



General Assembly

Amendment

February Session, 2012

LCO No. 3907

HB0538903907HDO

Offered by:

REP. RYAN, 139th Dist.

REP. ABERCROMBIE, 83rd Dist.

To: House Bill No. 5389

File No. 313

Cal. No. 254

(As Amended by House Amendment Schedule "A")

"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 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 Strike subsection (a) of section 2 in its entirety and substitute the
60 following in lieu thereof:

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

72 (1) The qualifying patient's (A) optometrist has issued a written
73 certification to the qualifying patient for the palliative use of marijuana

74 for glaucoma, or (B) physician has issued a written certification to the
75 qualifying patient for the palliative use of marijuana after the
76 physician has prescribed, or determined it is not in the best interest of
77 the patient to prescribe, prescription drugs to address the symptoms or
78 effects for which the certification is being issued;

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

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

87 Strike section 4 in its entirety and substitute the following in lieu
88 thereof:

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

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

106 the primary caregiver shall destroy all usable marijuana possessed by
107 the qualifying patient and the primary caregiver for palliative use.

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

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

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

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

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

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

137 such use to the qualifying patient.

138 (e) Any written certification for the palliative use of marijuana for
139 glaucoma issued by an optometrist under subsection (d) of this section
140 shall be valid for a period not to exceed one year from the date such
141 written certification is signed and dated by the optometrist. Not later
142 than ten calendar days after the expiration of such period, or at any
143 time before the expiration of such period should the qualifying patient
144 no longer wish to possess marijuana for palliative use, the qualifying
145 patient or the primary caregiver shall destroy all usable marijuana
146 possessed by the qualifying patient and the primary caregiver for
147 palliative use.

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

156 (1) The optometrist has diagnosed the qualifying patient as having
157 glaucoma;

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

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

167 (4) The optometrist has no financial interest in a dispensary licensed

168 under section 9 of this act or a producer licensed under section 10 of
169 this act."

170 Strike subsection (a) of section 5 in its entirety and substitute the
171 following in lieu thereof:

172 "Sec. 5. (NEW) (*Effective October 1, 2012*) (a) Each qualifying patient
173 who is issued a written certification for the palliative use of marijuana
174 under subdivision (1) of subsection (a) of section 2 of this act, and the
175 primary caregiver of such qualifying patient, shall register with the
176 Department of Consumer Protection. Such registration shall be
177 effective from the date the Department of Consumer Protection issues
178 a certificate of registration until the expiration of the written
179 certification issued by the physician or optometrist. The qualifying
180 patient and the primary caregiver shall provide sufficient identifying
181 information, as determined by the department, to establish the
182 personal identity of the qualifying patient and the primary caregiver.
183 The qualifying patient or the primary caregiver shall report any
184 change in such information to the department not later than five
185 business days after such change. The department shall issue a
186 registration certificate to the qualifying patient and to the primary
187 caregiver and may charge a reasonable fee, not to exceed twenty-five
188 dollars, for each registration certificate issued under this subsection.
189 Any registration fees collected by the department under this
190 subsection shall be paid to the State Treasurer and credited to the
191 account established pursuant to section 19 of this act."

192 Strike subdivision (2) of subsection (b) of section 5 in its entirety and
193 substitute the following in lieu thereof:

194 "(2) physicians, optometrists and pharmacists for the purpose of
195 providing patient care and drug therapy management and monitoring
196 controlled substances obtained by the qualifying patient;"

197 Strike subsection (a) of section 14 in its entirety and substitute the
198 following in lieu thereof:

199 "Sec. 14. (NEW) (*Effective from passage*) (a) The Commissioner of
200 Consumer Protection may adopt regulations, in accordance with
201 chapter 54 of the general statutes, to establish (1) a standard form for
202 written certifications for the palliative use of marijuana issued by
203 physicians and optometrists under subdivision (1) of subsection (a) of
204 section 2 of this act, and (2) procedures for registrations under section
205 5 of this act. Such regulations, if any, shall be adopted after
206 consultation with the Board of Physicians established in section 13 of
207 this act."

208 Strike subsection (a) of section 15 in its entirety and substitute the
209 following in lieu thereof:

210 "Sec. 15. (NEW) (*Effective October 1, 2012*) (a) During the period
211 beginning on October 1, 2012, and ending thirty calendar days after the
212 effective date of regulations adopted pursuant to section 14 of this act,
213 a qualifying patient who would be determined to be eligible for a
214 registration certificate pursuant to subsection (a) of section 5 of this act,
215 except for the lack of effective regulations concerning licensed
216 dispensaries, licensed producers, distribution systems and amounts of
217 marijuana, may obtain a written certification from a physician, or an
218 optometrist with respect to glaucoma, and upon presenting the written
219 certification to the Department of Consumer Protection, the
220 department shall issue a temporary registration certificate for the
221 palliative use of marijuana. The department shall indicate on such
222 temporary registration certificate the amount of usable marijuana that
223 constitutes a one-month supply which may be possessed pursuant to
224 such temporary registration certificate. The department shall maintain
225 a list of all temporary registration certificates issued pursuant to this
226 section and the information on such list shall be confidential and shall
227 not be subject to disclosure under the Freedom of Information Act, as
228 defined in section 1-200 of the general statutes, except that such
229 information may be disclosed in the manner set forth in subsection (b)
230 of section 5 of this act."

231 At the end of section 15, insert the following:

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