



House of Representatives

General Assembly

File No. 101

January Session, 2021

Substitute House Bill No. 5313

House of Representatives, March 23, 2021

The Committee on General Law reported through REP. D'AGOSTINO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO MEDICAL CANNABIS STATUTES.

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

1 Section 1. Subsections (a) and (b) of section 21a-408d of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective January 1, 2022*):

4 (a) Each qualifying patient who is issued a written certification for the
5 palliative use of marijuana under subdivision (1) of subsection (a) of
6 section 21a-408a, as amended by this act, and the primary caregiver of
7 such qualifying patient, shall register with the Department of Consumer
8 Protection. On and after January 1, 2022, an additional primary
9 caregiver may register with the department for a qualifying patient,
10 provided not more than two primary caregivers may register with the
11 department for each qualifying patient. Such registration shall be
12 effective from the date the Department of Consumer Protection issues a
13 certificate of registration until the expiration of the written certification
14 issued by the physician or advanced practice registered nurse. The

15 qualifying patient and the primary caregiver shall provide sufficient
16 identifying information, as determined by the department, to establish
17 the personal identity of the qualifying patient and the primary
18 caregiver. If the qualifying patient is under eighteen years of age and
19 not an emancipated minor, the custodial parent, guardian or other
20 person having legal custody of the qualifying patient shall also provide
21 a letter from both the qualifying patient's primary care provider and a
22 physician who is board certified in an area of medicine involved in the
23 treatment of the debilitating condition for which the qualifying patient
24 was certified that confirms that the palliative use of marijuana is in the
25 best interest of the qualifying patient. A physician may issue a written
26 certification for the palliative use of marijuana by a qualifying patient
27 who is under eighteen years of age, provided such written certification
28 shall not be for marijuana in a dosage form that requires that the
29 marijuana be smoked, inhaled or vaporized. The qualifying patient or
30 [the] a primary caregiver shall report any change in the identifying
31 information to the department not later than five business days after
32 such change. The department shall issue a registration certificate to the
33 qualifying patient and to the primary caregiver and may charge a
34 reasonable fee, not to exceed twenty-five dollars, for each registration
35 certificate issued under this subsection. There shall be no fee charged to
36 renew any such registration certificate. Any registration fees collected
37 by the department under this subsection shall be paid to the State
38 Treasurer and credited to the General Fund. On and after January 1,
39 2022, no qualifying patient or primary caregiver shall pay any fee for the
40 department's administrative costs associated with issuing an initial or
41 renewal of a registration certificate under this section or any other fee in
42 addition to the registration fee authorized by this subsection.

43 (b) (1) The qualifying patient, or, if the qualifying patient is under
44 eighteen years of age and not an emancipated minor, the custodial
45 parent, guardian or other person having legal custody of the qualifying
46 patient, shall select a licensed, in-state dispensary to obtain the palliative
47 marijuana products at the time of registration. Upon the issuance of the
48 certificate of registration by the department, the qualifying patient, or
49 the qualifying patient's custodial parent, guardian or other person

50 having legal custody of the qualifying patient, shall purchase such
51 palliative marijuana products from such dispensary, except that the
52 qualifying patient, or the qualifying patient's custodial parent, guardian
53 or other person having legal custody of the qualifying patient, may
54 change such dispensary in accordance with regulations adopted by the
55 department [. Any] or may use a dispensary described in subdivision
56 (2) of this subsection. Except as provided in subdivision (2) of this
57 subsection, any person with a valid registration certificate who is found
58 to be in possession of marijuana that did not originate from the selected
59 dispensary may be subject to a hearing before the commissioner for
60 possible enforcement action concerning the registration certificate
61 issued by the department.

62 (2) On and after January 1, 2022, the qualifying patient, or the
63 qualifying patient's primary caregiver who is registered with the
64 department, may choose to purchase such palliative marijuana from a
65 dispensary other than the selected dispensary, provided the dispensary
66 where such purchase is made is licensed under this chapter.

67 Sec. 2. Section 21a-408h of the general statutes is repealed and the
68 following is substituted in lieu thereof (*Effective October 1, 2021*):

69 (a) No person may act as a dispensary or represent that such person
70 is a licensed dispensary unless such person has obtained a license from
71 the Commissioner of Consumer Protection pursuant to this section.

72 (b) The Commissioner of Consumer Protection shall determine the
73 number of dispensaries appropriate to meet the needs of qualifying
74 patients in this state and shall adopt regulations, in accordance with
75 chapter 54, to provide for the licensure and standards for dispensaries
76 in this state and specify the maximum number of dispensaries that may
77 be licensed in this state. On and after the effective date of such
78 regulations, the commissioner may license any person who applies for
79 a license in accordance with such regulations, provided (1) the
80 commissioner deems such applicant qualified to acquire, possess,
81 distribute and dispense marijuana pursuant to sections 21a-408 to 21a-
82 408n, inclusive, (2) the applicant is a pharmacist licensed under chapter

83 400j, and (3) the number of dispensary licenses issued does not exceed
84 the number appropriate to meet the needs of qualifying patients in this
85 state, as determined by the commissioner pursuant to this subsection.
86 At a minimum, such regulations shall:

87 (A) Indicate the maximum number of dispensaries that may be
88 licensed in this state;

89 (B) Provide that only a pharmacist licensed under chapter 400j may
90 apply for and receive a dispensary license;

91 (C) Provide that no marijuana may be dispensed from, obtained from
92 or transferred to a location outside of this state;

93 (D) Establish a licensing fee and renewal fee for each licensed
94 dispensary, provided such fees shall not be less than the amount
95 necessary to cover the direct and indirect cost of licensing and
96 regulating dispensaries pursuant to sections 21a-408 to 21a-408n,
97 inclusive;

98 (E) Provide for renewal of such dispensary licenses at least every two
99 years;

100 (F) Describe areas in this state where licensed dispensaries may not
101 be located, after considering the criteria for the location of retail liquor
102 permit premises set forth in subsection (a) of section 30-46;

103 (G) Establish health, safety and security requirements for licensed
104 dispensaries, which may include, but need not be limited to: (i) The
105 ability to maintain adequate control against the diversion, theft and loss
106 of marijuana acquired or possessed by the licensed dispensary, and (ii)
107 the ability to maintain the knowledge, understanding, judgment,
108 procedures, security controls and ethics to ensure optimal safety and
109 accuracy in the distributing, dispensing and use of palliative marijuana;

110 (H) Establish standards and procedures for revocation, suspension,
111 summary suspension and nonrenewal of dispensary licenses, provided
112 such standards and procedures are consistent with the provisions of

113 subsection (c) of section 4-182 and subsection (f) of this section; and

114 (I) Establish other licensing, renewal and operational standards
115 deemed necessary by the commissioner.

116 (c) Any fees collected by the Department of Consumer Protection
117 under this section shall be paid to the State Treasurer and credited to the
118 General Fund.

119 (d) On or before January 1, 2017, and annually thereafter, each
120 licensed dispensary shall report data to the Department of Consumer
121 Protection relating to the types, mixtures and dosages of palliative
122 marijuana dispensed by such dispensary. A report prepared pursuant
123 to this subsection shall be in such form as may be prescribed by the
124 Commissioner of Consumer Protection.

125 (e) On or before January 1, 2022, each licensed dispensary shall
126 integrate its records concerning the dispensing of palliative marijuana
127 with the electronic prescription drug monitoring program established
128 pursuant to section 21a-254. Any licensed pharmacist working as an
129 employee at a licensed dispensary shall transmit dispensing
130 information using such electronic prescription drug monitoring
131 program, in a manner prescribed by the commissioner, on any palliative
132 marijuana sold to a qualifying patient or registered primary caregiver in
133 real time or immediately upon completion of the transaction, unless it is
134 not reasonably feasible for a specific transaction, but in no case more
135 than one hour after the completion of the transaction.

136 (f) On and after January 1, 2022, the commissioner may suspend,
137 revoke, refuse to grant or renew, place on probation or place conditions
138 on the license of any dispensary that (1) fails to integrate its records
139 concerning the dispensing of palliative marijuana as required under
140 subsection (e) of this section by January 1, 2022, or (2) employs a licensed
141 pharmacist who fails to transmit dispensing information in accordance
142 with subsection (e) of this section. Before any such license is suspended
143 or revoked, the license holder shall be given notice and an opportunity
144 for hearing as provided in regulations adopted by the Commissioner of

145 Consumer Protection under this section. The commissioner may accept
146 a monetary payment as an offer in compromise (A) in lieu of such
147 suspension, revocation, refusal or condition, or (B) to reduce the term of
148 the suspension of a license under this subsection.

149 Sec. 3. Section 21a-408m of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective January 1, 2022*):

151 (a) The Commissioner of Consumer Protection may adopt
152 regulations, in accordance with chapter 54, to establish (1) a standard
153 form for written certifications for the palliative use of marijuana issued
154 by physicians and advanced practice registered nurses under
155 subdivision (1) of subsection (a) of section 21a-408a, as amended by this
156 act, and (2) procedures for registrations under section 21a-408d, as
157 amended by this act. Such regulations, if any, shall be adopted after
158 consultation with the Board of Physicians established in section 21a-
159 408l.

160 [(b) The Commissioner of Consumer Protection shall adopt
161 regulations, in accordance with chapter 54, to establish a reasonable fee
162 to be collected from each qualifying patient to whom a written
163 certification for the palliative use of marijuana is issued under
164 subdivision (1) of subsection (a) of section 21a-408a, for the purpose of
165 offsetting the direct and indirect costs of administering the provisions
166 of sections 21a-408 to 21a-408n, inclusive. The commissioner shall collect
167 such fee at the time the qualifying patient registers with the Department
168 of Consumer Protection under subsection (a) of section 21a-408d. Such
169 fee shall be in addition to any registration fee that may be charged under
170 said subsection. The fees required to be collected by the commissioner
171 from qualifying patients under this subsection shall be paid to the State
172 Treasurer and credited to the General Fund.]

173 [(c)] (b) The Commissioner of Consumer Protection shall adopt
174 regulations, in accordance with chapter 54, to implement the provisions
175 of sections 21a-408 to 21a-408g, inclusive, and section 21a-408l. At a
176 minimum, such regulations shall:

177 (1) Govern the manner in which the department considers
178 applications for the issuance and renewal of registration certificates for
179 qualifying patients and primary caregivers, and establish any additional
180 information to be contained in such registration certificates;

181 (2) Define the protocols for determining the amount of usable
182 marijuana that is necessary to constitute an adequate supply to ensure
183 uninterrupted availability for a period of one month, including amounts
184 for topical treatments;

185 (3) Establish criteria for adding medical conditions, medical
186 treatments or diseases to the list of debilitating medical conditions that
187 qualify for the palliative use of marijuana;

188 (4) Establish a petition process under which members of the public
189 may submit petitions, in such manner and in such form as prescribed in
190 the regulations, regarding the addition of medical conditions, medical
191 treatments or diseases to the list of debilitating medical conditions;

192 (5) Establish a process for public comment and public hearings before
193 the board regarding the addition of medical conditions, medical
194 treatments or diseases to the list of debilitating medical conditions,
195 medical treatments or diseases;

196 (6) Add additional medical conditions, medical treatments or
197 diseases to the list of debilitating medical conditions that qualify for the
198 palliative use of marijuana as recommended by the board; and

199 (7) Develop a distribution system for marijuana for palliative use that
200 provides for:

201 (A) Marijuana production facilities within this state that are housed
202 on secured grounds and operated by licensed producers; and

203 (B) Distribution of marijuana for palliative use to qualifying patients
204 or their primary caregivers by licensed dispensaries.

205 [(d) The commissioner shall submit regulations pursuant to

206 subsections (b) and (c) of this section to the standing legislative
207 regulation review committee not later than July 1, 2013.]

208 Sec. 4. Section 21a-408i of the general statutes is amended by adding
209 subsection (d) as follows (*Effective January 1, 2022*):

210 (NEW) (d) No producer or any agent of such producer shall offer or
211 give to a dispensary licensed pursuant to section 21a-408h, as amended
212 by this act, or any employee of such dispensary, anything of value,
213 including, but not limited to, a gift or reward, unless authorized by law.
214 The provisions of this section shall not be construed to prohibit any such
215 producer from providing a dispensary with a nonmedical item for the
216 purpose of distributing such items to qualified patients or their primary
217 caregivers, provided any such item has a value of ten dollars or less.

218 Sec. 5. Subsection (a) of section 21a-408a of the general statutes is
219 repealed and the following is substituted in lieu thereof (*Effective January*
220 *1, 2022*):

221 (a) A qualifying patient shall register with the Department of
222 Consumer Protection pursuant to section 21a-408d, as amended by this
223 act, prior to engaging in the palliative use of marijuana. A qualifying
224 patient who has a valid registration certificate from the Department of
225 Consumer Protection pursuant to subsection (a) of section 21a-408d, as
226 amended by this act, and complies with the requirements of sections
227 21a-408 to 21a-408n, inclusive, shall not be subject to arrest or
228 prosecution, penalized in any manner, including, but not limited to,
229 being subject to any civil penalty, or denied any right or privilege,
230 including, but not limited to, being subject to any disciplinary action by
231 a professional licensing board, for the palliative use of marijuana if:

232 (1) The qualifying patient's physician or advanced practice registered
233 nurse has issued a written certification to the qualifying patient for the
234 palliative use of marijuana after the physician or advanced practice
235 registered nurse has prescribed, or determined it is not in the best
236 interest of the patient to prescribe, prescription drugs to address the
237 symptoms or effects for which the certification is being issued;

238 (2) The combined amount of marijuana possessed by the qualifying
239 patient and the primary caregiver for palliative use does not exceed an
240 amount of usable marijuana reasonably necessary to ensure
241 uninterrupted availability for a period of one month, as determined by
242 the Department of Consumer Protection pursuant to regulations
243 adopted under section 21a-408m, as amended by this act; and

244 (3) The qualifying patient has not more than [one] two primary
245 [caregiver] caregivers at any time.

246 Sec. 6. Subsection (b) of section 21a-408b of the general statutes is
247 repealed and the following is substituted in lieu thereof (*Effective January*
248 *1, 2022*):

249 (b) A primary caregiver who has a valid registration certificate from
250 the Department of Consumer Protection pursuant to subsection (a) of
251 section 21a-408d, as amended by this act, and complies with the
252 requirements of sections 21a-408 to 21a-408n, inclusive, shall not be
253 subject to arrest or prosecution, penalized in any manner, including, but
254 not limited to, being subject to any civil penalty, or denied any right or
255 privilege, including, but not limited to, being subject to any disciplinary
256 action by a professional licensing board, for the acquisition, distribution,
257 possession or transportation of marijuana or paraphernalia related to
258 marijuana on behalf of such primary caregiver's qualifying patient,
259 provided (1) the amount of any marijuana so acquired, distributed,
260 possessed or transported, together with the combined amount of usable
261 marijuana possessed by the qualifying patient and the primary
262 caregiver, does not exceed an amount reasonably necessary to ensure
263 uninterrupted availability for a period of one month, as determined by
264 the Department of Consumer Protection pursuant to regulations
265 adopted under section 21a-408m, as amended by this act, and (2) such
266 amount is obtained solely within this state from a licensed dispensary.
267 [Any] Except as provided in subdivision (2) of subsection (b) of section
268 21a-408d, as amended by this act, any person with a valid registration
269 certificate who is found to be in possession of marijuana that did not
270 originate from the selected dispensary may be subject to a hearing

271 before the commissioner for possible enforcement action concerning the
 272 registration certificate issued by the department. For the purposes of
 273 this subsection, "distribution" or "distributed" means the transfer of
 274 marijuana and paraphernalia related to marijuana from the primary
 275 caregiver to the qualifying patient.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2022	21a-408d(a) and (b)
Sec. 2	October 1, 2021	21a-408h
Sec. 3	January 1, 2022	21a-408m
Sec. 4	January 1, 2022	21a-408i
Sec. 5	January 1, 2022	21a-408a(a)
Sec. 6	January 1, 2022	21a-408b(b)

Statement of Legislative Commissioners:

Section 1(b) was reworded for clarity and Sections 5 and 6 were added for consistency with the changes being made in Section 1.

GL *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 22 \$	FY 23 \$
Resources of the General Fund	GF - Revenue Loss	3.2 million	8.2 million
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill: (1) removes certain medical marijuana license fees resulting in a revenue loss and (2) allows the Commissioner of Consumer Protection (DCP) to collect monetary payments in lieu of license suspensions or revocations resulting in a potential revenue gain.

Sections 1 and 3 remove the administration fee (\$75 per year) for both initial and renewal licenses and remove the registration fee (\$25 per year) for renewal licenses resulting in a \$3.2 million revenue loss in FY 22¹ and \$8.2 million revenue loss in FY 23. There are over 51,000 patients in the medical marijuana program and under current law, each patient pays \$100 per year for their license.

Section 2 allows DCP to accept monetary payments in lieu of license suspension or revocation due to licensee failure to integrate and transmit certain records resulting in a potential revenue gain to the state to the extent violations occur and monetary payments are accepted.

¹ The revenue loss in FY 22 is for half of the year due to the bills effective date of January 1, 2022.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of medical marijuana patients and number of violations.

Sources: Department of Consumer Protection Medical Marijuana Statistics Website

OLR Bill Analysis**sHB 5313*****AN ACT CONCERNING REVISIONS TO MEDICAL CANNABIS STATUTES.*****SUMMARY**

This bill makes various changes to the medical marijuana laws, including allowing patients and primary caregivers to purchase medical marijuana at dispensaries other than their pre-selected location, allowing each patient to have a second registered caregiver, eliminating certain fees, and prohibiting certain gifts.

The bill requires dispensaries to integrate their records with the electronic Prescription Drug Monitoring Program (PMP) and transmit the dispensing information immediately or within one hour after the transaction. The bill allows the Department of Consumer Protection (DCP) to discipline dispensaries that fail to comply with these requirements. By law, under the PMP, DCP collects information on controlled substance prescriptions to prevent improper or illegal drug use or improper prescribing.

Under the bill, each qualifying medical marijuana patient may have a second registered primary caregiver. By law, a primary caregiver is someone at least age 18, other than the patient or the patient's physician, who is responsible for managing the patient's well-being with respect to medical marijuana use (CGS § 21a-408).

The bill also eliminates the fees for (1) renewing a patient or caregiver registration (currently \$25) and (2) administrative costs associated with issuing or renewing registrations (currently \$75 for qualifying patients) or any other fee in addition to the registration fee.

Finally, the bill generally prohibits medical marijuana producers or

their agents from offering or giving dispensary licensees or their employees anything of value unless authorized by law.

The bill also makes conforming and technical changes.

EFFECTIVE DATE: January 1, 2022, except the PMP integration and DCP discipline provisions are effective October 1, 2021.

PURCHASING AT ADDITIONAL DISPENSARIES

Under existing law, medical marijuana patients (or parents or guardians of patients who are minors) must select a dispensary when registering for the program. The bill allows qualifying patients and their primary caregivers to purchase medical marijuana from any licensed in-state dispensary, not just their selected location as is required under current law.

PMP Integration of Records

Under the bill, on or before January 1, 2022, each licensed dispensary must integrate its records on dispensing medical marijuana with the PMP. Licensed pharmacists the dispensary employs must transmit dispensing information using the PMP, in a manner the DCP commissioner prescribes, on any medical marijuana sold to a patient or caregiver. Pharmacists must generally submit the information in real time or immediately after the transaction is complete, but if it is not reasonably feasible for a specific transaction, it must be done within one hour after the transaction.

Discipline

On and after January 1, 2022, the bill allows the DCP commissioner to suspend, revoke, refuse to grant or renew, place on probation, or place conditions on any dispensary that (1) fails to integrate its records with the PMP by January 1, 2022, or (2) employs a licensed pharmacist that fails to transmit the dispensing information as the bill requires.

Under the bill, before suspending or revoking such a license, DCP must give the license holder notice and an opportunity for a hearing, as provided by regulations the DCP commissioner adopts. The

commissioner may accept a monetary payment as an offer in compromise in lieu of a suspension, revocation, refusal, or condition or to reduce the suspension term.

PROHIBITED GIFTS

The bill prohibits medical marijuana producers or their agents from offering or giving a licensed dispensary or its employees anything of value, including a gift or reward, unless allowed by law. The bill specifies that it does not prohibit producers from giving them nonmedical items to distribute to qualified patients or caregivers, if the item is worth \$10 or less.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/09/2021)