SPONSOR: Sen. Delcollo & Sen. Lopez & Sen. Townsend & Rep. Bentz & Rep. Ramone
Sens. Cloutier, Hocker, Pettyjohn, Sturgeon; Reps. Baumbach, Brady, Q. Johnson, Osienski, Schwartzkopf, Seigfried, Michael Smith, Spiegelman

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 24
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO MEDICAL MARIJUANA.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4902A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4902A. Definitions.

~~In this chapter, unless the context otherwise requires, the following definitions shall apply:~~ For purposes of this chapter:

(13) "Qualifying patient" means ~~a person who has been diagnosed by a physician as having a debilitating medical condition.~~ an individual who meets the qualifications to receive a registry identification card under this chapter.

(16) "Registry identification card" means a document issued by the Department that identifies a person as ~~a~~ one of the following:

a. A registered qualifying ~~patient or~~ adult patient.

b. A registered designated ~~caregiver.~~ caregiver for a qualifying adult patient.

c. A registered designated caregiver for a pediatric patient.

d. A registered compassionate use adult patient.

e. A registered designated caregiver for an adult compassionate use patient.

f. A registered designated caregiver for a pediatric compassionate use patient.

Section 2. Amend § 4908A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4908A. Registration of qualifying patients and designated caregivers.

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(a) The Department shall issue registry identification cards to qualifying patients who submit all of the following, in accordance with the Department's final regulations:

(1) A written certification issued by a physician within 90 days immediately preceding the date of an ~~application;~~ application.

(2) The application or renewal ~~fee;~~ fee.

(3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless no address is ~~required;~~ required.

(4) The name, address, and telephone number of the qualifying patient's ~~physician; and~~ physician.

(5) The name, address, and date of birth of the designated caregiver, if any, chosen by the qualifying ~~patient;~~ patient.

(6) ~~The name of the registered compassion center the qualifying patient designates, if any;~~ For a compassionate use card, the patient's informed consent and physician verification under subsection (c) of this section.

(7) A statement signed by the qualifying patient, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this ~~chapter; and~~ chapter.

(8) A signed statement from the designated caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.

(b) Registry identification card applications shall be available no later than the day the Department publishes final regulations.

(c) The Department shall issue a compassionate use card to an individual who is eligible for a compassionate use card and who submits all of the following, in accordance with the Department's final regulations, in addition to the requirements under subsection (a) of this section:

(1) A signed statement from the patient's physician that includes statements attesting to all of the following:

a. The patient has a severe and debilitating condition.

b. All current standard care practices and treatments have been exhausted and have been ineffective or the side effects are prohibitive with continued use.

c. The physician will re-evaluate and document the efficacy of medical marijuana treatment.

d. There are grounds supporting the potential for the patient to benefit from using medical marijuana.

(2)a. If the patient is an adult, a signed statement from the patient acknowledging the patient's informed consent to treatment with medical marijuana and that the patient knows that there is limited or no evidence associated

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with medical marijuana's effectiveness in treating a condition that is not a debilitating medical condition under this chapter.

b. If the patient is under 18 years of age, a signed statement from the patient's parent or legal guardian acknowledging the patient's informed consent to treatment with medical marijuana and that the patient's parent or legal guardian knows that there is limited or no evidence associated with medical marijuana's effectiveness in treating a condition that is not a debilitating medical condition under this chapter.

Section 3. Amend § 4909A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4909A. Issuance of registry identification cards.

(b) The Department ~~shall~~ may not issue a registry identification card to a qualifying patient who is ~~younger than~~ under 18 years of age, except ~~as follows:~~ if any of the following apply:

(1) The qualifying patient has any of the following related to a terminal illness:

a. ~~Pain;~~ Pain.

b. ~~Anxiety;~~ Anxiety.

c. ~~Depression;~~ Depression.

(2) The qualifying patient has intractable epilepsy or seizure ~~disorder;~~ disorder.

(3) The qualifying patient has a chronic or debilitating disease or medical condition where the patient has failed treatment involving 1 or more of the following symptoms: cachexia or wasting syndrome; intractable nausea; severe, painful and persistent muscle ~~spasms; or~~ spasms.

(4) Any other medical condition or its treatment added by the Department, as provided for in § 4906A of this title.

(5) The qualifying patient is eligible for a compassionate use card under § 4908A(c) of this title.

(c) A qualifying patient who is ~~younger than~~ under 18 years of age may only receive marijuana oil.

Section 4. Amend § 4910A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4910A. Denial of registry identification cards.

(e)(1) Denial of an application or renewal is considered a final Department ~~action,~~ action.

(2) A denial of an application or renewal for a registry identification card for a registered qualifying patient, pediatric patient, or registered designated caregiver is subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

(3) A denial of an application or renewal for a compassionate use registry identification card is not subject to judicial review.

Section 5. Amend § 4911A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4911A. Registry identification cards.

(a) Registry identification cards ~~shall~~ must contain all of the following:

(1) The name of the ~~cardholder;~~ cardholder.

(2) A designation of whether the cardholder is a designated caregiver or qualifying ~~patient;~~ patient.

(3) ~~[Repealed.]~~ That the registered cardholder is one of the following:

a. A qualifying adult patient.

b. A designated caregiver for a qualifying adult patient.

c. A designated caregiver for a pediatric patient.

d. An adult compassionate use patient.

e. A designated caregiver for an adult compassionate use patient.

f. A designated caregiver for a pediatric compassionate use patient.

(4) The date of issuance and expiration date of the registry identification ~~card;~~ card.

(5) A random 10-digit alphanumeric identification ~~number, containing at least 4 numbers and at least 4 letters,~~ number, that is unique to the ~~cardholder; and~~ cardholder.

(6) If the cardholder is a designated caregiver, the random 10-digit alphanumeric identification number of the qualifying patient the designated caregiver is receiving the registry identification card to assist.

(b)(1) Except as provided in this subsection, the expiration date shall be 1 year after the date of issuance.

(2) If the physician stated in the written certification that the qualifying patient would benefit from marijuana until a specified earlier date, then the registry identification card shall expire on that date.

(3) ~~[Repealed.]~~ If the physician stated in the written certification that the compassionate use patient would benefit from a trial period using marijuana until a specified earlier date, then the registry identification card expires on that date.

Section 6. Amend § 4923A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4923A Department to issue regulations.

~~Not later than July 1, 2012, the~~ The Department shall promulgate ~~regulations:~~ regulations regarding all of the following:

(1) Governing the manner in which the Department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions ~~set forth in~~ under § 4902A(3) of this title, including public notice of and an opportunity to comment in public hearings on the ~~petitions;~~ petitions.

(2)a. Establishing the form and content of registration and renewal applications submitted under this ~~chapter;~~ chapter.

b. For compassionate use cards, governing the intervals at which a physician must re-evaluate the efficacy of medical marijuana treatment and the documentation of the re-evaluations, and may include intervals of different lengths for the conditions for which a patient receives a compassionate use registry identification card.

(3) Governing the manner in which it shall consider applications for and renewals of registry identification ~~cards; and~~ cards.

(4) Governing all of the following matters related to registered compassion centers and security compliance facilities, with the goal of protecting against diversion and theft, without imposing an undue burden on the registered compassion centers or compromising the confidentiality of cardholders:

a. Minimum oversight requirements for registered compassion ~~centers;~~ centers.

b. Minimum recordkeeping requirements for registered compassion ~~centers;~~ centers.

c. Minimum security requirements for registered compassion centers, which shall include that each registered compassion center location must be protected by a fully operational security alarm ~~system;~~ system.

d. The competitive scoring process addressed in §§ 4914A and 4915A of this ~~title;~~ title.

e. Procedures for suspending or terminating the registration certificates or registry identification cards of cardholders, registered compassion centers, and registered safety compliance facilities that commit multiple or serious violations of the provisions of this chapter or the regulations promulgated pursuant to this ~~section; and~~ section.

f. The design and security features of medical marijuana containers to be provided by the compassion centers.

(5) Requiring application and renewal fees for registry identification cards, and registered compassion center registration certificates, according to all of the following:

a. The total fees collected must generate revenues sufficient to offset all expenses of implementing and administering this chapter, except that fee revenue may be offset or supplemented by private ~~donations;~~ donations.

b. The total amount of revenue from application, renewal, and registration fees for compassion centers and security compliance facilities ~~shall~~ must be sufficient to implement and administer the compassion center and safety compliance facility provisions of this ~~chapter;~~ chapter.

c. The Department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household ~~income; and~~ income.

d. The Department may accept donations from private sources to reduce application and renewal fees.

e. The total amount of revenue from application, renewal, and registration fees for compassion centers, security compliance facilities, and registry identification cards will be deposited to a special account within the Department for the operation of the program created by this chapter and shall be used as necessary to support program operations and growth.

Section 7. This Act is effective on enactment and is implemented the earlier of the following:

(1) One year from the date of the Act's enactment.

(2) On promulgation of final regulations under this Act and the Secretary of the Department of Health and Social Services providing notice to the Registrar of Regulations, published in the Register of Regulations, that the contingency under this paragraph (2) of this section has been fulfilled.