

Introduced by Senator Johannessen

February 25, 2000

An act to add Chapter 5.5 (commencing with Section 11340) to Division 10 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 2089, as introduced, Johannessen. Medicinal marijuana.

Existing law, the Compassionate Use Act of 1996, prohibits any physician from being punished or denied any right or privilege for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

This bill would specify requirements of any physician recommending marijuana to a patient for medical purposes. The bill would require that the physician document the recommendation in the patient's record, and include in any recommendation the patient's name, the date of the recommendation, the dosage, quantity, and frequency of usage of the marijuana, the illness or illnesses for which the marijuana is recommended, and the duration of the recommendation. The bill would specify the maximum amount of marijuana that a physician is permitted to recommend for medicinal use. The bill would require that the



recommendation be for no longer than one year, notwithstanding the time period for which the marijuana is recommended. The bill would provide that the failure of a physician to comply with these requirements shall constitute unprofessional conduct. The bill would require the State Department of Health Services to adopt regulations to implement these provisions.

The bill would prohibit any person from possessing or cultivating marijuana for medicinal use under these provisions unless the person has a valid recommendation from a physician that meets the requirements of the bill. The bill would require, prior to the possession or cultivation by any person of marijuana in accordance with a valid recommendation of a physician, a person to register with the department. The bill would subject to criminal proceedings any person who possesses or cultivates a quantity of marijuana that is inconsistent with the recommendation of the physician and would specify that amount of marijuana that would be presumed to be for nonmedicinal use.

The bill would change the definition of crimes related to the possession or cultivation of marijuana out of compliance with the requirements of the bill, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 5.5 (commencing with Section
- 2 11340) is added to Division 10 of the Health and Safety
- 3 Code, to read:
- 4



CHAPTER 5.5. MEDICINAL USE OF MARIJUANA

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11340. (a) In recommending marijuana to a patient for medical purposes pursuant to the authority granted under Section 11362.5, a physician shall meet all of the following requirements:

(1) (A) No person other than a physician who possesses a current license in good standing to practice in this state and who is acting within his or her scope of practice shall write or issue a recommendation for the medicinal use of marijuana.

(B) The physician shall document the issuance of any recommendation of marijuana to a patient for medicinal purposes in the patient's record.

(2) (A) The recommendation shall contain the date of the recommendation and the name of the person for whom the marijuana is recommended.

(B) The recommendation shall specify the illness or illnesses for which the marijuana is recommended.

(C) The recommendation shall specify the dosage, quantity, and frequency of usage of the marijuana. The quantity of marijuana recommended for medicinal use pursuant to this section shall not exceed one-fourth ounce per week.

(D) The recommendation shall specify the duration of the recommendation. The recommendation may not be for longer than one year.

(b) The failure of a physician to comply with the requirements of this section shall constitute unprofessional conduct.

(c) The department shall adopt regulations to implement this section.

11341. (a) It is the intent of the Legislature in enacting this section to regulate the illegal use and cultivation of marijuana, which is a controlled substance pursuant to paragraph (13) of subdivision (d) of Section 11054, while at the same time permitting the medicinal use of marijuana for purposes of Section 11362.5.

(b) No person shall possess or cultivate marijuana for medicinal use for purposes of Section 11362.5, unless the



1 person has a valid recommendation from a physician that
2 meets the requirements of Section 11340.

3 (c) Prior to possession or cultivation by any person of
4 marijuana in accordance with a valid recommendation of
5 a physician, a person shall register with the department.
6 The registration with the department shall include all of
7 the information required to be in a recommendation
8 under paragraph (2) of subdivision (a) of Section 11340.

9 (d) The department shall provide to the patient a copy
10 of the registration. With the patient’s consent, the
11 department shall provide to local law enforcement in the
12 jurisdiction where the patient resides a copy of the
13 registration. Except as provided in this subdivision, the
14 registration of the patient with the department shall be
15 confidential.

16 (e) A person who possesses or cultivates a quantity of
17 marijuana that is inconsistent with the recommendation
18 of the physician shall be subject to criminal proceedings
19 for the illegal possession or cultivation of marijuana.

20 (f) Possession of amounts of marijuana in excess of any
21 one of the following amounts shall be presumed to be for
22 nonmedicinal use:

- 23 (1) Two outdoor plants.
- 24 (2) Six indoor plants. Three plants in the flowering bud
25 stage and three plants in the vegetative (growing) state.
- 26 (3) One and thirty-three hundredths pounds.

27 SEC. 2. No reimbursement is required by this act
28 pursuant to Section 6 of Article XIII B of the California
29 Constitution because the only costs that may be incurred
30 by a local agency or school district will be incurred
31 because this act creates a new crime or infraction,
32 eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section
34 17556 of the Government Code, or changes the definition
35 of a crime within the meaning of Section 6 of Article
36 XIII B of the California Constitution.

