years of age or older and has agreed to undertake
40 responsibility for managing the well-being of the qualifying patient
41 with respect to the palliative use of marijuana, provided (A) in the case
42 of a qualifying patient lacking legal capacity, such person shall be a
43 parent, guardian or person having legal custody of such qualifying
44 patient, and (B) the need for such person shall be evaluated by the
45 qualifying patient's physician or optometrist, as the case may be, and

46 such need shall be documented in the written certification;

47 (11) "Qualifying patient" means a person who is eighteen years of
48 age or older, is a resident of Connecticut and has been diagnosed by a
49 physician as having a debilitating medical condition or diagnosed by
50 an optometrist as having glaucoma. "Qualifying patient" does not
51 include an inmate confined in a correctional institution or facility
52 under the supervision of the Department of Correction;

53 (12) "Usable marijuana" means the dried leaves and flowers of the
54 marijuana plant, and any mixtures or preparations of such leaves and
55 flowers, that are appropriate for the palliative use of marijuana, but
56 does not include the seeds, stalks and roots of the marijuana plant; and

57 (13) "Written certification" means a written certification issued by a
58 physician or optometrist pursuant to section 4 of this act.

59 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) A qualifying patient shall
60 register with the Department of Consumer Protection pursuant to
61 section 5 of this act prior to engaging in the palliative use of marijuana.
62 A qualifying patient who has a valid registration certificate from the
63 Department of Consumer Protection pursuant to subsection (a) of
64 section 5 of this act and complies with the requirements of sections 1 to
65 15, inclusive, of this act shall not be subject to arrest or prosecution,
66 penalized in any manner, including, but not limited to, being subject to
67 any civil penalty, or denied any right or privilege, including, but not
68 limited to, being subject to any disciplinary action by a professional
69 licensing board, for the palliative use of marijuana if:

70 (1) The qualifying patient's (A) optometrist has issued a written
71 certification to the qualifying patient for the palliative use of marijuana
72 for glaucoma, or (B) physician has issued a written certification to the
73 qualifying patient for the palliative use of marijuana after the
74 physician has prescribed, or determined it is not in the best interest of
75 the patient to prescribe, prescription drugs to address the symptoms or
76 effects for which the certification is being issued;

77 (2) The combined amount of marijuana possessed by the qualifying
78 patient and the primary caregiver for palliative use does not exceed an
79 amount of usable marijuana reasonably necessary to ensure
80 uninterrupted availability for a period of one month, as determined by
81 the Department of Consumer Protection pursuant to regulations
82 adopted under section 14 of this act; and

83 (3) The qualifying patient has not more than one primary caregiver
84 at any time."

85 Strike lines 128 to 187, inclusive, in their entirety and substitute the
86 following in lieu thereof:

87 "Sec. 4. (NEW) (*Effective October 1, 2012*) (a) A physician may issue a
88 written certification to a qualifying patient that authorizes the
89 palliative use of marijuana by the qualifying patient. Such written
90 certification shall be in the form prescribed by the Department of
91 Consumer Protection and shall include a statement signed and dated
92 by the qualifying patient's physician stating that, in such physician's
93 professional opinion, the qualifying patient has a debilitating medical
94 condition and the potential benefits of the palliative use of marijuana
95 would likely outweigh the health risks of such use to the qualifying
96 patient.

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

106 (c) A physician shall not be subject to arrest or prosecution,
107 penalized in any manner, including, but not limited to, being subject to
108 any civil penalty, or denied any right or privilege, including, but not

109 limited to, being subject to any disciplinary action by the Connecticut
110 Medical Examining Board or other professional licensing board, for
111 providing a written certification for the palliative use of marijuana
112 under subdivision (1) of subsection (a) of section 2 of this act if:

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

115 (2) The physician has explained the potential risks and benefits of
116 the palliative use of marijuana to the qualifying patient and, if the
117 qualifying patient lacks legal capacity, to a parent, guardian or person
118 having legal custody of the qualifying patient;

119 (3) The written certification issued by the physician is based upon
120 the physician's professional opinion after having completed a
121 medically reasonable assessment of the qualifying patient's medical
122 history and current medical condition made in the course of a bona
123 fide physician-patient relationship; and

124 (4) The physician has no financial interest in a dispensary licensed
125 under section 9 of this act or a producer licensed under section 10 of
126 this act.

127 (d) An optometrist may issue a written certification to a qualifying
128 patient that authorizes the palliative use of marijuana by the qualifying
129 patient for glaucoma. Such written certification shall be in the form
130 prescribed by the Department of Consumer Protection and shall
131 include a statement signed and dated by the qualifying patient's
132 optometrist stating that, in such optometrist's professional opinion, the
133 qualifying patient has glaucoma and the potential benefits of the
134 palliative use of marijuana would likely outweigh the health risks of
135 such use to the qualifying patient.

136 (e) Any written certification for the palliative use of marijuana for
137 glaucoma issued by an optometrist under subsection (d) of this section
138 shall be valid for a period not to exceed one year from the date such
139 written certification is signed and dated by the optometrist. Not later

140 than ten calendar days after the expiration of such period, or at any
141 time before the expiration of such period should the qualifying patient
142 no longer wish to possess marijuana for palliative use, the qualifying
143 patient or the primary caregiver shall destroy all usable marijuana
144 possessed by the qualifying patient and the primary caregiver for
145 palliative use.

146 (f) An optometrist shall not be subject to arrest or prosecution,
147 penalized in any manner, including, but not limited to, being subject to
148 any civil penalty, or denied any right or privilege, including, but not
149 limited to, being subject to any disciplinary action by the Connecticut
150 Board of Examiners for Optometrists or other professional licensing
151 board, for providing a written certification for the palliative use of
152 marijuana under subdivision (1) of subsection (a) of section 2 of this act
153 if:

154 (1) The optometrist has diagnosed the qualifying patient as having
155 glaucoma;

156 (2) The optometrist has explained the potential risks and benefits of
157 the palliative use of marijuana to the qualifying patient and, if the
158 qualifying patient lacks legal capacity, to a parent, guardian or person
159 having legal custody of the qualifying patient;

160 (3) The written certification issued by the optometrist is based upon
161 the optometrist's professional opinion after having completed a
162 medically reasonable assessment of the qualifying patient's medical
163 history and current medical condition made in the course of a bona
164 fide professional relationship; and

165 (4) The optometrist has no financial interest in a dispensary licensed
166 under section 9 of this act or a producer licensed under section 10 of
167 this act.

168 Sec. 5. (NEW) (*Effective October 1, 2012*) (a) Each qualifying patient
169 who is issued a written certification for the palliative use of marijuana
170 under subdivision (1) of subsection (a) of section 2 of this act, and the

171 primary caregiver of such qualifying patient, shall register with the
172 Department of Consumer Protection. Such registration shall be
173 effective from the date the Department of Consumer Protection issues
174 a certificate of registration until the expiration of the written
175 certification issued by the physician or optometrist. The qualifying
176 patient and the primary caregiver shall provide sufficient identifying
177 information, as determined by the department, to establish the
178 personal identity of the qualifying patient and the primary caregiver.
179 The qualifying patient or the primary caregiver shall report any
180 change in such information to the department not later than five
181 business days after such change. The department shall issue a
182 registration certificate to the qualifying patient and to the primary
183 caregiver and may charge a reasonable fee, not to exceed twenty-five
184 dollars, for each registration certificate issued under this subsection.
185 Any registration fees collected by the department under this
186 subsection shall be paid to the State Treasurer and credited to the
187 account established pursuant to section 19 of this act."

188 In line 195, strike "physicians" and substitute the following in lieu
189 thereof "physicians, optometrists"

190 In line 424, after "physicians" insert "and optometrists"

191 In line 485, after "physician" insert ", or an optometrist with respect
192 to glaucoma,"

193 After line 513, insert the following:

194 "(d) An optometrist shall not be subject to arrest or prosecution,
195 penalized in any manner, including, but not limited to, being subject to
196 any civil penalty, or denied any right or privilege, including, but not
197 limited to, being subject to any disciplinary action by the Connecticut
198 Board of Examiners for Optometrists or other professional licensing
199 board, for providing a written certification for the palliative use of
200 marijuana for glaucoma pursuant to this section."