

# *Frequently Asked Questions about New York's Medical Marijuana Bill*



## **A.6357-A (Gottfried) / S.4406-A (Savino)**

### **What is New York's Medical Marijuana Bill?**

Legislators in Albany have introduced the Compassionate Care Act, a bill that would allow New Yorkers with serious medical conditions limited access to medical marijuana under the supervision of healthcare professionals and under tight state regulation.

### **How would a patient become eligible to use medical marijuana?**

To become eligible to receive medical marijuana, patients must be certified by a healthcare practitioner who is licensed to prescribe controlled substances (i.e., physician, physician assistant, or nurse practitioner) as having a severely debilitating or life-threatening illness for which marijuana is likely to have a therapeutic or palliative benefit. The certification lasts for a year and then has to be renewed. Patients with a terminal illness can receive a certification that lasts until the end of their lives.

### **Can patients designate a caregiver to help them obtain medical marijuana?**

Recognizing that some patients may be very ill, the bill allows patients to designate a caregiver, who can help them obtain medical marijuana. Caregivers must be 21 years of age (unless approved by the Department of Health [DOH]), must receive a registry card from DOH, and cannot serve more than five certified patients. Under the bill, registered caregivers have the same protections as patients.

### **How would the program work?**

The New York proposal was drafted with careful, strict controls: under tight regulation, a patient who has been certified by a physician to use medical marijuana would register with DOH and receive a patient identification card that has the patient's name, photo, date of certification and its expiration, and physician contact information. DOH can charge a "reasonable" fee for registration. Specially approved organizations – such as hospitals, designated nonprofits, or for-profit businesses – would dispense the marijuana to registered patients, under DOH supervision.

### **Who can operate an organization that dispenses medical marijuana?**

Pharmacies, hospitals, nursing homes, community health centers, hospices, non-profit organizations, and for-profit businesses can apply to DOH to legally sell and dispense medical marijuana to patients or caregivers. DOH will also register producers for purpose of manufacturing, selling and delivering medical marijuana to registered organizations. DOH will oversee the applications, registration and renewal (required every two years) of organizations and ensure that the dispensing of medical marijuana is tightly regulated.

### **How much medical marijuana can a patient or his/her caregiver possess?**

The bill allows a registered patient to have up to 2.5 ounces of medical marijuana without facing any penalties. A designated caregiver may possess up to 2.5 ounces for each of his or her registered patients.

**Can registered medical marijuana patients grow their own medical marijuana at home?**

No. The current bill does not permit patients to grow their own medical marijuana. They must obtain it from a state regulated dispensary.

**Are there restrictions on where medical marijuana can be used?**

Yes. Registered patients cannot use medical marijuana in a “public place” or any place where tobacco is prohibited.

**Can minors receive medical marijuana?**

If a patient is under 18, then an appropriate adult (e.g., parent or legal guardian or their designee) can apply to the registry as a caregiver on behalf of the minor.

**Can individuals with a prior drug conviction participate in the program?**

Yes, as long as they are certified as having a serious illness requiring treatment with medical marijuana. However, those who want to operate an organization that dispenses medical marijuana must report to DOH if they have been convicted of any felony, whether drug-related or not.

**Does the law protect patients, healthcare practitioners and organizations registered to dispense medical marijuana?**

Yes. The bill protects patients, designated caregivers, and practitioners as well as registered organizations and their employees from arrest, prosecution or penalty for possessing, or using medical marijuana under the bill. Discrimination against patients by landlords, schools, employers or healthcare providers is also prohibited by the bill, and patients cannot be denied custody or visitation rights based on using medical marijuana absent substantiated evidence of danger to their children.

**Can't the federal government shut down the program?**

Under the principle of federalism, decisions about state marijuana laws have always been entirely up to the state. In June of 2005, the United States Supreme Court issued a ruling in *Gonzales v. Raich*, which held that the federal government has the power to prosecute medical marijuana patients in states that have laws allowing the use of medical marijuana. However, the federal government cannot force any state to criminalize marijuana or to enforce federal law, and this ruling does not render state medical marijuana laws invalid. In fact, the New York State bill includes a provision that prohibits state and local law enforcement agencies from cooperating with or assisting federal agencies trying to undermine the integrity of medical marijuana in New York. Because 99 out of 100 marijuana arrests are made under state law, rather than federal law, a state medical marijuana law would have the practical effect of protecting the vast majority of medical marijuana patients from arrest. Since the mid-1990's, voters and elected officials in seventeen states and the District of Columbia have made the medical use of marijuana legal to alleviate the pain and suffering of patients with serious illnesses. While the federal government has targeted individual dispensaries in some states, they have not targeted or shut down the medical marijuana program of any state.

### How is the New York State bill different from other jurisdictions, like California?

The California law lacks strong regulation and oversight. New York's proposed system includes strict regulations and direct oversight by the New York State Department of Health. For instance, unlike California, the New York bill limits access to medical marijuana to only those patients who are suffering from debilitating or life-threatening conditions. Additionally, the proposed New York law requires the state Department of Health to closely regulate who can produce and distribute marijuana for medical use. New York's proposed system is even more restrictive than those in other states – such as New Mexico, Rhode Island and Vermont – that have not experienced the types of problems seen in California.

### What can I do to support the medical marijuana bill in New York State?

You can join the effort to bring medical marijuana to New Yorkers in need by:

- Signing on to a letter of support if you are part of an organization that believes in compassionate care. You can sign on by visiting our website: [www.compassionatecareny.org](http://www.compassionatecareny.org).
- Connecting us with health care providers and patients in your community who can speak on the importance of this issue.
- Lending your story to the campaign if you have a serious condition and access to medical marijuana would provide vital improvements in your quality of life.
- Contributing your voice to the campaign if you are a healthcare provider that believes doctors, nurses and patients, not the state, should decide the best treatment for debilitating medical conditions.
- Inviting us to your next meeting of healthcare providers, consumers and advocates who care about compassion.
- Spreading the word by sharing our Facebook page ([www.facebook.com/pages/Compassionate-Care-NY](https://www.facebook.com/pages/Compassionate-Care-NY)) and following us on twitter (@CompassionateNY).