



General Assembly

**Amendment**

February Session, 2012

LCO No. 3865

**\*HB0538903865HR0\***

Offered by:

REP. LAVIELLE, 143<sup>rd</sup> Dist.

REP. CANDELORA, 86<sup>th</sup> 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  
2 thereof:

3 "Section 1. (NEW) (*Effective October 1, 2012*) As used in sections 1 to  
4 15, 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 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 any other medical condition, medical treatment or disease approved  
14 by the Department of Consumer Protection pursuant to regulations

15 adopted under section 14 of this act;

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

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

30 (5) "Marijuana" has the same meaning as provided in section 21a-  
31 240 of the general statutes;

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

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

44 (8) "Paraphernalia" means drug paraphernalia, as defined in section  
45 21a-240 of the general statutes;

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

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

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

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

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

78 such use to the qualifying patient."

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

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

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

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

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

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

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

106 Strike lines 191 to 212, inclusive, in their entirety and substitute the  
107 following in lieu thereof:

108 "Sec. 6. (NEW) (*Effective October 1, 2012*) (a) A physician shall not be  
109 subject to arrest or prosecution, penalized in any manner, including,  
110 but not limited to, being subject to any civil penalty, or denied any  
111 right or privilege, including, but not limited to, being subject to any  
112 disciplinary action by the Connecticut Medical Examining Board or  
113 other professional licensing board, for providing a written certification  
114 for the palliative use of marijuana under subdivision (2) of subsection  
115 (a) of section 2 of this act if:

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

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

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

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

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

138 (1) The optometrist has diagnosed the qualifying patient as having

139 glaucoma;

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

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

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

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

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

155 After line 506, insert the following:

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