



***Substitute House Bill No. 6715***

***Public Act No. 07-137***

***AN ACT CONCERNING THE PALLIATIVE USE OF MARIJUANA.***

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

Section 1. (NEW) (*Effective October 1, 2007*) As used in sections 1 to 9, inclusive, of this act, unless the context otherwise requires:

(1) "Debilitating medical condition" means cancer, glaucoma, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, cachexia or wasting syndrome;

(2) "Marijuana" has the same meaning as provided in section 21a-240 of the general statutes;

(3) "Palliative use" means the acquisition and distribution, possession, cultivation, use or transportation of marijuana or paraphernalia relating to marijuana to alleviate a qualifying patient's symptoms or the effects of such symptoms, but does not include any such use of marijuana by any person other than the qualifying patient. For the purposes of this subdivision, "acquisition and distribution" means the transfer of marijuana and paraphernalia relating to

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marijuana from the primary caregiver to the qualifying patient;

(4) "Physician" means a person who is licensed under the provisions of chapter 370 of the general statutes, but does not include a physician assistant, as defined in section 20-12a of the general statutes;

(5) "Primary caregiver" means a person, other than the qualifying patient and the qualifying patient's physician, who is eighteen years of age or older and has agreed to undertake responsibility for managing the well-being of the qualifying patient with respect to the palliative use of marijuana, provided (A) in the case of a qualifying patient lacking legal capacity, such person shall be a parent, guardian or person having legal custody of such qualifying patient, and (B) the need for such person shall be evaluated by the qualifying patient's physician and such need shall be documented in the written certification;

(6) "Qualifying patient" means a person who is eighteen years of age or older and has been diagnosed by a physician as having a debilitating medical condition;

(7) "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixtures or preparations thereof, that are appropriate for the palliative use of marijuana, but does not include the seeds, stalks and roots of the plant; and

(8) "Written certification" means a statement signed by the qualifying patient's physician stating that, in such physician's professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the palliative use of marijuana would likely outweigh the health risks of such use to the qualifying patient.

Sec. 2. (NEW) (*Effective October 1, 2007*) (a) A qualifying patient shall not be subject to arrest or prosecution, penalized in any manner,

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including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by a professional licensing board, for the palliative use of marijuana if:

(1) The qualifying patient has been diagnosed by a physician as having a debilitating medical condition;

(2) The qualifying patient's physician has issued a written certification to the qualifying patient for the palliative use of marijuana after the physician has prescribed, or determined it is not in the best interest of the patient to prescribe, prescription drugs to address the symptoms or effects for which the certification is being issued;

(3) The combined amount of marijuana possessed by the qualifying patient and the primary caregiver for palliative use does not exceed four marijuana plants, each having a maximum height of four feet, and one ounce of usable marijuana; and

(4) The cultivation of such marijuana occurs in a secure indoor facility.

(b) Subsection (a) of this section does not apply to:

(1) Any palliative use of marijuana that endangers the health or well-being of another person; and

(2) The palliative use of marijuana (A) in a motor bus or a school bus, as defined respectively in section 14-1 of the general statutes, or in any moving vehicle, (B) in the workplace, (C) on any school grounds or any public or private school, dormitory, college or university property, (D) at any public beach, park, recreation center or youth center or any other place open to the public, or (E) in the presence of a person under the age of eighteen. For the purposes of this subdivision, "presence" means within the direct line of sight of the palliative use of

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marijuana or exposure to second-hand marijuana smoke, or both.

(c) A qualifying patient shall have not more than one primary caregiver at any time. No person who has been convicted of possession of marijuana or for dealing drugs shall serve as a primary caregiver for a qualifying patient. A primary caregiver may not be responsible for the care of more than one qualifying patient at any time. A primary caregiver who is registered in accordance with subsection (a) of section 3 of this act shall not be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by a professional licensing board, for the acquisition, distribution, possession, cultivation or transportation of marijuana or paraphernalia related to marijuana on behalf of a qualifying patient, provided the amount of any marijuana so acquired, distributed, possessed, cultivated or transported, together with the combined amount of marijuana possessed by the qualifying patient and the primary caregiver, shall not exceed four marijuana plants, each having a maximum height of four feet, and one ounce of usable marijuana. For the purposes of this subsection, "distribution" or "distributed" means the transfer of marijuana and paraphernalia related to marijuana from the primary caregiver to the qualifying patient.

(d) Any written certification for the palliative use of marijuana issued by a physician under subdivision (2) of subsection (a) of this section shall be valid for a period not to exceed one year from the date such written certification is signed by the physician. Not later than ten days after the expiration of such period, or at any time before the expiration of such period should the qualifying patient no longer wish to possess marijuana for palliative use, the qualifying patient or the primary caregiver shall destroy all marijuana plants and usable marijuana possessed by the qualifying patient and the primary

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caregiver for palliative use.

Sec. 3. (NEW) (*Effective October 1, 2007*) (a) Each qualifying patient who is issued a written certification for the palliative use of marijuana under subdivision (2) of subsection (a) of section 2 of this act, and the primary caregiver of such qualifying patient, shall register with the Department of Consumer Protection not later than five business days after the issuance of such written certification. Such registration shall be effective until the expiration of the written certification issued by the physician. The qualifying patient and the primary caregiver shall provide sufficient identifying information, as determined by the department, to establish the personal identity of the qualifying patient and the primary caregiver. The qualifying patient or the primary caregiver shall report any change in such information to the department not later than five business days after such change. The department shall issue a registration certificate to the qualifying patient and to the primary caregiver and may charge a reasonable fee, not to exceed twenty-five dollars, for a registration under this subsection. Any registration fees collected by the department under this subsection shall be paid to the State Treasurer and credited to the account established pursuant to section 10 of this act.

(b) Upon the request of a law enforcement agency, the Department of Consumer Protection shall verify whether a qualifying patient or a primary caregiver has registered with the department in accordance with subsection (a) of this section and may provide reasonable access to registry information obtained under this section for law enforcement purposes. Except as provided in this subsection, information obtained under this section shall be confidential and shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200 of the general statutes.

Sec. 4. (NEW) (*Effective October 1, 2007*) (a) The Commissioner of Consumer Protection may adopt regulations, in accordance with

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chapter 54 of the general statutes, to establish (1) a standard form for written certifications for the palliative use of marijuana issued by physicians under subdivision (2) of subsection (a) of section 2 of this act, and (2) procedures for registrations under section 3 of this act.

(b) The Commissioner of Consumer Protection shall adopt regulations, in accordance with chapter 54 of the general statutes, to establish a reasonable fee to be collected from each qualifying patient to whom a written certification for the palliative use of marijuana is issued under subdivision (2) of subsection (a) of section 2 of this act, for the purpose of offsetting the direct and indirect costs of administering the provisions of sections 1 to 9, inclusive, of this act. The commissioner shall collect such fee at the time the qualifying patient registers with the Department of Consumer Protection under subsection (a) of section 3 of this act. Such fee shall be in addition to any registration fee that may be charged under said subsection. The fees required to be collected by the commissioner from qualifying patients under this subsection shall be paid to the State Treasurer and credited to the account established pursuant to section 10 of this act.

Sec. 5. (NEW) (*Effective October 1, 2007*) Nothing in sections 1 to 9, inclusive, of this act shall be construed to require health insurance coverage for the palliative use of marijuana.

Sec. 6. (NEW) (*Effective October 1, 2007*) (a) A qualifying patient or a primary caregiver may assert the palliative use of marijuana as an affirmative defense to any prosecution involving marijuana, or paraphernalia relating to marijuana, under chapter 420b of the general statutes or any other provision of the general statutes, provided such qualifying patient or such primary caregiver has strictly complied with the requirements of sections 1 to 9, inclusive, of this act.

(b) No person shall be subject to arrest or prosecution solely for being in the presence or vicinity of the palliative use of marijuana as

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permitted under sections 1 to 9, inclusive, of this act.

Sec. 7. (NEW) (*Effective October 1, 2007*) A physician shall not be subject to arrest or prosecution, penalized in any manner, including, but not limited to, being subject to any civil penalty, or denied any right or privilege, including, but not limited to, being subject to any disciplinary action by the Connecticut Medical Examining Board or other professional licensing board, for providing a written certification for the palliative use of marijuana under subdivision (2) of subsection (a) of section 2 of this act if:

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

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

(3) The written certification issued by the physician is based upon the physician's professional opinion after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship.

Sec. 8. (NEW) (*Effective October 1, 2007*) Any marijuana, paraphernalia relating to marijuana, or other property seized by law enforcement officials from a qualifying patient or a primary caregiver in connection with a claimed palliative use of marijuana under sections 1 to 9, inclusive, of this act shall be returned to the qualifying patient or the primary caregiver immediately upon the determination by a court that the qualifying patient or the primary caregiver is entitled to the palliative use of marijuana under sections 1 to 9, inclusive, of this act, as evidenced by a decision not to prosecute, a dismissal of charges or

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an acquittal. Law enforcement officials seizing live marijuana plants as evidence shall not be responsible for the care and maintenance of such plants. This section does not apply to any qualifying patient or primary caregiver who fails to comply with the requirements for the palliative use of marijuana under sections 1 to 9, inclusive, of this act.

Sec. 9. (NEW) (*Effective October 1, 2007*) (a) Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the palliative use of marijuana in order to avoid arrest or prosecution under chapter 420b of the general statutes or any other provision of the general statutes shall be guilty of a class C misdemeanor.

(b) Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the issuance, contents or validity of a written certification for the palliative use of marijuana, or a document purporting to be such written certification, shall be guilty of a class A misdemeanor.

Sec. 10. (NEW) (*Effective July 1, 2007*) There is established a palliative marijuana administration account which shall be a separate, nonlapsing account within the General Fund. The account shall contain any fees collected pursuant to subsection (a) of section 3 of this act, the fees collected pursuant to subsection (b) of section 4 of this act, and any other moneys required by law to be deposited in the account, and shall be held in trust separate and apart from all other moneys, funds and accounts. Any balance remaining in the account at the end of any fiscal year shall be carried forward in the account for the fiscal year next succeeding. Investment earnings credited to the account shall become part of the account. Amounts in the account shall be expended only pursuant to appropriation by the General Assembly for the purpose of providing funds to the Department of Consumer Protection for administering the provisions of sections 1 to 9, inclusive, of this act.



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