General Assembly Amendment

February Session, 2012 LCO No. 3865

Offered by:
REP. LAVIELLE, 143rd Dist.
REP. CANDELORA, 86th Dist.

To: House Bill No. 5389 File No. 313 Cal. No. 254

"AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA."

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

"Section 1. (NEW) (Effective October 1, 2012) As used in sections 1 to 15, inclusive, of this act, unless the context otherwise requires:

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

(2) "Debilitating medical condition" means cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia, wasting syndrome, Crohn's disease, Posttraumatic Stress Disorder, or any other medical condition, medical treatment or disease approved by the Department of Consumer Protection pursuant to regulations
adopted under section 14 of this act;

(3) "Licensed dispensary" or "dispensary" means a pharmacist licensed pursuant to chapter 400j of the general statutes, who the Department of Consumer Protection determines to be qualified to acquire, possess, distribute and dispense marijuana pursuant to sections 1 to 15, inclusive, of this act and who is licensed as a dispensary by the Department of Consumer Protection pursuant to section 9 of this act;

(4) "Licensed producer" or "producer" means a person (A) with appropriate expertise in agriculture, organized for the purpose of cultivating marijuana for palliative use in this state and selling, delivering, transporting or distributing marijuana for palliative use only to licensed dispensaries under sections 1 to 15, inclusive, of this act, and (B) that is licensed as a producer by the Department of Consumer Protection pursuant to section 10 of this act;

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

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

(7) "Palliative use" means the acquisition, distribution, transfer, possession, use or transportation of marijuana or paraphernalia relating to marijuana, including the transfer of marijuana from the patient's primary caregiver to the qualifying patient, to alleviate a qualifying patient's symptoms or the effects of such symptoms, but does not include any such use of marijuana by any person other than the qualifying patient. For the purposes of this subdivision, "acquisition and distribution" means the transfer of marijuana and paraphernalia relating to marijuana from the primary caregiver to the qualifying patient;

(8) "Paraphernalia" means drug paraphernalia, as defined in section 21a-240 of the general statutes;
(9) "Physician" means a person who is licensed under the provisions of chapter 370 of the general statutes, but does not include a physician assistant, as defined in section 20-12a of the general statutes;

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

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

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

(13) "Written certification" means (A) a statement signed and dated by the qualifying patient's physician stating that, in such physician's professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the palliative use of marijuana would likely outweigh the health risks of such use to the qualifying patient, or (B) a statement signed and dated by the qualifying patient's optometrist stating that, in such optometrist's professional opinion, the qualifying patient has glaucoma and the potential benefits of the palliative use of marijuana would likely outweigh the health risks of
such use to the qualifying patient."

Strike lines 68 to 86, inclusive, in their entirety and substitute the following in lieu thereof:

"Sec. 2. (NEW) (Effective October 1, 2012) (a) A qualifying patient shall not be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by a professional licensing board, for the palliative use of marijuana if:

(1) The qualifying patient has been diagnosed by a physician as having a debilitating medical condition or by an optometrist as having glaucoma;

(2) The qualifying patient's (A) optometrist has issued a written certification to the qualifying patient for the palliative use of marijuana for glaucoma, or (B) physician has issued a written certification to the qualifying patient for the palliative use of marijuana for a debilitating medical condition after the physician has prescribed, or determined it is not in the best interest of the patient to prescribe, prescription drugs to address the symptoms or effects for which the certification is being issued; and

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

In lines 131, 133 and 147, after "physician" insert "or optometrist"

In line 167, after "physicians" insert ", optometrists"

Strike lines 191 to 212, inclusive, in their entirety and substitute the following in lieu thereof:
"Sec. 6. (NEW) (Effective October 1, 2012) (a) A physician shall not be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by the Connecticut Medical Examining Board or other professional licensing board, for providing a written certification for the palliative use of marijuana under subdivision (2) of subsection (a) of section 2 of this act if:

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

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

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

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

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

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

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

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

In line 423, after "physicians" insert "and optometrists"

In line 478, after "physician" insert ", or an optometrist with respect to glaucoma,"

After line 506, insert the following:

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