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SB-302 Compassionate Access to Medical Cannabis Act. (2023-2024)

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Senate Bill No. 302

CHAPTER 484

An act to amend Sections 1649.1, 1649.2, 1649.3, and 1649.6 of the Health and Safety Code, relating to health care facilities.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 302, Stern. Compassionate Access to Medical Cannabis Act.

Existing law, the Compassionate Access to Medical Cannabis Act or Ryan's Law, requires specified types of health care facilities to allow a terminally ill patient's use of medicinal cannabis within the health care facility, as defined, subject to certain restrictions. Existing law requires that health care facilities permitting patient use of medicinal cannabis comply with other drug and medication requirements, as specified, and makes those facilities subject to enforcement actions by the State Department of Public Health. Existing law authorizes a health care facility to suspend compliance with these provisions if a regulatory agency, the United States Department of Justice, or the federal Centers for Medicare and Medicaid Services takes specified actions, including initiating an enforcement action against a health care facility related to the facility's compliance with a state-regulated medical marijuana program.

This bill would expand those provisions to a patient who is over 65 years of age with a chronic disease. The bill would expand the definition of health care facility to also include a home health agency, as defined. The bill would additionally require a health care facility permitting patient use of medicinal cannabis, as specified, to ensure a denial of admission to the health care facility is not because of the patient's use of medicinal cannabis. The bill would also authorize a health care facility to suspend compliance with these provisions if a regulatory agency, the United States Department of Justice, or the federal Centers for Medicare and Medicaid Services makes an inquiry about the health care facility's activities.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1649.1 of the Health and Safety Code is amended to read:

1649.1. Unless the context requires otherwise, the following definitions shall apply for purposes of this chapter:

(a) "Compassionate Use Act of 1996" means the initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election and found at Section 11362.5, and any amendments to that act.

(b) (1) Except as provided in paragraph (2), "health care facility" means a health facility specified in subdivision (a), (c), (f), (i), or (n) of Section 1250 or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

(2) The meaning of "health care facility" shall not include any of the following:

(A) A chemical dependency recovery hospital.

(B) A state hospital.

(C) An emergency department of a health care facility, as specified in subdivision (a) of Section 1250, while the patient is receiving emergency services and care.

(c) "Home health agency" means a private or public organization, including, but not limited to, any partnership, corporation, political subdivision of the state, or other government agency within the state, that provides, or arranges for the provision of, skilled nursing services, to persons in their temporary or permanent place of residence and is licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

(d) "Medicinal cannabis" means cannabis or a cannabis product used in compliance with the Compassionate Use Act of 1996 and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10.

(e) "Patient" means an individual who meets one or both of the following criteria:

(1) Is terminally ill.

(2) Is over 65 years of age with a chronic disease for which the patient has received a physician's assessment declaring that the patient has a serious medical condition, as defined by subdivision (h) of Section 11362.7 and that the use of medicinal cannabis is appropriate.

(f) "Terminally ill" means a medical condition resulting in a prognosis of life of one year or less, if the disease follows its natural course.

SEC. 2. Section 1649.2 of the Health and Safety Code is amended to read:

1649.2. (a) Except as provided in subdivision (b), a health care facility shall permit patient use of medicinal cannabis, as indicated by the attending physician, as defined by Section 11362.7, in the patient's medical record and shall do all of the following:

(1) (A) A home health agency shall prohibit smoking or vaping immediately before or while home health agency staff are present in the residence.

(B) All other health facilities shall prohibit smoking or vaping as methods to use medicinal cannabis.

(2) Include the use of medicinal cannabis within the patient's medical records.

(3) Require a patient to provide a copy of the patient's valid identification card, as described in Section 11362.715, or a copy of that patient's written documentation as defined in Section 11362.7.

(4) Require a patient or a primary caregiver, as defined in Section 11362.7, to be responsible for acquiring, retrieving, administering, and removing medicinal cannabis.

(5) Require medicinal cannabis to be stored securely at all times in a locked container in the patient's room, other designated area, or with the patient's primary caregiver. This requirement does not apply to a home health agency.

(6) Prohibit health care professionals, health care facility staff, and home health agency staff, including, but not limited to, physicians, nurses, and pharmacists, from administering medicinal cannabis or retrieving medicinal cannabis from storage.

(7) Develop, disseminate, and train health facility staff on the written guidelines developed by the facility for the use and disposal of medicinal cannabis within the health care facility pursuant to this chapter. This requirement does not apply to a home health agency.

(8) Ensure that a patient is not denied admission to the health care facility in whole or in part because of the patient's use of medicinal cannabis.

(b) Notwithstanding subdivision (a), a general acute care hospital specified in subdivision (a) of Section 1250 shall not permit a patient with a chronic disease to use medicinal cannabis.

SEC. 3. Section 1649.3 of the Health and Safety Code is amended to read:

1649.3. (a) Upon discharge, all remaining medicinal cannabis shall be removed by the patient or patient's primary caregiver. If a patient cannot remove the medicinal cannabis and does not have a primary caregiver that is available to remove the medicinal

cannabis, the product shall be stored in a locked container until it is disposed of in accordance with the health facility policy and procedure governing medicinal cannabis.

(b) Subdivision (a) does not apply to a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

SEC. 4. Section 1649.6 of the Health and Safety Code is amended to read:

1649.6. (a) If a federal regulatory agency, the United States Department of Justice (US DOJ), or the federal Centers for Medicare and Medicaid Services (CMS) takes one of the following actions, or makes an inquiry about the health care facility's activities pursuant to Section 1649.2, a health care facility may suspend compliance with Section 1649.2 until the regulatory agency, the US DOJ, or CMS notifies the health care facility that it may resume permitting the use of medicinal cannabis within the facility:

(1) A federal regulatory agency or the US DOJ initiates enforcement action, including a notice to suspend funding, against a health care facility related to the facility's compliance with a state-regulated medical marijuana program.

(2) A federal regulatory agency, the US DOJ, or CMS issues a rule, guidance, or otherwise provides notification to the health care facility that expressly prohibits the use of medical marijuana in health care facilities or otherwise prohibits compliance with a state-regulated medical marijuana program.

(b) This section does not permit a health care facility to prohibit patient use of medicinal cannabis due solely to the fact that cannabis is a Schedule I drug pursuant to the federal Uniform Controlled Substances Act, or other federal constraints on the use of medicinal cannabis that were in existence prior to the enactment of this chapter.