



General Assembly

**Amendment**

February Session, 2012

LCO No. 3915

**\*HB0538903915HR0\***

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

(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."