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*“We change laws.”*

### State Medical Marijuana Legislation 2012

Connecticut is on the verge of becoming the newest medical marijuana state. Both chambers have passed its bill, and Gov. Dannel Malloy has said he will sign HB 5389 when it arrives on his desk. Bills to create new laws protecting medical marijuana patients are pending in nine other state legislatures. Another eight state legislatures considered similar bills that did not advance before legislative deadlines. Four states considered bills that would have recognized marijuana’s medical value, but were only symbolic due to their wording. In addition, in Florida, twin bills were considered that would have put the question of allowing medical marijuana before voters. Finally, several states with existing medical marijuana laws are considering legislation to revise their laws, such as by clearly allowing and regulating dispensaries.

Sixteen states and the District of Columbia now have effective medical marijuana laws, though three of those laws passed in 2010 or 2011 and are so new they have not yet been fully implemented.<sup>1</sup> Once Connecticut’s bill is signed into law, 30% of Americans will live in states with modern medical marijuana laws.

### Bill Awaiting Governor’s Signature

**Connecticut** — On April 25, the Connecticut House of Representatives voted 96-51 to approve An Act Concerning the Palliative Use of Marijuana, HB 5389. The Senate followed suit in a 21-13 vote on May 6. Gov. Dannel Malloy has said he’ll sign the bill. HB 5389 will allow state-registered qualifying patients or their caregivers to obtain marijuana from dispensaries, which would obtain marijuana from licensed producers.<sup>2</sup>

### Bills to Create New Medical Marijuana Laws

**Alabama** — Two medical marijuana bills are pending in Alabama. Representative K.L. Brown (R-Jacksonville) introduced medical marijuana legislation — HB 66 — on December 21, 2011, and Rep. Patricia Todd introduced HB 25. Both bills were referred to the Committee on Health on February 7, 2012.

**Illinois** — House Deputy Majority Leader Lou Lang introduced HB 30, the Compassionate Use of Medical Cannabis Pilot Program Act, last year. HB 30, which carried over to 2012, would create a three-year pilot program allowing state-registered patients to obtain marijuana from state-regulated dispensaries. During the 2009-2010 legislative session, the Senate passed a similar bill. HB 30 received a House floor vote on May 5, 2011 and came a few votes shy of passage. In the Senate, Sen. Bill Haine (D-Alton) sponsors SB 1548.

**Kansas** — On January 30, 2012, Sen. David Haley introduced SB 354, which would allow state-registered patients to cultivate medical marijuana or obtain it from registered and regulated compassion centers. The bill was originally assigned to the Committee on Public Health and Welfare, but later reassigned to the Committee on Federal and State Affairs. That committee is exempt from

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<sup>1</sup> In one of those states, Delaware, implementation of the dispensary portion of the law is currently stalled following a vague, threatening letter from U.S. Attorney Charles Oberly. An affirmative defense is currently available to Delaware patients who possess up to six ounces of marijuana. Maryland — which is not listed as a state with an effective law — also has an affirmative defense for patients who possess limited amounts of marijuana.

<sup>2</sup> The bill is available at: <http://www.cga.ct.gov/2012/FC/2012HB-05389-R000597-FC.htm>

the committee deadline that applied the House companion bill.

**Massachusetts** — On January 14, 2011, Rep. Frank Smizik introduced H. 625, which would allow state-registered patients to cultivate medical marijuana or obtain it from registered and regulated compassion centers (dispensaries). In the Senate, Senate President Pro Tem Stan Rosenberg introduced a companion bill, S. 1161, and Sen. Thomas McGee introduced another bill to allow medical marijuana, S. 818. H. 625 and S. 1161 were referred to the Joint Committee on Public Health and received hearings on July 12. S. 818 was referred to the Joint Committee on Judiciary. All three bills are still active because the state has a two-year session. In addition, the legislature considered a medical marijuana initiative after the first round of signature gathering was completed. Since the legislature did not act on the measure, proponents have until mid-June to gather a second round of signatures —11,485 valid — to put the initiative on the November ballot.<sup>3</sup>

**Missouri** — On January 19, 2012, Rep. Mike Colona introduced H.B. 1421, which would allow qualifying patients with doctors' certifications to cultivate medical marijuana and/or obtain it from registered non-profit organizations (dispensaries). H.B. 1421 was referred to the House Crime Prevention and Public Safety Committee on March 21, 2012.

**New Hampshire** — On February 29, 2012, Sen. Jim Forsythe (R-Strafford) introduced SB 409, which would allow qualified patients and their caregivers to cultivate and possess a limited amount of marijuana. On March 28, 2012, the Senate voted 13-11 to approve the bill. On April 25, the House of Representatives — which has a nearly 3:1 Republican supermajority — approved the bill in a 236-96 vote. Gov. John Lynch has said he will veto the bill. The House margin was large enough to overcome a veto, but three more senators will need to vote “yes” to override a veto in the Senate.

**New York** — Sen. Diane Savino introduced S. 7283, which would allow pharmacies and non-profits to dispense marijuana cultivated by registered producers. It would also allow patients who do not live near dispensaries or who obtain a hardship waiver to cultivate a limited supply of marijuana or to designate a caregiver to do so for them. S. 7283 was referred to the Senate Health Committee. Meanwhile, Assembly Health Committee Chair Richard Gottfried sponsors A. 7347, which was amended to be A. 7347-A and was recommitted to the Assembly Health Committee on May 3.

**Ohio** — On April 26, 2011, Rep. Kenny Yuko introduced HB 214, which would allow the medical use and cultivation of marijuana by qualified patients. The bill was assigned to the House Committee on Health & Aging. Ohio has a two-year session, so the bill is still pending.

**Pennsylvania** — Sen. Daylin Leach introduced SB 1003, which would allow the medical use and cultivation of marijuana by qualified patients. It would also allow patients to obtain marijuana from non-profit compassion centers. SB 1003 was referred to the Senate Committee on Public Health and Welfare on April 25, 2011. In the House, Rep. Mark Cohen introduced HB 1653, which was referred to the House Health Committee on June 13, 2011 and then re-referred to the House Human Services Committee 10 days later. Both bills carried over to 2012.

### **Comprehensive Medical Marijuana Bills That Did Not Advance**

**Idaho** — On January 17, 2012, Rep. Tom Trail (R) introduced H 370, which would have allowed registered patients to obtain marijuana from state-regulated dispensaries. H 370 did not receive a committee hearing or vote before the legislature adjourned.

**Indiana** — Rep. Tom Knollman, a Republican, introduced medical marijuana legislation on

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<sup>3</sup> The initiative's text is available at: <http://www.mass.gov/ago/docs/government/2011-petitions/11-11.pdf>

January 10, 2012. The bill, HB 1370, would have allowed state-registered patients to obtain marijuana from state-regulated dispensaries. HB 1370 died in the Committee on Public Policy when the legislative session ended.

**Iowa** — Last year, Sen. Joe Bolkcom introduced SF 266, which would have allowed state-registered patients to cultivate medical marijuana or obtain it from registered and regulated compassion centers. SF 266 was referred to the Senate Human Services Committee on February 21, 2011 and was assigned to a subcommittee the following day. On February 9, 2012, Rep. Bruce Hunter introduced HF 2270, which would also have allowed state-registered patients to cultivate medical marijuana or obtain it from registered and regulated compassion centers. The bill was referred to the House Public Safety Committee and was then assigned to a three-person subcommittee. Neither bill advanced out of committee before the deadline.

**Kansas** — Rep. Gail Finney introduced HB 2330, which was referred to the House Committee on Health and Human Services on February 14, 2011. The bill did not meet a committee deadline and is dead. HB 2330 would have allowed state-registered patients to cultivate medical marijuana or obtain it from registered and regulated compassion centers. It received an informational hearing on January 24, 2012.

**Maryland** — Maryland has an existing, incomplete medical marijuana law that does not provide for access to medical marijuana and only provides for a defense that can be raised in court. In 2011, the legislature approved a working group, which proposed two different models for medical marijuana programs. Del. Dan Morhaim, MD introduced the two models as HB 1024 and HB 1158. In addition, on January 11, 2012, Del. Cheryl Glenn introduced HB 15, which — unlike recent proposals in Maryland — would have allowed for home cultivation by patients, in addition to medical marijuana dispensaries. In the Senate, Sen. David Brinkley sponsored SB 995, which was based on the more workable work group bill. Before the House hearing, Gov. Martin O'Malley announced that he would veto the bills because of concerns about state workers' liability. HB 15 and SB 995 were amended to simply provide caregivers with the same defense for possession that was available to patients. HB 15 passed the House, and SB 995 passed the Senate, but they ran out of time before the session passed and died without either bill getting a vote in the other legislative chamber.

**Oklahoma** — Sen. Constance Johnson introduced SB 573, the Compassionate Use Act, which was referred to the Senate Committee on Health and Human Services. The act would have removed Oklahoma's criminal penalties for possession and cultivation of marijuana from a patient and caregiver who cultivates marijuana for a patient's medical use, upon the oral or written recommendation of a physician. SB 573 did not advance before legislative deadlines.

**Mississippi** — On January 30, 2012, Sen. Deborah Dawkins introduced SB 2252, which would have allowed qualifying patients to cultivate and use medical marijuana. The same day, the bill was referred to the Senate Judiciary Committee, Division A. It died in committee on March 6, 2012.

**West Virginia** — On February 10, 2012, Del. Mike Manypenny introduced HB 4498, which would have allowed state-registered patients to cultivate medical marijuana or obtain it from registered and regulated compassion centers. The bill was referred to the House Health and Human Resources Committee and did not advance prior to the adjournment of the regular legislative session. Del. Manypenny also proposed a resolution requesting that the Joint Committee on Government and Finance study medical marijuana, HCR 144.

**Wisconsin** — Sen. Jon Erpenbach and Rep. Mark Pocan introduced the Jacki Rickert Medical Marijuana Act, SB 371 and AB 475. Both bills were referred to their chambers' health committees,

but did not advance prior to legislative deadlines. The bills would have allowed qualified, seriously ill patients to obtain medical marijuana from regulated dispensaries. Patients would also be able to cultivate their own medical marijuana.

### **Bills To Allow Voters to Decide Whether to Allow Medical Marijuana**

**Florida** — Companion bills that, if enacted, would have put the question of protecting medical marijuana patients before voters in 2012 died in committee due to legislative deadlines. Rep. Jeff Clemens and four co-sponsors sponsored HJR 353, and Sen. Larencia Bullard sponsored, SJR 1028. If enacted, the bills would have put a state constitutional amendment on the ballot, which would have needed to receive 60% of the popular vote to become law. The House bill died in the Criminal Justice Subcommittee, and the Senate bill died in the Health Regulation Committee.

### **Bill to Allow Medical Marijuana Production for Export, But Not Compassionate Use**

**Minnesota** — On Feb. 24, 2011, Rep. Phyllis Khan introduced HB 662, which would allow the production of medical marijuana for export. It was referred to the Agriculture and Rural Policy Development and Finance Committee. The bill carried over to 2012, the second half of Minnesota's two-year legislative session.

### **Symbolic Bills and Resolutions Recognizing Marijuana's Medical Value**

**Iowa** — SSB 1016 was introduced to reclassify marijuana as Schedule II under Iowa law. It is currently dually classified both as Schedule I (which has no medical value) and Schedule II (which has medical value). The bill would have supposedly allowed marijuana to be prescribed, but federal law makes prescribing marijuana impossible. It would also have removed the board of pharmacy's authority to set up a medical marijuana program. This follows the state board of pharmacy's unanimous recommendation that marijuana be rescheduled as Schedule II. SSB 1016 did not advance before a "funnel" deadline.

**Kentucky** — SB 129, known as the Gatewood Galbraith Memorial Medical Marijuana Act, would have allowed anyone who has been prescribed marijuana to possess up to five ounces of marijuana or cultivate up to five plants for personal use. It would also have allowed pharmacies in Kentucky that possess a special supplemental license to dispense marijuana to persons whose doctors have prescribed marijuana. The bill would also have rescheduled marijuana under Kentucky law, moving it from Schedule I to Schedule II of Kentucky's controlled substances scheme. It was assigned to the Senate Judiciary Committee but did not advance before a legislative deadline.

**Tennessee** — In 2011, Rep. Jean Richardson and Sen. Beverly Marrero introduced HB 294 and SB 251, the "Safe Access to Medical Cannabis Act." Unfortunately, the bills use the word "prescribe" and would only be symbolic due to federal law prohibiting marijuana from being prescribed. HB 294, was approved by a subcommittee of the Health and Human Resources Committee on March 27, but did not receive a vote in the full committee. The Senate Government Operations Committee scheduled a hearing on SB 251, but never actually took testimony because no Democrat showed up for the hearing, and Republicans in the room refused to call a motion to discuss it.

**Virginia** — HJ 139, sponsored by Arlington Democrat David Englin, would have called on Gov. Bob McDonnell to support a rescheduling petition submitted by the governors of Rhode Island and Washington State. The rescheduling petition asks the federal government to move marijuana out of Schedule I of the Controlled Substances Act so it can be regulated and ultimately prescribed like any other medicine. HJ 139 received a hearing on January 24, 2012 and was tabled in a voice vote a week later.

## Bill to Deny Marijuana's Medical Value

**Iowa** — HF 183, formally filed as HB 4, would remove marijuana from being able to be classified as Schedule II, leaving it wholly classified as Schedule I. HB 4 did not advance before the legislative deadlines. In addition, Gov. Terry Branstad (R) proposed SSB 3031 and HSB 552, which would also reclassify marijuana as Schedule I. SSB 3031 was referred to a subcommittee in Senate Judiciary. HSB 552 received a hearing in the House Public Safety Committee on February 2, 2012. Because the governor sponsors the bill, legislative deadlines do not apply to it.

## Bills to Modify Existing Medical Marijuana Laws

Most of the states with existing medical marijuana laws are considering proposals to revise their existing laws in 2012.

In **California**, several bills related to medical marijuana are under consideration. The Assembly Public Safety Committee advanced a bill to more explicitly recognize and regulate dispensaries (AB 2312). Another bill is pending to regulate pesticides used in medical marijuana cultivation (AB 1975). A third bill, which is a flagrant violation of the ban on legislative meddling with voters' initiatives, would require all patients and caregivers to have medical marijuana ID cards, among other restrictions (AB 2465). A hearing on AB 2465 was cancelled at the sponsor's request. In addition to those bills, which were all introduced in 2012, a 2011 employment non-discrimination bill for patients (SB 129) died in late January after missing a deadline for bills introduced the prior year.

In **Hawaii**, several bills were considered to expand the state's medical marijuana law in 2011 that carried over to 2012. The legislative session ended without any bills passing. The bills included proposals that passed the Senate in 2011 to allow medical marijuana dispensaries (SB 1458); to increase patients' possession limits (SB 58); and to move the medical marijuana program from the public safety department to the health department (SB 175). A regressive bill, which was introduced in 2012, would have removed chronic pain as a qualifying condition (HB 1963).<sup>4</sup>

Several bills are proposed in **Michigan** that would undermine the state's medical marijuana program, as is a sensible bill to allow regulated dispensaries.<sup>5</sup> On May 3, the House of Representatives passed four bills — HB 4851, HB 4834, HB 4856, and HB 4853 — sending them to the Senate. Two of the bills — HB 4851 and HB 4834 — included positive aspects, but the regressive aspects of the bills greatly outweigh their positive ones. HB 4851 would remove the only legal protections that apply to PTSD sufferers. HB 4834 would place sensitive patient information in the hands of law enforcement without any independent verification that there is probable cause. It would also put this information at the fingertips of federal agents, who do not recognize medical marijuana. HB 4856 would require medical marijuana to be transported in a trunk and also in a case, unlike every other medication. Several other bills, including one to remove glaucoma from the list of qualifying conditions, are pending. In addition, Rep. Mike Callton (R) introduced HB 5580, a proposal to allow medical marijuana "provisioning centers" under state law if they are allowed by the municipality where they operate and if they comply with both municipal and statewide regulations.

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<sup>4</sup> For a comprehensive list of medical marijuana-related bills pending in Hawaii, visit <http://www.cqstatetrack.com/texis/viewrpt/main.html?event=49d65e98c3>. The list also includes bills that affect non-medical marijuana policy.

<sup>5</sup> A description of all of the bills, along with MPP's position on them, is available here: <http://www.mpp.org/assets/pdfs/states/Michigan-Bills-4.pdf>. The bills themselves are available at <http://www.cqstatetrack.com/texis/viewrpt/main.html?event=49d661ebc3>.

In **Washington State**, several bills carried over from 2011, including legislation to regulate and allow dispensaries and to provide patients with protection from arrest (SB 6265); they currently are only protected from convictions. In addition, a resolution was introduced in 2012 urging the federal government to reschedule marijuana (SJM 8017). The bill to allow dispensaries and to afford patients protection from arrest died in committee.

In **Arizona**, the legislature approved a bill to punish doctors who recommend medical marijuana to patients who do not have a qualifying condition (HB 2035) and a bill to ban medical marijuana on college campuses (HB 2349). Another bill was proposed to limit local taxes on medical marijuana (HB 2054). In **Colorado**, a bill allowing financial cooperatives for dispensaries died in committee (SB 74). Another Colorado bill would set responsible medical marijuana vendor standards (SB 154).

In **Rhode Island**, twin bills are advancing to allow patients and caregivers to sell surplus marijuana to compassion centers and include a cap on the amount of marijuana compassion centers can have — 1,500 ounces and 150 plants with 99 mature (S 2555, H 7888). The bills were designed as a compromise to allow for implementation of compassion centers following a letter from U.S. Attorney Peter Neronha. Two other companion bills, H 7960 and S 2783, would add some regressive changes to Rhode Island's medical marijuana law, including by removing a provision that provides protection to out-of-state patients visiting Rhode Island. The bills would also include 24-7 verification of ID cards.

In **New Jersey**, legislation has been proposed to prevent cities from forbidding dispensaries from operating (A 339). The New Jersey House of Representatives approved SCR 89, a resolution urging clemency for a multiple sclerosis patient who was convicted of cultivating his own marijuana while the state health department stalled implementation of the state's medical marijuana law. The resolution fell one vote shy in the Senate but can be reconsidered.

In **D.C.**, the Council passed a bill to limit concentration of medical marijuana cultivators in a ward (PR 19 557). It also passed a bill enacting a moratorium on cultivation centers in retail priority areas (PR 19 619). In **New Mexico**, the legislature approved a bill to create a separate fund for the medical marijuana program, with its income coming from licensed producers and patient fees (SB 240). In **Vermont**, a bill has been proposed to add PTSD as a qualifying condition (HB 568).