

# STATEMENT TO

## [Second Reprint] **SENATE No. 119**

with Assembly Floor Amendments  
(Proposed by Assemblyman GUSCIORA)

ADOPTED: JANUARY 7, 2010

These amendments:

- make the following changes to definitions in the bill:
  - delete the requirement in the definitions of “bona fide physician-patient relationship” and “physician” that the patient’s physician have ongoing “primary” responsibility for the patient’s care,
  - change “written certification” to “certification” throughout the bill, since the certification is a statement signed by a physician and the word “written” is redundant,
  - revise the definition of “debilitating medical condition” to include severe or chronic pain, severe nausea or vomiting, cachexia, or wasting syndrome resulting from positive status for HIV/AIDS, cancer “or the treatment thereof,” and add muscular dystrophy, inflammatory bowel disease, including Crohn’s disease, and terminal illness if a physician determines that the patient has 12 months or less to live, and
  - include “transport” in the definition of “medical use of marijuana,” and
  - include “primary care” and “hospice” physicians in the definition of “physician” and specify that ongoing treatment shall not be limited to the provision of authorization for a patient to use medical marijuana or consultation solely for that purpose;
- delete the requirement that physicians providing certifications must be board-certified, if certification is available, in the specialty appropriate for the assessment, care, and ongoing primary treatment of the debilitating medical condition for which the medical use of marijuana is being considered;
- limit the bill to patients and caregivers who are State residents;
- delete the provision allowing for a designated individual in an emergency situation to transport marijuana to a patient, and instead provide for a patient to designate a primary caregiver who:
  - is a State resident, at least 18 years old,
  - agrees to assist with the patient's medical use of marijuana, is not a primary caregiver for another qualifying patient, and is not the patient's physician,
  - has not been convicted of possession or sale of a controlled dangerous substance, unless it was for a violation of federal law related to possession or sale of marijuana authorized under the bill that occurred after its effective date, and

- has registered with the Department of Health and Senior Services (DHSS) and satisfied the criminal history record background check requirements of the bill;
- require that primary caregivers undergo a State and federal criminal history record background check as a condition of serving as a caregiver, and that the caregivers bear the cost of the background checks;
- provide that patient and caregiver registry identification cards shall include both the patient's and caregiver's name (if there is a caregiver), and that the cards are valid for two years instead of one year;
- regarding applications to DHSS for registry identification cards:
  - provide that both qualified patients and primary caregivers be issued registry identification cards; and
  - allow for provisional approval for primary caregivers pending receipt of criminal history record background check results;
- regarding alternative treatment centers (ATCs):
  - allow both for-profit and nonprofit ATCs, but require that the first two ATCs in each of the three regions of the State be nonprofit, and direct DHSS to seek to ensure "a sufficient number" of ATCs throughout the State "pursuant to need,"
  - authorize ATCs to acquire "a reasonable initial and ongoing inventory," to be determined by DHSS,
  - clarify that applicants seeking to operate, direct, or work at ATCs shall not be issued permits if they were convicted of a crime involving a controlled dangerous substance (except of possession of 50 grams or less of marijuana) under state or federal law,
  - provide for provisional authority for employees pending results of criminal history record background check;
- change the total amount of usable marijuana that may be dispensed in a 30-day period and at any one time, if no amount is noted in the instructions, from one ounce to two ounces;
- allow physicians to provide a copy of a written instruction by electronic or other means, as determined by the commissioner, directly to an ATC on behalf of a registered qualifying patient;
- require that the Commissioner of Health and Senior Services:
  - include in the annual report to the Governor and Legislature the number of primary caregivers who register and the number of ATC permits issued and revoked, and
  - report to the Governor and Legislature within two years after the effective date of the bill and every two years thereafter, evaluating whether:
    - (1) there are sufficient numbers of ATCs to meet the needs of registered patients throughout the State,
    - (2) the maximum amount of medical marijuana allowed pursuant to the bill is sufficient to meet the medical needs of qualifying patients, and
    - (3) any ATCs charged excessive prices for the marijuana they dispensed;

- revise the DHSS rule-making authority provisions of the bill by:
  - moving to section 7 of the bill (governing ATCs) DHSS' authority to: monitor, oversee, and investigate all activities performed by ATCs; ensure adequate security of all facilities and specifying that the rules shall ensure 24-hour-per-day security of all facilities, and
  - deleting the language in section 18 that detailed various aspects of regulations DHSS would be required to adopt to implement the provisions of the bill, and replacing that language with more general authority for DHSS to adopt regulations to implement the provisions of the bill;
- specify that the system established to monitor the dispensation of marijuana for medical use serve the same purpose as, and be cross-referenced with, the electronic system for monitoring controlled dangerous substances established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45).
- change the effective date from 12 months after enactment to six months after enactment.