

ASSEMBLY THIRD READING

AB 1954 (Quirk)

As Amended May 19, 2022

Majority vote

SUMMARY

Prohibits a physician and surgeon from denying treatment or medication to a qualified medicinal cannabis patient on the sole basis of the patient's use of cannabis, except as specified.

Major Provisions

- 1) Define "qualified patient" as having the same meaning as defined under provisions relating to the Compassionate Use Act of 1996.
- 2) Prohibit a physician and surgeon from automatically denying treatment or medication to a qualified patient based solely on a positive drug screen for tetrahydrocannabinol (THC) or report of medical cannabis use without first completing a case-by-case evaluation of the patient that includes a determination that the use of medicinal cannabis is medically significant to the treatment or medication.
- 3) Define "medically significant" for purposes of the case-by-case evaluation.
- 4) Specify that the use of medical cannabis that has been recommended by a licensed physician and surgeon does not constitute the use of an illicit substance in the evaluation performed under this bill.
- 5) Specify that no physician and surgeon may be punished, or denied any right or privilege, for having administered treatment or medication to a qualified patient within the requirements of this bill and consistent with the standard of care.

COMMENTS

Background. Under California law, the use and cultivation of medicinal cannabis have been legal since 1996, and the cultivation and non-medical use of cannabis has been legal since 2016. While physician recommendations are no longer necessary to consume cannabis in California, many patients still obtain these recommendations and obtain additional state law protections, including those relating to organ donations and the ability of the terminally ill to consume cannabis in certain health facilities. To qualify, a physician must determine that the person's health would benefit from its use in the treatment of cancer, anorexia, Acquired Immunodeficiency Syndrome (AIDS), chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.

Medicinal Cannabis. Medicinal cannabis refers to the use of cannabis and cannabis products for health care purposes. Also known as "marijuana" or "marihuana," cannabis is the general term for processed cannabis plants. Cannabis plants are processed in many ways, providing for a variety of inhalable, ingestible, and other mediums. Cannabis plants contain more than 100 cannabinoids, but two are of particular interest for medical purposes: tetrahydrocannabinol (THC) and cannabidiol (CBD). THC is the primary psychoactive substance leading to an altered mental state (high). CBD is also psychoactive but does not tend to alter a person's mental state.

In 1999, after medicinal cannabis was legalized in California, the Institute of Medicine of the National Academies of Sciences, Engineering, and Medicine issued a report stating that scientific data indicate the "potential therapeutic value of cannabinoid drugs, primarily THC, for pain relief, control of nausea and vomiting, and appetite stimulation." The report went on to state that the psychological effects of cannabinoids, such as anxiety reduction, sedation, and euphoria can influence their potential therapeutic value.

In January 2017, the National Academies of Sciences, Engineering, and Medicine published *The Health Effects of Cannabis and Cannabinoids*, a review of the scientific research on cannabis published since 1999, considering more than 10,000 scientific abstracts to reach nearly 100 conclusions. This review found evidence to support that patients who were treated with cannabis or cannabinoids were more likely to experience significant reductions in pain symptoms. It also found benefits for multiple sclerosis-related muscle spasms, and preventing and treating chemotherapy-induced nausea and vomiting. Along with certain benefits, the review of the science suggested cannabis is likely to increase the risk of developing schizophrenia and other psychoses, and that with greater frequency of cannabis use, there is an increased likelihood of developing riskier cannabis use.

Legal Status of Cannabis. According to the National Conference of State Legislatures, 33 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands have authorized some form of cannabis use, California being the first with the passage of the Compassionate Use Act (Proposition 215) in 1996. Still, at the federal level cannabis is classified as a Schedule I substance under the Uniform Controlled Substances Act. Schedule I substances are considered to have no accepted medical use and a high potential for dependency, which makes the distribution of cannabis a federal offense.

According to the Author

"Recent research is increasingly highlighting the medical utility of cannabis, especially in the treatment of chronic pain. Medicinal cannabis is being used by almost 2 million Californians and has the potential to significantly improve patient quality of life. However, patients who use medicinal cannabis may be denied healthcare services solely based on a positive THC test. Doctors, too, are unclear about their liability prescribing treatments such as opioids to medicinal cannabis users. [This bill] specifies that physicians cannot deny treatment or medication to a qualified patient based solely on a positive drug screen for THC, except when medically indicated. It further clarifies that medicinal cannabis use does not constitute the use of an illicit substance for the purpose of treatment evaluation. The bill also shields physicians from liability and repercussions for treating or prescribing medication to qualified patients."

Arguments in Support

California NORML (sponsor) writes in support:

California NORML has heard innumerable complaints from chronic pain patients who say that physicians or clinics have denied them treatment with prescription opioids or other medications for no other reason than using or testing positive for medical marijuana.... However, chronic pain patients in many instances cannot fully rely on cannabis for pain management, necessitating some reliance on opioids or other prescription drugs.

In California, many health plans, health systems, and hospitals require patients to sign agreements not to use illicit or controlled substances for the duration of their

prescribed opioid treatment and agree to drug testing.... An online survey by [California NORML] of nearly 600 patients found that 18.5% of respondents have been denied prescription medications due to their use of cannabis. Existing law does not specify whether healthcare providers who prescribe opioids may refuse to do so exclusively on the grounds of a positive test for [THC] or its metabolites. In its 2016 guidelines for prescribing opiates for chronic pain, the Centers for Disease Control recommended that patients not be dismissed from care based on a urine test for THC because this could have adverse consequences for patient safety. We have heard of cases where patients have resorted to street drugs after being denied opioid prescriptions.

Many physicians are wrongly under the impression that they cannot prescribe opioid medications to patients who test positive for cannabis, resulting in hundreds of chronic pain patients who are unfairly denied access to quality-of-life or life-saving medications.

Arguments in Opposition

The *California Medical Association* has removed its opposition to this bill after the April 20, 2020, amendments.

FISCAL COMMENTS

According to the Assembly Appropriations Committee analysis of the April 20, 2020, version of this bill, minor and absorbable costs to the Medical Board of California and the Osteopathic Medical Board.

VOTES

ASM BUSINESS AND PROFESSIONS: 18-0-1

YES: Berman, Flora, Bloom, Mia Bonta, Cunningham, Megan Dahle, Fong, Gipson, Grayson, Irwin, Lee, McCarty, Medina, Mullin, Ward, Ting, Akilah Weber, Arambula

ABS, ABST OR NV: Chen

ASM APPROPRIATIONS: 16-0-0

YES: Holden, Bigelow, Bryan, Calderon, Carrillo, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Jones-Sawyer, Quirk, Robert Rivas, Akilah Weber, Wilson

UPDATED

VERSION: May 19, 2022

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