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Sub Comm - Human Res.
Blodgett, Burke, Brundberg

HOUSE FILE 404
BY MERTZ, PETERSON, HARPER,
CONNORS, GIPP, MURPHY,
BURKE, FALLON, HENDERSON,
and GILL

MAR 5 1993

HUMAN RESOURCES

(COMPANION TO LSB 1501SS
BY PRIEBE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the therapeutic use of marijuana.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 22.7, Code 1993, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 29. Identifying information concerning a
4 patient for whom marijuana is prescribed under the marijuana
5 therapeutic research program in section 124.511.

6 Sec. 2. Section 124.401, subsection 1, Code 1993, is
7 amended by adding the following new paragraph:

8 NEW PARAGRAPH. g. It is lawful for a person to cultivate
9 marijuana if the marijuana is for the person's own use for
10 therapeutic purposes in accordance with the provisions of
11 section 124.401B.

12 Sec. 3. Section 124.401, subsection 3, Code 1993 is
13 amended by adding the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. It is lawful for a person to
15 knowingly or intentionally possess marijuana if the possession
16 is in accordance with the provisions of section 124.401B or
17 124.511.

18 Sec. 4. NEW SECTION. 124.401B MARIJUANA FOR THERAPEUTIC
19 PURPOSES.

20 Notwithstanding other provisions of law to the contrary,
21 the following provisions apply to possession of marijuana for
22 therapeutic purposes in accordance with this section or
23 section 124.511.

24 1. It is lawful for a person who is eighteen years of age
25 or older to knowingly or intentionally possess marijuana if
26 either of the following circumstances exists:

27 a. The person possessing the marijuana was diagnosed by a
28 physician as having glaucoma before the person was alleged to
29 unlawfully possess the marijuana.

30 b. The person possessing the marijuana is being treated
31 with chemotherapy or radiation therapy and has suffered from
32 significant nausea or vomiting as a result of the treatment.

33 c. The person possessing the marijuana was diagnosed by a
34 physician as having multiple sclerosis, hyperparathyroidism,
35 nail patella syndrome, or acquired immune deficiency syndrome,

1 and as having symptoms of pain or spasms due to the diagnosed
2 condition, before the person was alleged to unlawfully possess
3 the marijuana.

4 2. It is lawful for a person to grow or cultivate
5 marijuana if the marijuana is for the person's own use and the
6 possession is in accordance with the provisions of subsection
7 1.

8 3. It is lawful for a person who is less than eighteen
9 years of age to knowingly or intentionally possess, or grow or
10 cultivate marijuana if the possession is in accordance with
11 the provisions of subsection 1 and the person's parent or
12 guardian authorized the possession or growing or cultivating.

13 4. Possession of marijuana in accordance with the
14 provisions of this section is a lawful possession and is an
15 affirmative defense to a prosecution for possession of
16 marijuana.

17 5. Possession of marijuana in accordance with the
18 provisions of this section or section 124.511 is lawful
19 possession and the possessor is not subject to the provisions
20 of chapter 809, relating to seizable and forfeitable property,
21 based upon that possession.

22 Sec. 5. Section 124.506, subsection 2, Code 1993, is
23 amended to read as follows:

24 2. Upon written application by the board, the court by
25 whom the forfeiture of controlled substances has been decreed
26 may order the delivery of any of them, except controlled
27 substances listed in schedule I, to the board for distribution
28 or destruction, as provided by this section or section
29 124.511.

30 Sec. 6. NEW SECTION. 124.511 MARIJUANA THERAPEUTIC
31 RESEARCH PROGRAM.

32 1. The general assembly finds that research has indicated
33 that the use of marijuana may alleviate nausea and other side
34 effects of chemotherapy and radiation therapy as well as some
35 symptoms of glaucoma and other conditions with symptoms of

1 pain, stress, spasms, nausea, or loss of appetite. The
2 general assembly finds that further research and strictly
3 controlled experimentation regarding the therapeutic uses of
4 marijuana is necessary and desirable. The purpose of this
5 section is to encourage this research and experimentation.

6 2. As used in this section, unless the context otherwise
7 requires, "program" means the marijuana therapeutic research
8 program established in this section.

9 3. A marijuana therapeutic research program is established
10 under the board. The board shall adopt rules for the proper
11 administration of the program. In adopting rules, the board
12 shall consider pertinent rules adopted by the federal drug
13 enforcement agency, federal food and drug administration,
14 national institute on drug abuse, and any other applicable
15 federal agency.

16 4. The board shall contract with the national institute on
17 drug abuse for the receipt of marijuana under pertinent rules
18 adopted by the national institute on drug abuse, the federal
19 food and drug administration, and the federal drug
20 administration. However, if within a reasonable period of
21 time, the board is unable to complete a contract with the
22 national institute on drug abuse, the board shall apply to the
23 court for delivery of marijuana under the provisions of
24 section 124.506. The board may receive the confiscated
25 marijuana and shall distribute it in accordance with this
26 section. Any marijuana received under this subsection shall
27 be made free of impurities and analyzed for potency by the
28 board.

29 5. The board shall deliver marijuana received under
30 subsection 3 to appropriate licensed pharmacists designated by
31 the board. Any marijuana delivered to a pharmacist shall only
32 be distributed to a patient pursuant to a written prescription
33 of a licensed physician who is approved by the participation
34 review committee established by this section. A pharmacist
35 designated by the board is not liable, except for intentional

1 misconduct or gross negligence, in any civil action related to
2 marijuana distributed to a patient in accordance with this
3 section.

4 6. A participation review committee is established and
5 staffing for the committee shall be provided by the board.
6 The membership of the committee shall consist of three members
7 appointed as follows: a registered pharmacist appointed by
8 the board of pharmacy examiners, a licensed physician who is
9 board certified in ophthalmology or otorhinolaryngology
10 appointed by the board of medical examiners, and a licensed
11 physician who is board certified in internal medicine with a
12 subspecialty certification in medical oncology. Committee
13 members shall serve at the pleasure of the appointing
14 authority and are eligible for payment of per diem and
15 reimbursement of actual and necessary expenses incurred while
16 performing official duties. The committee shall have
17 authority to review and approve physician applications to
18 participate in the program. The committee meetings to review
19 applications shall be closed in the same manner as a meeting
20 to discuss the contents of a licensing examination in
21 accordance with the provisions of section 21.5, subsection 1,
22 paragraph "d". Applicants must submit a twenty-five dollar
23 fee with the application.

24 7. A physician approved by the participation review
25 committee for participation in the program is authorized to
26 prescribe marijuana for a patient under any of the following
27 circumstances:

28 a. The patient is diagnosed as having glaucoma by the
29 physician.

30 b. The patient is being treated with chemotherapy or
31 radiation therapy and has suffered from significant nausea or
32 vomiting as a result of the treatment.

33 c. The patient is diagnosed by a physician as having
34 multiple sclerosis, hyperparathyroidism, nail patella
35 syndrome, acquired immune deficiency syndrome, or other

1 condition with symptoms of pain or spasms.

2 8. A physician approved by the participation review
3 committee for participation in the program is expressly
4 authorized to prescribe marijuana. A patient for whom
5 marijuana is prescribed by a physician approved to participate
6 in the program is expressly authorized to possess marijuana.
7 A registered pharmacist designated by the board under this
8 section is expressly authorized to possess and distribute
9 marijuana under this section.

10 9. Only the following persons shall have access to the
11 name and other identifying characteristics of a patient for
12 whom marijuana is prescribed under this section:

- 13 a. The board.
- 14 b. The attorney general or a designee of the attorney
15 general.
- 16 c. A person directly connected with the program who has a
17 legitimate need for the information.
- 18 d. A person for whom access has been specifically
19 authorized by that patient.

20 10. The board and the participation review committee shall
21 report annually with findings and recommendations concerning
22 the program to the governor and the general assembly.

23 Sec. 7. Section 453B.6, Code 1993, is amended by adding
24 the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. A person who is in possession of
26 marijuana for medical purposes in accordance with section
27 124.401B or 124.511 is in lawful possession of a taxable
28 substance and is not subject to the requirements of this
29 chapter.

30 EXPLANATION

31 This bill relates to the therapeutic use of marijuana.
32 The uniform controlled substances Act is amended to
33 authorize lawful possession of marijuana for therapeutic
34 purposes. In order to be lawful, the possessor must have been
35 diagnosed as having glaucoma, be undergoing chemotherapy or

1 radiation therapy and suffering significant nausea or
2 vomiting, or as having multiple sclerosis,
3 hyperparathyroidism, nail patella syndrome, or acquired immune
4 deficiency syndrome, and as having symptoms of pain or spasms
5 due to the diagnosed condition. Juvenile possession is lawful
6 if the juvenile meets the same criteria and the juvenile's
7 parent or guardian has authorized the possession. A person
8 who is authorized to possess the marijuana under this
9 provision is also permitted to grow or cultivate the marijuana
10 for their own use. Lawful possession is an affirmative
11 defense to a prosecution for unlawful possession of marijuana.
12 The bill provides that the lawful possessor is not subject to
13 the seizure and forfeiture law as a result of that possession.

14 In addition, the bill establishes a marijuana therapeutic
15 research program under the board of pharmacy examiners. The
16 board is to consider various federal requirements in adopting
17 rules for the program's administration. The board is to
18 contract with the national institute on drug abuse to receive
19 marijuana for distribution under prescriptions. However, if
20 the contract cannot be made, the board is to apply to the
21 court to receive confiscated marijuana and upon receipt is to
22 distribute it as part of the program. The board is to ensure
23 that the marijuana is made free of impurities and is tested
24 for potency. The bill includes an amendment to the open
25 records law so that identifying information concerning a
26 patient in the program is kept confidential.

27 The board is to designate pharmacists who may receive
28 marijuana from the board and distribute it pursuant to a
29 prescription from an approved physician. A participation
30 review committee consisting of two physician specialists
31 appointed by the board of medical examiners and an appointee
32 of the board of pharmacy examiners reviews and approves
33 physician applicants. Applications are subject to a \$25 fee.
34 Patients, physicians, and pharmacists participating in the
35 program are expressly authorized to possess marijuana. The

1 board of pharmacy examiners and the participation review
2 committee must report annually to the governor and the general
3 assembly concerning the program.
4 The bill specifies that lawful possessors are not subject
5 to tax stamp provisions.

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