



SPONSOR: Sen. Pinkney & Sen. Hoffner & Rep. Kamela Smith & Rep. Minor-Brown
Sens. Cruce, Hansen, Huxtable, Lockman, Poore, Sokola, Sturgeon; Reps. Harris, K. Johnson, Morrison, Neal, Osienski, Ross Levin, Snyder-Hall

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 226
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 and by redesignating accordingly:

§ 4902A. Definitions.

(7) "Health care facility" means a general hospital licensed pursuant to paragraph 1001(b)(1) of this title.

Section 2. Amend § 4904A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4904A. Limitations.

(a) This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, the following conduct:

(1) Undertaking any task under the influence of marijuana, when doing so would constitute negligence or professional ~~malpractice~~; malpractice.

(2) Except as provided in subsection (b) or subsection (c) of this section, possessing marijuana, or otherwise engaging in the medical use of marijuana:

a. In a school ~~bus~~; bus.

b. On the grounds of any preschool or primary or secondary ~~school~~; or school.

c. In any correctional facility.

d. In any health care or treatment facility operated by the Department of Health and Social Services or funded contractually through the Department of Health and Social Services.

(3) Smoking marijuana:

a. In any form of ~~transportation~~; or transportation.

b. In any public place.

(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana.

(5) Using marijuana if that person does not have a medical condition.

(6) Transferring marijuana to any person who is not allowed to possess marijuana under this chapter.

(b) *School exceptions.* — Notwithstanding subsection (a) of this section, a designated caregiver registered pursuant to § 4908A of this title may possess for the purpose of administering, and may administer to a minor qualifying patient medical marijuana oil in a school bus and on the grounds or property of the preschool, or primary or secondary school in which a minor qualifying patient is enrolled. The designated caregiver shall not be a school nurse or other school employee hired or contracted by a school unless the designated caregiver is a parent or legal guardian of the minor qualifying patient, and said parent or legal guardian possesses no more than the number of doses prescribed per day of medical marijuana oil which is kept at all times on their person. Provided further, this exception shall only apply within the physical boundaries of the State of Delaware.

(c) *Health care facility exceptions.* —

(1) Notwithstanding subsection (a) of this section, a health care facility must permit the medical use of marijuana by a cardholder who has a terminal illness and shall do all of the following:

a. Require the patient or the patient's designated caregiver to provide a copy of the patient's registry identification card to the patient's attending physician.

b. Include the medical use of marijuana within the patient's medical records.

c. Prohibit smoking or vaping as methods to use medical marijuana.

d. Prohibit health care professionals and facility staff, including physicians, nurses, and pharmacists, from administering medical marijuana or retrieving medical marijuana from storage, except to dispose of medical marijuana pursuant to the health care facilities' written policy.

e. Require the patient or the patient's designated caregiver to be responsible for acquiring, retrieving, administering, and removing medical marijuana.

f. Require medical marijuana to be stored securely at all times in a locked container in the patient's room, other designated area, or with the patient's designated caregiver.

g. Require that upon discharge, the patient or the patient's designated caregiver remove all medical marijuana from the health care facility and, if the patient or the patient's designated caregiver

does not do so, store any medical marijuana in a locked container until it is disposed of in accordance with the health care facility's written policy and procedure governing medicinal marijuana.

h. Develop and disseminate written policies and procedures for the use of medical marijuana within the health care facility.

(2) Notwithstanding the provisions of paragraph (c)(1) of this section, a health care facility may prohibit the use of medical marijuana by a terminally ill patient if the health care facility determines, based on the assessment of its medical professionals, that use of medical marijuana by the terminally ill patient may have an adverse impact on the medical care and treatment of the patient or is otherwise contraindicated.

(3) A health care facility may suspend the use of medical marijuana by any terminally ill patients if a federal regulatory agency, the United States Department of Justice (US DOJ), or the Centers for Medicare and Medicaid Services (CMS) initiates or takes any action listed in paragraphs a. or b. of this paragraph, or makes an inquiry about the health care facility's activities pursuant to this subsection, until the regulatory agency, US DOJ, or CMS notifies the health care facility that it may resume permitting the use of medical marijuana within the facility:

a. A federal regulatory agency or the US DOJ initiates an enforcement action, including a notice to suspend funding, against the health care facility related to the requirements of this subsection or the use of medical marijuana on the health care facility's premises.

b. A federal regulatory agency, the US DOJ, or CMS issues a rule, guidance, or otherwise provides notification to health care facilities that expressly prohibits the use of medical marijuana in health care facilities or otherwise prohibits compliance with the requirements of this subsection.

(4) The provisions of this subsection do not apply:

a. To a patient receiving or waiting to receive emergency medical services or to the emergency department of a health care facility while a patient is receiving or waiting to receive emergency medical services.

b. Outside the physical boundaries of the State of Delaware.

(5) A person is not subject to civil or criminal liability or discipline for unprofessional conduct, including censure, suspension, loss of license, loss of privileges, loss of membership, or any other penalty for complying with this subsection in good faith except in circumstances constituting gross negligence, recklessness, or intentional misconduct.

(6) Compliance with this subsection may not be a condition for obtaining, retaining, or renewing a license as a health care facility.

Section 3. This Act shall take effect 1 year after its enactment into law.

Section 4. This Act shall be known and may be referred to as Ryan's Law.