



OLR RESEARCH REPORT

December 3, 2012

2012-R-0511

MEDICAL MARIJUANA PROGRAM

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You asked about the state's medical marijuana program, including (1) a history of bills on this topic, (2) a timeline for implementation, (3) whether application forms are available, and (4) details about producer licensing.

SUMMARY

In 2012, the General Assembly passed legislation ([PA 12-55](#)) allowing a licensed physician to certify an adult patient's use of marijuana for certain medical conditions. Among other things, the act (1) requires patients and their primary caregivers to register with the Department of Consumer Protection (DCP); (2) creates licensing requirements for producers to grow marijuana and for pharmacists (dispensaries) to dispense it; and (3) provides legal protections, subject to certain exceptions and conditions, for patients, their caregivers or doctors, dispensaries, and producers for specified actions relating to palliative marijuana use. The full summary of the act is available at <http://www.cga.ct.gov/2012/SUM/2012SUM00055-R02HB-05389-SUM.htm>.

The legislature considered medical marijuana bills a number of times in recent years. In six of the last 10 years, committees approved bills on this topic. In 2007, the General Assembly passed a bill, which was vetoed by Governor Rell. These bills prior to 2012 allowed patients to grow their own marijuana plants. [PA 12-55](#) instead creates a system for legal acquisition of medical marijuana from licensed dispensaries, who must receive the marijuana from licensed producers. To become licensed

as a producer, an applicant must, among things, pay various fees; have agricultural expertise; and have the financial capacity to operate a marijuana production facility.

There were several other changes to the medical marijuana bills as they progressed from 2003 to 2012. Some significant changes include the (1) medical conditions that would qualify for medical marijuana use, (2) agency that would be charged with administering the program, and (3) availability of medical marijuana to minors (which would have been allowed by some earlier bills but not [PA 12-55](#)).

While [PA 12-55](#) has already taken effect, many provisions require implementing regulations by DCP. The act requires DCP to submit these regulations to the Regulation Review Committee by July 1, 2013. The act provides for temporary registration for patients until these regulations take effect; DCP has begun accepting such applications.

According to DCP, as of November 26:

- 64 patients have registered as qualified patients;
- three people have registered as primary caregivers; and
- 39 physicians have activated an account in DCP's computer system, allowing them to certify patients under the medical marijuana program.

According to a DCP representative, application forms for producers and dispensaries are not yet available, as they cannot be completed until the Regulation Review Committee approves DCP's regulations. The DCP representative estimates that the department will hold a public hearing on the proposed regulations in Spring 2013. After the Regulation Review Committee approves the regulations and regulations are finalized (likely late next summer at the earliest), DCP will begin accepting producer and dispensary applications.

Below, we briefly summarize a history of medical marijuana bills that were voted out of committee from 2003 through 2012. We also provide more details on [PA 12-55](#)'s producer licensing requirements.

More information about the medical marijuana program is available on DCP's website: www.ct.gov/dcp/mmp.

MEDICAL MARIJUANA BILLS

From 2000 through 2012, there were a number of bills (both proposed and fully drafted) that would allow patients to use medical marijuana under specified conditions. Medical marijuana bills were voted out of committee in 2003, 2004, 2005, 2007, 2011, and 2012.

Below, we briefly summarize the bills that were voted out of committee, focusing on how the legislation evolved over time. Not all provisions of the bills are discussed. For more detail on any particular bill, see the bill analyses, which are linked below.

All of the bills discussed below were introduced in the Judiciary Committee. The bills were referred to and approved by various other legislative committees; those referrals are noted below only if the other committee changed the bill.

2003

In 2003, [HB 5100](#) was voted out of the Judiciary Committee. The House referred the bill to the Public Health Committee, which voted out a substitute version of the bill. The House adopted an amendment but later rejected the bill.

The version voted out of the Judiciary Committee allowed patients and their primary caregivers to acquire and grow, and the patient to use, marijuana for treatment if the patient's doctor certified that he or she had a debilitating condition that would be helped more than harmed by its use. The bill required patients and their primary caregivers to register with the Department of Public Safety (DPS), and allowed DPS to charge patients a registration fee of up to \$25.

Under the bill, debilitating conditions included (1) cancer, glaucoma, HIV, AIDS, or treatment of such conditions; (2) a chronic or debilitating disease or medical condition, or the treatment of such conditions, that caused wasting syndrome or cachexia, severe pain, severe nausea, seizures (such as from epilepsy), or severe and persistent muscle spasms (such as from multiple sclerosis or Crohn's disease); or (3) any other medical condition the Department of Public Health (DPH) approved by regulations requested by a physician or patient with a debilitating condition. The bill allowed DCP to license physicians to prescribe, possess, and supply marijuana for the treatment of such conditions.

The bill allowed a medical marijuana patient and his or her primary caregiver together to possess up to three mature and four immature marijuana plants and one ounce of usable marijuana per mature plant; the plants had to be grown in a secure indoor facility.

The bill allowed medical marijuana to be used by both minors as well as adults, but set additional requirements if the patient was a minor.

The bill established legal protections for qualifying patients as well as their physicians and primary caregivers for various actions related to medical marijuana. The bill's protections did not apply in various circumstances— for example, the bill did not allow a patient to use marijuana in public, at work, on school grounds, or in a moving vehicle.

For a full summary, see <http://www.cga.ct.gov/2003/ba/2003HB-05100-R000271-BA.htm>.

The Public Health Committee voted out a version of the bill with two changes. This version of the bill (1) allowed physicians to certify a patient's use of marijuana only after prescribing, or determining it was against the patient's best interest to prescribe, prescription drugs to address the symptoms the marijuana was supposed to treat and (2) prohibited anyone from using medical marijuana in the presence of a minor (but still allowed qualifying minors to use medical marijuana). For a full summary of this version of the bill, see <http://www.cga.ct.gov/2003/ba/2003HB-05100-R000649-BA.htm>.

The amendment the House adopted before rejecting the bill would have (1) allowed only adult patients to use medical marijuana and (2) required registration with DPH rather than DPS.

2004

In 2004, [HB 5355](#) was voted out of the Judiciary Committee. The House adopted an amendment before referring the bill to another committee; the bill later returned to the House, which did not vote on it.

[HB 5355](#) had several changes from the 2003 bill. For example, the bill restricted use of medical marijuana to adult patients only. It allowed qualifying patients and their primary caregivers to possess a combined five marijuana plants and one ounce of usable marijuana. The bill specified the scope of the protections for patients and caregivers. It required registration with the Department of Agriculture and Consumer Protection (DACP), rather than the Department of Public Safety. ([PA 04-189](#) eliminated the merger of the departments of Agriculture and Consumer Protection scheduled to take effect on July 1, 2004, and left both as stand-alone departments.)

For a full summary, see <http://www.cga.ct.gov/2004/ba/2004HB-05355-R000292-BA.htm>.

The amendment adopted by the House required DACP to collect user fees from patients to offset the costs of administering the program (these fees were in addition to registration fees). The bill required any fees collected under the program to be deposited in a separate, nonlapsing General Fund account that the bill would establish.

2005

In 2005, [SB 124](#) was voted out of the Judiciary Committee (another bill, [HB 6578](#), had been merged into [SB 124](#)). The Senate amended the bill and passed it; the bill died on the House Calendar.

The version voted out of the Judiciary Committee was substantially similar to the amended version of HB 5355 from the previous year. The full bill analysis is available at <http://www.cga.ct.gov/2005/BA/2005SB-00124-R000403-BA.htm>.

The version of SB 124 as amended by the Senate made several changes. For example, it limited the diagnosed conditions that could qualify a patient to use medical marijuana by providing a list of specific conditions rather than including any chronic or debilitating condition that caused severe pain, seizures, or the other effects described above. The amended bill also eliminated DPH's authority to approve additional conditions through regulation. Under the amended bill, allowable conditions included cancer, glaucoma, HIV, AIDS, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia, and wasting syndrome.

Among other changes, the amended bill (1) reduced the number and limited the height of a patient's or caregiver's marijuana plants (allowing up to four plants, each up to four feet high, and one ounce of usable marijuana); (2) prohibited the use of medical marijuana on college or university property; and (3) eliminated the provision extending DCP's authority to license physicians to prescribe marijuana. The bill analysis is available at <http://www.cga.ct.gov/2005/BA/2005SB-00124-R01-BA.htm>.

2007

In 2007, [HB 6715](#) was voted out of the Judiciary Committee. Both the House and Senate passed the bill, as amended in the House, but Governor Rell vetoed it ([PA 07-137](#)).

The version voted of the Judiciary Committee was substantially similar to the amended version of SB 124 that passed the Senate in 2005. The amended version of [HB 6715](#) (that became [PA 07-137](#) and was vetoed) added a provision prohibiting people convicted of marijuana possession or drug dealing from serving as primary caregivers. A summary of the vetoed act is available at <http://www.cga.ct.gov/2007/SUM/2007SUM00137-R02HB-06715-SUM.htm>.

2011

In 2011, SB 1015 was voted out of the Judiciary Committee but not voted on by the Senate. SB 1015 was identical to the act that Governor Rell vetoed in 2007. A summary of the bill is available at <http://www.cga.ct.gov/2011/BA/2011SB-01015-R000605-BA.htm>.

2012

In 2012, [HB 5389](#) was voted out of the Judiciary Committee. It was passed by both the House and Senate as amended in the House, and signed by Governor Malloy ([PA 12-55](#)).

The version voted out of the Judiciary Committee had several significant changes from the 2011 bill. For example, [HB 5389](#) replaced provisions allowing patients or caregivers to grow their own marijuana plants with a licensing system for pharmacists (termed “dispensaries”) to supply the marijuana and for producers to grow it.

Among other changes from the 2011 bill, [HB 5389](#):

1. added Crohn’s disease and posttraumatic stress disorder to the list of debilitating conditions;
2. provided a process for DCP to add conditions to the list of debilitating conditions, with the assistance of a Board of Physicians who are knowledgeable about the palliative use of marijuana and who must conduct public hearings on petitions to add conditions to the list;

3. allowed patients to temporarily register before required regulations take effect;
4. added to the required DCP regulations, such as requiring the DCP commissioner to submit regulations reclassifying marijuana as a Schedule II controlled substance; and
5. limited the circumstances under which schools, landlords, or employers could take specified actions against someone solely due to the person's status as a qualifying medical marijuana patient or primary caregiver.

A summary of the original file copy of the bill is available at <http://www.cga.ct.gov/2012/BA/2012HB-05389-R000313-BA.htm>.

The House amendment to [HB 5389](#) made several changes to the bill, such as (1) changing certain conditions under which the bill's protections and prohibitions apply and (2) adding a provision concerning an employer's right to prohibit employees' use of intoxicating substances during work hours or discipline employees for being under the influence.

A full summary of [PA 12-55](#) is available at <http://www.cga.ct.gov/2012/SUM/2012SUM00055-R02HB-05389-SUM.htm>.

PRODUCER LICENSING REQUIREMENTS

[PA 12-55](#) requires DCP to license palliative marijuana producers and prohibits anyone who is not licensed by DCP as a producer from acting as one or representing that he or she is a licensed producer. The act requires DCP to issue at least three but no more than 10 producer licenses.

To qualify for a producer license, the person must be organized to cultivate (plant, propagate, cultivate, grow, and harvest) marijuana for palliative use in the state. The DCP commissioner must also find that the applicant (1) has appropriate agricultural expertise and (2) is qualified to cultivate marijuana and sell, deliver, transport, or distribute it solely within the state pursuant to the act.

Under the act, the commissioner must determine how many producers are appropriate to meet the needs of the state's qualifying patients. He must adopt regulations (1) providing for producer licensure, standards, and locations and (2) specifying the maximum number of licenses (not exceeding 10). After the regulations are effective, the commissioner can issue producer licenses to qualifying applicants who apply in accordance with the regulations.

The required producer regulations also must at least:

1. provide that a producer may not sell, deliver, transport, or distribute marijuana from or to an out-of-state location;
2. establish a nonrefundable license application fee of at least \$25,000;
3. establish licensing and renewal fees that in the aggregate cover the direct and indirect cost of licensing and regulating producers under the act;
4. require license renewal every five years;
5. designate permissible locations for licensed producers and prohibit them from cultivating marijuana for palliative use outside the state;
6. establish financial requirements for producers, under which (a) applicants must demonstrate the financial capacity to build and operate a marijuana production facility and (b) licensees may be required to maintain a \$2 million escrow account at an in-state financial institution;
7. establish health, safety, and security requirements which require an applicant or licensed producer to demonstrate the ability to (a) maintain adequate control against the diversion, theft, and loss of marijuana the producer cultivates and (b) cultivate pharmaceutical grade marijuana for palliative use in a secure indoor facility;
8. define "pharmaceutical grade marijuana for palliative use;"
9. establish standards and procedures for license revocation, suspension, summary suspension, and nonrenewal, that comply with the administrative procedure act's standards for such actions; and

10. establish other licensing, renewal, and operational standards the commissioner deems necessary.

The act requires DCP to give the state treasurer any producer licensing fees that it collects. The fees must be credited to the palliative marijuana administration account.

DCP is not yet accepting applications for producer licensing because the required regulations have yet to be completed and approved. DCP's webpage has frequently asked questions for producers and dispensaries: http://www.ct.gov/dcp/cwp/view.asp?a=4287&Q=509636&PM=1&dcpNav=|55381|&dcpNav_GID=2109.

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