



Senate

General Assembly

File No. 739

January Session, 2015

Substitute Senate Bill No. 1064

Senate, April 23, 2015

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21a-408 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in [sections 21a-408] this section, sections 21a-408a to 21a-
4 408o, inclusive, as amended by this act, and sections 10 to 14, inclusive,
5 of this act, unless the context otherwise requires:

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

8 (2) "Debilitating medical condition" means (A) cancer, glaucoma,
9 positive status for human immunodeficiency virus or acquired
10 immune deficiency syndrome, Parkinson's disease, multiple sclerosis,
11 damage to the nervous tissue of the spinal cord with objective
12 neurological indication of intractable spasticity, epilepsy, cachexia,
13 wasting syndrome, Crohn's disease, posttraumatic stress disorder, or

14 (B) any medical condition, medical treatment or disease approved by
15 the Department of Consumer Protection pursuant to regulations
16 adopted under section 21a-408m;

17 (3) "Institutional animal care and use committee" means a
18 committee that oversees an organization's animal program, facilities
19 and procedures to ensure compliance with federal policies, guidelines
20 and principles related to the care and use of animals in research;

21 (4) "Institutional review board" means a specifically constituted
22 review body established or designated by an organization to protect
23 the rights and welfare of persons recruited to participate in biomedical,
24 behavioral or social science research;

25 (5) "Laboratory" means a laboratory located in this state that is
26 licensed to provide analysis of controlled substances pursuant to
27 section 21a-246;

28 (6) "Laboratory employee" means a person licensed as a laboratory
29 employee pursuant to section 10 of this act;

30 ~~[(3)]~~ (7) "Licensed dispensary" or "dispensary" means a person
31 licensed as a dispensary pursuant to section 21a-408h, as amended by
32 this act;

33 ~~[(4)]~~ (8) "Licensed producer" or "producer" means a person licensed
34 as a producer pursuant to section 21a-408i;

35 ~~[(5)]~~ (9) "Marijuana" means marijuana, as defined in section 21a-240;

36 (10) "Nurse" means a person who is licensed under chapter 378;

37 ~~[(6)]~~ (11) "Palliative use" means the acquisition, distribution,
38 transfer, possession, use or transportation of marijuana or
39 paraphernalia relating to marijuana, including the transfer of
40 marijuana and paraphernalia relating to marijuana from the patient's
41 primary caregiver to the qualifying patient, to alleviate a qualifying
42 patient's symptoms of a debilitating medical condition or the effects of

43 such symptoms, but does not include any such use of marijuana by
44 any person other than the qualifying patient;

45 [(7)] (12) "Paraphernalia" means drug paraphernalia, as defined in
46 section 21a-240;

47 [(8)] (13) "Physician" means a person who is licensed under chapter
48 370, but does not include a physician assistant, as defined in section 20-
49 12a;

50 [(9)] (14) "Primary caregiver" means a person, other than the
51 qualifying patient and the qualifying patient's physician, who is
52 eighteen years of age or older and has agreed to undertake
53 responsibility for managing the well-being of the qualifying patient
54 with respect to the palliative use of marijuana, provided (A) in the case
55 of a qualifying patient under eighteen years of age or otherwise
56 lacking legal capacity, such person shall be a parent, guardian or
57 person having legal custody of such qualifying patient, and (B) in the
58 case of a qualifying patient eighteen years of age or older lacking legal
59 capacity, the need for such person shall be evaluated by the qualifying
60 patient's physician and such need shall be documented in the written
61 certification;

62 [(10)] (15) "Qualifying patient" means a person who: [is eighteen
63 years of age or older, is] (A) Is a resident of Connecticut, [and] (B) has
64 been diagnosed by a physician as having a debilitating medical
65 condition, and (C) (i) is eighteen years of age or older, or (ii) has
66 written consent from a custodial parent, guardian or other person
67 having legal custody of the qualifying patient that indicates that the
68 qualifying patient has permission from such parent, guardian or other
69 person for the palliative use of marijuana for a debilitating medical
70 condition other than posttraumatic stress disorder and that such
71 parent, guardian or other person shall serve as a primary caregiver for
72 the qualifying patient and controls the acquisition and possession of
73 marijuana for palliative use and any related paraphernalia on behalf of
74 the qualifying patient. "Qualifying patient" does not include an inmate
75 confined in a correctional institution or facility under the supervision

76 of the Department of Correction;

77 (16) "Research program" means a study approved by the
78 Department of Consumer Protection in accordance with this chapter
79 and undertaken to increase information or knowledge with regard to
80 the growth, processing, medical attributes, dosage forms,
81 administration or use of marijuana to treat or alleviate symptoms of
82 any medical condition or the effects of such symptoms;

83 (17) "Research program employee" means a person licensed as a
84 research program employee pursuant to section 12 of this act;

85 (18) "Research program subject" means a person registered as a
86 research program subject pursuant to section 14 of this act;

87 ~~[(11)]~~ (19) "Usable marijuana" means the dried leaves and flowers of
88 the marijuana plant, and any mixtures or preparations of such leaves
89 and flowers, that are appropriate for the palliative use of marijuana,
90 but does not include the seeds, stalks and roots of the marijuana plant;
91 and

92 ~~[(12)]~~ (20) "Written certification" means a written certification issued
93 by a physician pursuant to section 21a-408c, as amended by this act.

94 Sec. 2. Subsection (b) of section 21a-408a of the general statutes is
95 repealed and the following is substituted in lieu thereof (*Effective from*
96 *passage*):

97 (b) The provisions of subsection (a) of this section do not apply to:

98 (1) Any palliative use of marijuana that endangers the health or
99 well-being of a person other than the qualifying patient or the primary
100 caregiver; or

101 (2) The ingestion of marijuana (A) in a motor bus or a school bus or
102 in any other moving vehicle, (B) in the workplace, (C) on any school
103 grounds or any public or private school, dormitory, college or
104 university property, unless such college or university is participating

105 in a research program and such use is pursuant to the terms of the
106 research program, (D) in any public place, or (E) in the presence of a
107 person under the age of eighteen, unless such person is a qualifying
108 patient or research program subject. For the purposes of this
109 subdivision, (i) "presence" means within the direct line of sight of the
110 palliative use of marijuana or exposure to second-hand marijuana
111 smoke, or both; (ii) "public place" means any area that is used or held
112 out for use by the public whether owned or operated by public or
113 private interests; (iii) "vehicle" means a vehicle, as defined in section
114 14-1; (iv) "motor bus" means a motor bus, as defined in section 14-1;
115 and (v) "school bus" means a school bus, as defined in section 14-1.

116 Sec. 3. Section 21a-408c of the general statutes is repealed and the
117 following is substituted in lieu thereof (*Effective from passage*):

118 (a) A physician may issue a written certification to a qualifying
119 patient that authorizes the palliative use of marijuana by the qualifying
120 patient. Such written certification shall be in the form prescribed by the
121 Department of Consumer Protection and shall include a statement
122 signed and dated by the qualifying patient's physician stating that, in
123 such physician's professional opinion, the qualifying patient has a
124 debilitating medical condition and the potential benefits of the
125 palliative use of marijuana would likely outweigh the health risks of
126 such use to the qualifying patient.

127 (b) Any written certification for the palliative use of marijuana
128 issued by a physician under subsection (a) of this section shall be valid
129 for a period not to exceed one year from the date such written
130 certification is signed and dated by the physician. Not later than ten
131 calendar days after the expiration of such period, or at any time before
132 the expiration of such period should the qualifying patient no longer
133 wish to possess marijuana for palliative use, the qualifying patient or
134 the primary caregiver shall destroy all usable marijuana possessed by
135 the qualifying patient and the primary caregiver for palliative use.

136 (c) A physician shall not be subject to arrest or prosecution,
137 penalized in any manner, including, but not limited to, being subject to

138 any civil penalty, or denied any right or privilege, including, but not
139 limited to, being subject to any disciplinary action by the Connecticut
140 Medical Examining Board or other professional licensing board, for
141 providing a written certification for the palliative use of marijuana
142 under subdivision (1) of subsection (a) of section 21a-408a if:

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

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

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

154 (4) The physician has no financial interest in a dispensary licensed
155 under section 21a-408h, as amended by this act, or a producer licensed
156 under section 21a-408i.

157 (d) A nurse shall not be subject to arrest or prosecution, penalized in
158 any manner, including, but not limited to, being subject to any civil
159 penalty, or denied any right or privilege, including, but not limited to,
160 being subject to any disciplinary action by the Board of Examiners for
161 Nursing or other professional licensing board, for administering
162 marijuana to a qualifying patient or research program subject in a
163 hospital or health care facility licensed by the Department of Public
164 Health.

165 Sec. 4. Section 21a-408d of the general statutes is repealed and the
166 following is substituted in lieu thereof (*Effective from passage*):

167 (a) Each qualifying patient who is issued a written certification for
168 the palliative use of marijuana under subdivision (1) of subsection (a)

169 of section 21a-408a, and the primary caregiver of such qualifying
170 patient, shall register with the Department of Consumer Protection.
171 Such registration shall be effective from the date the Department of
172 Consumer Protection issues a certificate of registration until the
173 expiration of the written certification issued by the physician. The
174 qualifying patient and the primary caregiver shall provide sufficient
175 identifying information, as determined by the department, to establish
176 the personal identity of the qualifying patient and the primary
177 caregiver. If the qualifying patient is under eighteen years of age, the
178 custodial parent, guardian or other person having legal custody of the
179 qualifying patient shall also provide a letter from both the qualifying
180 patient's pediatrician and a physician who is board certified in an area
181 of medicine involved in the treatment of the debilitating condition for
182 which the qualifying patient was certified, confirming that the
183 palliative use of marijuana is in the qualifying patient's best interest.
184 The qualifying patient or the primary caregiver shall report any
185 change in [such] the identifying information to the department not
186 later than five business days after such change. The department shall
187 issue a registration certificate to the qualifying patient and to the
188 primary caregiver and may charge a reasonable fee, not to exceed
189 twenty-five dollars, for each registration certificate issued under this
190 subsection. Any registration fees collected by the department under
191 this subsection shall be paid to the State Treasurer and credited to the
192 account established pursuant to section 21a-408q, as amended by this
193 act.

194 (b) Information obtained under this section shall be confidential and
195 shall not be subject to disclosure under the Freedom of Information
196 Act, as defined in section 1-200, except that reasonable access to
197 registry information obtained under this section and temporary
198 registration information obtained under section 21a-408n shall be
199 provided to: (1) State agencies, federal agencies and local law
200 enforcement agencies for the purpose of investigating or prosecuting a
201 violation of law; (2) physicians and pharmacists for the purpose of
202 providing patient care and drug therapy management and monitoring
203 controlled substances obtained by the qualifying patient; (3) public or

204 private entities for research or educational purposes, provided no
205 individually identifiable health information may be disclosed; (4) a
206 licensed dispensary for the purpose of complying with sections 21a-
207 408 to 21a-408n, inclusive, as amended by this act; (5) a qualifying
208 patient, but only with respect to information related to such qualifying
209 patient or such qualifying patient's primary caregiver; or (6) a primary
210 caregiver, but only with respect to information related to such primary
211 caregiver's qualifying patient.

212 Sec. 5. Section 21a-408h of the general statutes is amended by
213 adding subsection (d) as follows (*Effective from passage*):

214 (NEW) (d) On or before January 1, 2016, and annually thereafter,
215 each licensed dispensary shall report data to the Department of
216 Consumer Protection relating to the types, mixtures and dosages of
217 palliative marijuana dispensed by such dispensary. A report prepared
218 pursuant to this subsection shall be in such form as may be prescribed
219 by the Commissioner of Consumer Protection.

220 Sec. 6. Section 21a-408j of the general statutes is repealed and the
221 following is substituted in lieu thereof (*Effective from passage*):

222 (a) No licensed dispensary or employee of the dispensary may: (1)
223 Acquire marijuana from a person other than a licensed producer; (2)
224 distribute or dispense marijuana to a person who is not (A) a
225 qualifying patient registered under section 21a-408d, as amended by
226 this act, or 21a-408n; [or] (B) a primary caregiver of such qualifying
227 patient; (C) a hospice or other inpatient care facility licensed by the
228 Department of Public Health pursuant to chapter 368v that has a
229 protocol for the handling and distribution of marijuana that has been
230 approved by the Department of Consumer Protection; (D) a laboratory;
231 or (E) an organization engaged in a research program; or (3) obtain or
232 transport marijuana outside of this state in violation of state or federal
233 law.

234 (b) No licensed dispensary or employee of the dispensary acting
235 within the scope of his or her employment shall be subject to arrest or

236 prosecution, penalized in any manner, including, but not limited to,
237 being subject to any civil penalty, or denied any right or privilege,
238 including, but not limited to, being subject to any disciplinary action
239 by a professional licensing board, for acquiring, possessing,
240 distributing or dispensing marijuana pursuant to sections 21a-408 to
241 21a-408n, as amended by this act, inclusive.

242 Sec. 7. Section 21a-408k of the general statutes is repealed and the
243 following is substituted in lieu thereof (*Effective from passage*):

244 (a) No licensed producer or employee of the producer may: (1) Sell,
245 deliver, transport or distribute marijuana to a person who is not (A) a
246 licensed dispensary, (B) a laboratory, or (C) an organization engaged in
247 a research program, or (2) obtain or transport marijuana outside of this
248 state in violation of state or federal law.

249 (b) No licensed producer or employee of the producer acting within
250 the scope of his or her employment shall be subject to arrest or
251 prosecution, penalized in any manner, including, but not limited to,
252 being subject to any civil penalty, or denied any right or privilege,
253 including, but not limited to, being subject to any disciplinary action
254 by a professional licensing board, for cultivating marijuana or selling,
255 delivering, transporting or distributing marijuana to licensed
256 dispensaries under sections 21a-408 to 21a-408n, inclusive, as amended
257 by this act.

258 Sec. 8. Subsection (a) of section 21a-408l of the general statutes is
259 repealed and the following is substituted in lieu thereof (*Effective from*
260 *passage*):

261 (a) The Commissioner of Consumer Protection shall establish a
262 Board of Physicians consisting of eight physicians or surgeons who are
263 knowledgeable about the palliative use of marijuana, [and certified by
264 the appropriate American board in one of the following specialties:
265 Neurology, pain medicine, pain management, medical oncology,
266 psychiatry, infectious disease, family medicine or gynecology.] Four of
267 the members of the board first appointed shall serve for a term of three

268 years and four of the members of the board first appointed shall serve
269 for a term of four years. Thereafter, members of the board shall serve
270 for a term of four years and shall be eligible for reappointment. Any
271 member of the board may serve until a successor is appointed. The
272 Commissioner of Consumer Protection shall serve as an ex-officio
273 member of the board, and shall select a chairperson from among the
274 members of the board.

275 Sec. 9. Section 21a-408q of the general statutes is repealed and the
276 following is substituted in lieu thereof (*Effective from passage*):

277 There is established a palliative marijuana administration account
278 which shall be a separate, nonlapsing account within the General
279 Fund. The account shall contain any fees collected pursuant to
280 subsection (a) of section 21a-408d, as amended by this act, any fees
281 collected pursuant to sections 21a-408h, as amended by this act, and
282 21a-408i, any fees collected pursuant to subsection (b) of section 21a-
283 408m, and any other moneys required by law to be deposited in the
284 account, and shall be held in trust separate and apart from all other
285 moneys, funds and accounts. Any balance remaining in the account at
286 the end of any fiscal year shall be carried forward in the account for
287 the fiscal year next succeeding. Investment earnings credited to the
288 account shall become part of the account. Amounts in the account shall
289 be expended only for the purpose of providing funds to the
290 Department of Consumer Protection for administering the provisions
291 of [sections 21a-408 to 21a-408o, inclusive] this chapter.

292 Sec. 10. (NEW) (*Effective from passage*) (a) Except as provided in
293 subsection (b) of this section, no person may act as a laboratory
294 employee or represent that such person is a licensed laboratory
295 employee unless such person has obtained a license from the
296 Commissioner of Consumer Protection pursuant to this section.

297 (b) Prior to the effective date of regulations adopted under this
298 section, the Commissioner of Consumer Protection may issue a
299 temporary certificate of registration to a laboratory employee. The
300 commissioner shall prescribe the standards, procedures and fees for

301 obtaining a temporary certificate of registration as a laboratory
302 employee.

303 (c) The Commissioner of Consumer Protection shall adopt
304 regulations, in accordance with chapter 54 of the general statutes, to (1)
305 provide for the licensure of laboratories and laboratory employees; (2)
306 establish standards and procedures for the revocation, suspension,
307 summary suspension and nonrenewal of laboratory and laboratory
308 employee licenses, provided such standards and procedures are
309 consistent with the provisions of subsection (c) of section 4-182 of the
310 general statutes; (3) establish a license and renewal fee for each
311 licensed laboratory and licensed laboratory employee, provided the
312 aggregate amount of such license and renewal fees shall not be less
313 than the amount necessary to cover the direct and indirect cost of
314 licensing and regulating laboratories and laboratory employees in
315 accordance with the provisions of chapter 420f of the general statutes;
316 and (4) establish other licensing, renewal and operational standards
317 deemed necessary by the commissioner.

318 (d) Any fees collected by the Department of Consumer Protection
319 under this section shall be paid to the State Treasurer and credited to
320 the account established pursuant to section 21a-408q of the general
321 statutes, as amended by this act.

322 Sec. 11. (NEW) (*Effective from passage*) (a) No laboratory employee
323 may: (1) Acquire marijuana from a person other than a licensed
324 producer, licensed dispensary or organization engaged in a research
325 program; (2) deliver, transport or distribute marijuana to: (A) A person
326 who is not a licensed dispensary; (B) a person who is not a licensed
327 producer; or (C) an organization not engaged in a research program; or
328 (3) obtain or transport marijuana outside of this state in violation of
329 state or federal law.

330 (b) No laboratory or laboratory employee acting within the scope of
331 his or her employment shall be subject to arrest or prosecution,
332 penalized in any manner, including, but not limited to, being subject to
333 any civil penalty, or denied any right or privilege, including, but not

334 limited to, being subject to any disciplinary action by a professional
335 licensing board, for acquiring, possessing, delivering, transporting or
336 distributing marijuana to a licensed dispensary, a licensed producer or
337 an organization engaged in an approved research program under the
338 provisions of chapter 420f of the general statutes.

339 Sec. 12. (NEW) (*Effective from passage*) (a) The Commissioner of
340 Consumer Protection may approve a research program if such research
341 program (1) is to be administered or overseen by (A) a hospital or
342 health care facility licensed by the Connecticut Department of Public
343 Health pursuant to chapter 368v of the general statutes, (B) an
344 institution of higher education, as defined in section 10a-55 of the
345 general statutes, (C) a licensed producer, or (D) a licensed dispensary,
346 and (2) will have institutional review board oversight and, if the
347 research program involves the use of animals, will have an
348 institutional animal care and use committee.

349 (b) Except as provided in subsection (c) of this section, no person
350 may act as a research program employee or represent that such person
351 is a licensed research program employee unless such person has
352 obtained a license from the Commissioner of Consumer Protection
353 pursuant to this section.

354 (c) Prior to the effective date of regulations adopted under this
355 section, the Commissioner of Consumer Protection may issue a
356 temporary certificate of registration to a research program employee.
357 The commissioner shall prescribe the standards, procedures and fees
358 for obtaining a temporary certificate of registration as a research
359 program employee.

360 (d) The Commissioner of Consumer Protection shall adopt
361 regulations, in accordance with chapter 54 of the general statutes, to (1)
362 provide for the approval of research programs and licensure of
363 research program employees, (2) establish standards and procedures
364 for the termination or suspension of a research program, (3) establish
365 standards and procedures for the revocation, suspension, summary
366 suspension and nonrenewal of a research program employee license,

367 provided such standards and procedures are consistent with the
368 provisions of subsection (c) of section 4-182 of the general statutes, (4)
369 establish a (A) fee for research program review and approval, and (B)
370 license and renewal fee for each research program employee, provided
371 the aggregate amount of such fees shall not be less than the amount
372 necessary to cover the direct and indirect cost of approving research
373 programs and licensing and regulating research program employees
374 pursuant to the provisions of chapter 420f of the general statutes, and
375 (5) establish other licensing, renewal and operational standards
376 deemed necessary by the commissioner.

377 (e) Any fees collected by the Department of Consumer Protection
378 under this section shall be paid to the State Treasurer and credited to
379 the account established pursuant to section 21a-408q of the general
380 statutes, as amended by this act.

381 Sec. 13. (NEW) (*Effective from passage*) (a) No research program or
382 research program employee may: (1) Acquire marijuana from a person
383 other than a licensed producer, licensed dispensary or laboratory; (2)
384 deliver, transport or distribute marijuana to a person who is not: (A) A
385 licensed dispensary; (B) a licensed producer; or (C) a research program
386 subject; (3) distribute or administer marijuana to an animal unless such
387 animal is an animal research subject; or (4) obtain or transport
388 marijuana outside of this state in violation of state or federal law.

389 (b) No research program employee acting within the scope of his or
390 her employment shall be subject to arrest or prosecution, penalized in
391 any manner, including, but not limited to, being subject to any civil
392 penalty, or denied any right or privilege, including, but not limited to,
393 being subject to any disciplinary action by a professional licensing
394 board, for acquiring, possessing, delivering, transporting or
395 distributing marijuana to a licensed dispensary, a licensed producer or
396 a research program subject or distributing or administering marijuana
397 to an animal research subject under the provisions of chapter 420f of
398 the general statutes.

399 Sec. 14. (NEW) (*Effective from passage*) (a) Any person seeking to

400 participate as a research program subject shall register with the
401 Department of Consumer Protection prior to participating in an
402 approved research program. The Commissioner of Consumer
403 Protection shall prescribe the standards and procedures for obtaining a
404 certificate of registration as a research program subject.

405 (b) A research program subject who has a valid registration
406 certificate from the Department of Consumer Protection and is acting
407 within the scope of his or her involvement in an approved research
408 program shall not be subject to arrest or prosecution, penalized in any
409 manner, including, but not limited to, being subject to any civil penalty
410 or denied any right or privilege, including, but not limited to, being
411 subject to any disciplinary action by a professional licensing board, for
412 the use of marijuana.

413 (c) The provisions of subsection (b) of this section do not apply to:

414 (1) Any use of marijuana that endangers the health or well-being of
415 a person other than the research program subject or a research
416 program employee; or

417 (2) The ingestion of marijuana (A) in a motor bus or a school bus or
418 in any other moving vehicle, (B) in the workplace, (C) on any school
419 grounds or any public or private school, dormitory, college or
420 university property unless such college or university is participating in
421 a research program and such use is pursuant to the terms of the
422 research program, (D) in any public place, or (E) in the presence of a
423 person under eighteen years of age unless such person is a qualifying
424 patient or research program subject. For purposes of this subdivision,
425 (i) "presence" means within the direct line of sight of the palliative use
426 of marijuana or exposure to second-hand marijuana smoke, or both; (ii)
427 "public place" means any area that is used or held out for use by the
428 public whether owned or operated by public or private interests; (iii)
429 "vehicle" means a vehicle, as defined in section 14-1 of the general
430 statutes; (iv) "motor bus" means a motor bus, as defined in section 14-1
431 of the general statutes; and (v) "school bus" means a school bus, as
432 defined in section 14-1 of the general statutes.

433 (d) Information obtained under this section shall be confidential and
 434 shall not be subject to disclosure under the Freedom of Information
 435 Act, as defined in section 1-200 of the general statutes, except that
 436 reasonable access to registry information obtained under this section
 437 shall be provided to: (1) State agencies, federal agencies and local law
 438 enforcement agencies for the purpose of investigating or prosecuting a
 439 violation of law; (2) physicians and pharmacists for the purpose of
 440 providing patient care and drug therapy management and monitoring
 441 controlled substances obtained by the research program subject; (3)
 442 public or private entities for research or educational purposes,
 443 provided no individually identifiable health information may be
 444 disclosed; (4) a licensed dispensary for the purpose of complying with
 445 sections 21a-408 to 21a-408n, inclusive, of the general statutes, as
 446 amended by this act; or (5) a research program subject, but only with
 447 respect to information related to such research program subject.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	21a-408
Sec. 2	<i>from passage</i>	21a-408a(b)
Sec. 3	<i>from passage</i>	21a-408c
Sec. 4	<i>from passage</i>	21a-408d
Sec. 5	<i>from passage</i>	21a-408h
Sec. 6	<i>from passage</i>	21a-408j
Sec. 7	<i>from passage</i>	21a-408k
Sec. 8	<i>from passage</i>	21a-408l(a)
Sec. 9	<i>from passage</i>	21a-408q
Sec. 10	<i>from passage</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section
Sec. 13	<i>from passage</i>	New section
Sec. 14	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In Section 12(d), the reference to "chapter 420" was changed to "chapter 420f" for accuracy.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Consumer Protection, Dept.	Palliative Marijuana Administration Account - Revenue Gain	less than 10,000	less than 10,000

Municipal Impact: None

Explanation

The bill results in a revenue gain of less than \$10,000 in FY 16 and FY 17 as it allows minors to be qualifying patients for palliative marijuana. Additionally, it allows the Department of Consumer Protection (DCP) commissioner to approve medical marijuana research programs, and requires research program subjects to register with DCP. There is presently a \$100 annual registration fee to patients and a \$25 annual registration fee for caregivers. Fees for research programs and test subjects will be set by regulation.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of minor patients, the number of research laboratory employees and patients (research subjects) along with the fees set.

OLR Bill Analysis

sSB 1064

AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.

SUMMARY:

This bill makes various changes to the state's medical marijuana program, which the Department of Consumer Protection (DCP) administers.

The bill allows minors to be qualifying patients. In addition to existing requirements for adult patients, the bill requires the consent of the parent or other person with legal custody and a letter by two physicians stating that medical marijuana use is in the child's best interest.

It allows licensed (1) marijuana dispensaries to distribute marijuana to licensed inpatient care facilities under certain conditions and (2) nurses to administer marijuana in hospitals or other licensed health care facilities.

It allows the DCP commissioner to approve medical marijuana research programs, and requires research program subjects to register with DCP. It requires the commissioner to adopt regulations on licensing of (1) research program employees and (2) laboratories and laboratory employees. These employees must be licensed after the regulations take effect; before then, the bill provides for temporary registration certificates.

The bill allows licensed marijuana dispensaries or producers to distribute marijuana to licensed laboratories or organizations conducting approved research programs. It extends legal protections, under certain conditions, to laboratory or research program employees and research program subjects.

Among other things, the bill also:

1. allows medical marijuana use in the presence of minors who are qualifying patients or research program subjects (§ 2);
2. requires licensed marijuana dispensaries to annually report certain information to DCP; and
3. removes the requirement that members of the medical marijuana board of physicians be certified in one of certain specialties.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

§§ 1-2 & 4 — MINORS AS QUALIFYING PATIENTS

Under current law, only state residents age 18 or older may be qualifying medical marijuana patients. The bill extends the program to state residents under age 18. As under current law, inmates are ineligible.

As for adult patients under existing law, before using marijuana for medical purposes, minors must have a written certification by a physician, who determined that (1) the patient has a debilitating medical condition (see BACKGROUND) and (2) the potential benefits of the palliative use of marijuana would likely outweigh its health risks. (While the law refers to “palliative” rather than “medical” marijuana use, the program is generally referred to as the medical marijuana program.) Patients, and their primary caregivers, must register with DCP and pay certain fees.

The bill creates two additional requirements that must be met for minors to qualify, discussed below.

Written Consent by Parent or Person with Legal Custody

To qualify, a minor must have written consent from a custodial parent, guardian, or other person with legal custody, indicating that

the person has given permission for the minor's palliative use of marijuana. The permission must be to use marijuana for a debilitating condition, except for posttraumatic stress disorder.

The written consent must also state that the person will (1) serve as the minor's primary caregiver and (2) control the acquisition and possession of marijuana and any related paraphernalia on the minor's behalf.

By law, a medical marijuana patient's primary caregiver is someone at least age 18, other than the patient or the patient's physician, who agrees to take responsibility for managing the patient's well-being with respect to palliative marijuana use. Someone convicted of illegally making, selling, or distributing controlled substances cannot serve as a primary caregiver (CGS § 21a-408b).

Letter from Two Physicians

Under the bill, if the qualifying patient is a minor, the person with legal custody must provide DCP with a letter from the minor's pediatrician and another physician board-certified in an area involved in the treatment of the minor's debilitating condition. The letter must confirm that the palliative use of marijuana is in the patient's best interest.

Other Existing Provisions

Otherwise, the bill applies the same program requirements or conditions when minors are patients as for adults under existing law and the bill. For example:

1. schools, landlords, and employers are prohibited from taking certain actions against a medical marijuana patient or caregiver if solely based on the person's status as such, unless the actions are required by federal law or to obtain federal funding;
2. legal protections for medical marijuana patients do not apply if the patient ingests marijuana in certain settings, such as at work or school or in public; and

3. health insurers are not required to cover medical marijuana use.

§§ 3 & 6 — MARIJUANA USE AT LICENSED HEALTH CARE FACILITIES

The bill allows licensed marijuana dispensaries or their employees to distribute or dispense marijuana to a hospice or other inpatient care facility licensed by the Department of Public Health (DPH). This applies only if the facility has a DCP-approved protocol for handling and distributing marijuana.

Administration by Nurses

The bill extends legal protections to nurses who administer marijuana to qualifying patients or research program subjects in hospitals or health care facilities licensed by DPH. The protections are similar to those under existing law for physicians who issue written certifications for marijuana use as allowed by law.

Thus, the bill prohibits these nurses from being arrested, prosecuted, or otherwise penalized, including being subject to civil penalties, or denied any right or privilege, including being disciplined by the Board of Examiners for Nursing or other professional licensing boards, for administering marijuana as set forth above.

§§ 1-2, 6-7, & 12-14 — RESEARCH PROGRAMS

Under specified conditions, the bill allows the DCP commissioner to approve medical marijuana research programs—i.e., studies intended to increase knowledge of the growth, processing, medical attributes, dosage forms, administration, or use of marijuana to treat or alleviate symptoms of any medical condition or the symptoms' effects. As described below, it requires research program employees to be licensed by, and research program subjects to register with, DCP.

Program Approval

The bill allows the DCP commissioner to approve a marijuana research program if it will:

1. be administered or overseen by a DPH-licensed hospital or

health care facility, an institution of higher education, or a licensed producer or dispensary and

2. have institutional review board oversight.

Under the bill, an institutional review board is a specifically constituted review body established or designated by an organization to protect the rights and welfare of people recruited to participate in biomedical, behavioral, or social science research.

If the research will involve animals, the program also must have an institutional animal care and use committee. This is a committee overseeing an organization's animal program, facilities, and procedures to ensure compliance with federal policies, guidelines, and principles on animal research.

Research Programs and Employees

The bill requires the DCP commissioner to adopt regulations to:

1. provide for the approval of research programs and licensure of research program employees;
2. set standards and procedures for the termination or suspension of research programs;
3. set standards and procedures for employee license revocation, suspension, summary suspension, and nonrenewal, consistent with Uniform Administrative Procedure Act provisions requiring agencies to give notice and an opportunity to show compliance before revoking or suspending a license, except for summary suspensions when emergency action is needed;
4. set fees for research program review and approval and employee licenses and license renewal, with the aggregate amount of fees at least covering the costs of program approval and the licensing and regulating of research employees under the medical marijuana law; and

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

After the regulations take effect, no unlicensed person may act as a research program employee or represent that he or she is licensed as such. Before then, the commissioner may issue temporary registration certificates to research program employees. He must prescribe the standards, procedures, and fees for obtaining these certificates.

The bill requires any such program approval, employee licensing, or temporary certificate fees to be paid to the state treasurer for deposit in the palliative marijuana administration account, established under existing law.

It allows licensed dispensaries, or their employees, to distribute or dispense marijuana to organizations engaged in approved research programs. It allows licensed producers or their employees to sell or otherwise distribute marijuana to these organizations.

Current law does not allow qualifying patients to ingest marijuana on college or university property. The bill creates an exception if the institution is participating in an approved research program and the marijuana is used under the terms of that program.

Prohibited Acts and Legal Protections for Research Programs and Employees

The bill prohibits research programs, or licensed research program employees, from:

1. acquiring marijuana from anyone other than a licensed dispensary, producer, or laboratory;
2. delivering, transporting, or distributing marijuana to anyone other than licensed dispensaries or producers or research program subjects;
3. distributing or administering marijuana to animals who are not research subjects; or

4. obtaining or transporting marijuana outside of the state in violation of state or federal law.

The bill extends legal protections to licensed research program employees who, when acting within the scope of their employment, (1) acquire, possess, deliver, transport, or distribute marijuana to a licensed dispensary or producer or research program subject or (2) distribute or administer marijuana to an animal research subject, under the medical marijuana law. They may not be arrested, prosecuted, or otherwise penalized, including being subject to civil penalties, or denied any right or privilege, including being disciplined by a professional licensing board, for these actions.

Research Program Subjects

The bill requires anyone seeking to participate as a research program subject to first register with DCP. The commissioner must prescribe registration standards and procedures.

The bill generally extends the legal protections noted above to a research program subject with a valid registration certificate, for the use of marijuana while acting within the scope of an approved research program.

However, these protections do not apply to marijuana use in certain settings, similar to the restrictions on medical marijuana users under existing law and the bill. Thus, the protections for research subjects do not apply if the person's marijuana use endangers the health or well-being of someone else, other than a research program employee. The protections also do not apply if the person ingests marijuana:

1. on a motor bus, school bus, or other moving vehicle;
2. at work;
3. on school grounds or any public or private school, dormitory, college, or university property, unless the college or university is

participating in a research program and the marijuana use is part of that program;

4. in any public place; or
5. in the presence of a person under age 18 who is not a qualifying patient or research program subject.

Under the bill, information on research program subject registration is generally confidential and not subject to disclosure under the Freedom of Information Act. Similar to existing law for qualifying patients, the bill requires DCP to give reasonable access to this information to certain people for specified purposes (e.g., local, state, and federal agencies for law enforcement purposes or physicians and pharmacists for treatment and monitoring purposes).

§§ 1, 6-7, & 10-11 — LABORATORIES AND LABORATORY EMPLOYEES

Existing law generally requires anyone operating a laboratory providing analysis of controlled substances to be licensed with DCP (CGS § 21a-246). The bill requires the DCP commissioner to adopt regulations providing for licensure of these laboratories and laboratory employees. (For laboratories, it is unclear if this refers to the existing license or a separate one.)

The regulations must cover similar topics as those noted above for research programs and employees, such as (1) standards and procedures for disciplinary actions against licensees and (2) licensure and renewal fees that cover the cost of licensing and regulating laboratories and employees. Existing law sets an \$80 annual fee for laboratory licenses.

Under the bill, as with research programs and employees:

1. after the regulations take effect, no unlicensed person may act as a laboratory employee or represent that he or she is licensed as such;

2. before then, the commissioner may issue temporary registration certificates to laboratory employees, and must prescribe related standards, procedures, and fees; and
3. any fees for laboratory or laboratory employee licensing or renewal and temporary certificates must be deposited in the palliative marijuana administration account.

The bill allows licensed marijuana dispensaries, or their employees, to distribute or dispense marijuana to these laboratories. It also allows licensed marijuana producers or their employees to sell or otherwise distribute marijuana to these laboratories.

Prohibited Acts and Legal Protections

The bill prohibits licensed laboratory employees from acquiring marijuana from, or delivering, transporting, or delivering marijuana to, anyone other than licensed producers or dispensaries or organizations engaged in approved research programs. They must not obtain or transport marijuana outside of the state in violation of state or federal law.

The bill extends the legal protections noted above for research program employees to licensed laboratories or employees, acting within the scope of their employment, when acquiring, possessing, delivering, transporting, or distributing marijuana to a licensed dispensary or producer or an organization engaged in an approved research program.

§ 5—DISPENSARY ANNUAL REPORTING

The bill requires licensed dispensaries to annually report to DCP on the types, mixtures, and dosages of palliative marijuana they dispense. The first report is due January 1, 2016. The DCP commissioner may prescribe the form for the reporting.

§ 8 — BOARD OF PHYSICIANS

The bill eliminates the requirement that physicians on the medical marijuana program's board of physicians be certified by the

appropriate American board in neurology, pain medicine, pain management, medical oncology, psychiatry, infectious disease, family medicine, or gynecology.

By law, the DCP commissioner must establish a board of eight physicians knowledgeable about palliative marijuana use. Among other things, the board must (1) recommend to DCP additions to the list of debilitating conditions and (2) convene public hearings to evaluate petitions to add conditions to this list.

BACKGROUND

Debilitating Medical Conditions

By law, an adult patient may only use marijuana for “debilitating medical conditions.” These include cancer; glaucoma; HIV or AIDS; Parkinson’s disease; multiple sclerosis; certain spinal cord injuries (specifically, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity); epilepsy; cachexia (emaciation often caused by cancer or cardiac diseases); wasting syndrome; Crohn’s disease; posttraumatic stress disorder; and other medical conditions, treatments, or diseases that DCP approves through regulations.

In February 2015 the DCP commissioner announced that he concurred with recommendations by the board of physicians to add three conditions to this list, and would draft regulations to do so. These conditions are (1) sickle cell disease, (2) severe psoriasis and psoriatic arthritis, and (3) post-laminectomy syndrome with chronic radiculopathy (recurring back pain after surgery).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 29 Nay 15 (04/06/2015)