

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 23-0485.01 Sarah Lozano x3858

**SENATE BILL 23-081**

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**SENATE SPONSORSHIP**

**Van Winkle and Jaquez Lewis,**

**HOUSE SPONSORSHIP**

**Soper and Snyder,**

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**Senate Committees**

Health & Human Services  
Finance

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ALLOWING EQUITABLE PATIENT ACCESS TO MEDICAL**  
102 **MARIJUANA IN COLORADO.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

Current law allows a physician to submit documentation to the department of public health and environment (department) stating that a patient has a debilitating medical condition or disabling medical condition and may benefit from the use of medical marijuana. The bill clarifies that the physician is submitting a recommendation to the department rather than a certification or authorization.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

The bill removes the following requirements for a physician's recommendation to the department:

- The physician's federal drug enforcement agency number;
- The maximum THC potency level of the medical marijuana product;
- The recommended medical marijuana product;
- The patient's daily authorized quantity of the medical marijuana product; and
- Directions for use of the medical marijuana product.

The bill allows a physician to establish a bonafide physician-patient relationship remotely via video or telephone conference if the patient is:

- 21 years of age or older;
- Under 18 years of age; or
- 18 years of age or older but under 21 years of age and the patient received a medical marijuana recommendation prior to 18 years of age.

The bill clarifies that a patient must only present a uniform certification form completed by a recommending physician to a medical marijuana store if the patient seeks to purchase more than the statutorily allowed limit of medical marijuana products.

Current law limits the amount of medical marijuana concentrate that a patient may purchase in a single day to 8 grams. The bill increases that limitation to 40 grams, but limits the total amount that a patient can purchase in a 30-day period to the equivalent of 8 grams per day. Current law limits the combined amount of medical marijuana products that a patient may purchase in a single day to 20,000 milligrams. The bill adds an exception to that limitation for nonedible, nonpsychoactive medical marijuana products.

Current law limits the amount of medical marijuana concentrate that a patient 18 years of age or older but under 21 years of age may purchase in a single day to 2 grams. The bill allows a patient that is 18 years of age or older but under 21 years of age and had a registry identification card issued by the department prior to 18 years of age to purchase in a single day up to 8 grams of medical marijuana concentrate.

The bill clarifies that when a physician issues a uniform certification form to a patient 18 years of age or older, the physician may consider whether the patient had a registry identification card issued by the department prior to 18 years of age as a factor in recommending that the patient be allowed to purchase more than the statutorily allowed quantities of medical marijuana products.

The bill allows a retail marijuana store to sell retail marijuana products to patients at the statutorily allowed limit for medical marijuana products and registered primary caregivers 21 years of age or older who present a registry identification card issued by the department. The bill

also allows a registered primary caregiver to purchase retail marijuana products for a patient who is under 21 years of age at the applicable statutorily allowed limit for medical marijuana products for patients under 21 years of age.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-1.5-106, **amend**  
3 (2)(a.5)(I), (5)(b)(I), (5)(b)(II) introductory portion, (5)(b)(II)(C),  
4 (5)(b)(II)(H), (5)(b)(III), and (5)(c); **repeal** (5)(b)(II)(D), (5)(b)(II)(E),  
5 (5)(b)(II)(F), and (5)(b)(II)(G); and **add** (5)(b)(II.5), (5)(h), and (5)(i) as  
6 follows:

7 **25-1.5-106. Medical marijuana program - powers and duties**  
8 **of state health agency - rules - medical review board - medical**  
9 **marijuana program cash fund - subaccount - created - "Ethan's**  
10 **Law" - definitions - repeal. (2) Definitions.** In addition to the  
11 definitions set forth in section 14 (1) of article XVIII of the state  
12 constitution, as used in this section, unless the context otherwise requires:

13 (a.5) "Bona fide physician-patient relationship", for purposes of  
14 the medical marijuana program, means:

15 (I) A physician and a patient have a treatment or counseling  
16 relationship, in the course of which the physician has completed ~~the~~  
17 ~~in-person~~ A full assessment of the patient's medical history, including ~~an~~  
18 ~~assessment of~~ ASSESSING the patient's medical and mental health history  
19 to determine whether the patient has a medical or mental health issue that  
20 could be exacerbated by the use of medical marijuana and reviewing a  
21 previous diagnosis, IF AVAILABLE, for a debilitating or disabling medical  
22 condition, and A FULL ASSESSMENT OF THE PATIENT'S current medical  
23 condition, including an appropriate personal physical examination. ~~If the~~

1 ~~recommending physician is not the patient's primary care physician, the~~  
2 ~~recommending physician shall review the existing records of the~~  
3 ~~diagnosing physician or a licensed mental health provider.~~ This  
4 subsection (2)(a.5)(I) does not require a mental health examination prior  
5 to making a recommendation.

6 (5) **Physicians.** A physician who certifies a debilitating medical  
7 condition or disabling medical condition for an applicant to the medical  
8 marijuana program shall comply with all of the following requirements:

9 (b) (I) (A) After a physician, who has a bona fide  
10 physician-patient relationship with the patient applying for the medical  
11 marijuana program, determines, for the purposes of making a  
12 recommendation, that the patient has a debilitating medical condition or  
13 disabling medical condition and that the patient may benefit from the use  
14 of medical marijuana, the physician shall certify to the state health agency  
15 that the patient has a debilitating medical condition or disabling medical  
16 condition and that the patient may benefit from the use of medical  
17 marijuana. If the physician certifies that the patient would benefit from  
18 the use of medical marijuana based on a chronic or debilitating disease or  
19 medical condition or disabling medical condition, the physician shall  
20 specify the chronic or debilitating disease or medical condition or  
21 disabling medical condition and, if known, the cause or source of the  
22 chronic or debilitating disease or medical condition or disabling medical  
23 condition.

24 (B) A physician's ~~authorization~~ RECOMMENDATION for medical  
25 marijuana must be in compliance with the provisions of this section, any  
26 rules promulgated pursuant to this section, the physician's respective  
27 practice act, article 220 of title 12 and any rules promulgated pursuant to

1 that article for a dentist, article 240 of title 12 and any rules promulgated  
2 pursuant to that article, and article 255 of title 12 and any rules  
3 promulgated pursuant to that article for an advanced practice registered  
4 nurse.

5 (II) The ~~certification~~ RECOMMENDATION must include the  
6 following:

7 (C) The ~~authorizing~~ RECOMMENDING physician's name AND  
8 address; and ~~federal drug enforcement agency number;~~

9 (D) ~~The maximum THC potency level of medical marijuana being~~  
10 ~~recommended;~~

11 (E) ~~The recommended product, if any;~~

12 (F) ~~The patient's daily authorized quantity, if such quantity~~  
13 ~~exceeds the maximum statutorily allowed amount for the patient's age;~~

14 (G) ~~Directions for use; and~~

15 (H) The ~~authorizing~~ RECOMMENDING physician's signature.

16 (II.5) THE RECOMMENDATION MAY INCLUDE THE FOLLOWING:

17 (A) THE MAXIMUM THC POTENCY LEVEL OF MEDICAL MARIJUANA  
18 BEING RECOMMENDED;

19 (B) THE RECOMMENDED PRODUCT, IF ANY;

20 (C) THE PATIENT'S DAILY RECOMMENDED QUANTITY; AND

21 (D) DIRECTIONS FOR USE, IF ANY.

22 (III) The ~~authorizing~~ RECOMMENDING physician shall provide the  
23 patient with a copy of the ~~certification~~ RECOMMENDATION.

24 (c) The physician shall maintain a record-keeping system,  
25 including a copy of the ~~certification~~ RECOMMENDATION, for all patients  
26 for whom the physician has ~~authorized~~ RECOMMENDED the medical use  
27 of marijuana, and, pursuant to an investigation initiated pursuant to

1 section 12-240-125, the physician shall produce such medical records to  
2 the Colorado medical board after redacting any patient or primary  
3 caregiver identifying information. The physician shall maintain the  
4 medical records of the patient's visit, and the physician shall, WITH THE  
5 PATIENT'S PERMISSION, respond to a treating physician's request for  
6 medical records to treat the patient with the ~~certification with the patient's~~  
7 ~~permission~~ RECOMMENDATION.

8 (h) A PHYSICIAN MAY TREAT, COUNSEL, DIAGNOSE, AND CONDUCT  
9 APPROPRIATE PERSONAL PHYSICAL EXAMINATIONS IN PERSON OR  
10 REMOTELY VIA TELEPHONE OR VIDEO CONFERENCE TO ESTABLISH A  
11 BONAFIDE PHYSICIAN-PATIENT RELATIONSHIP WITH A PATIENT IF THE  
12 PATIENT IS UNDER EIGHTEEN YEARS OF AGE OR TWENTY-ONE YEARS OF  
13 AGE OR OLDER. THE INITIAL PERSONAL PHYSICAL EXAMINATION FOR A  
14 PATIENT EIGHTEEN YEARS OF AGE OR OLDER BUT UNDER TWENTY-ONE  
15 YEARS OF AGE MUST BE IN PERSON UNLESS THE PATIENT IS HOMEBOUND OR  
16 QUALIFIES FOR A SIGNIFICANT GEOGRAPHIC HARDSHIP; ANY SUBSEQUENT  
17 EXAMINATIONS MAY BE CONDUCTED VIA TELEPHONE OR VIDEO  
18 CONFERENCE. IF A PATIENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER BUT  
19 UNDER TWENTY-ONE YEARS OF AGE RECEIVED A RECOMMENDATION FOR  
20 MEDICAL MARIJUANA PRIOR TO EIGHTEEN YEARS OF AGE, THE PATIENT IS  
21 NOT REQUIRED TO RECEIVE AN IN-PERSON PERSONAL PHYSICAL  
22 EXAMINATION TO ESTABLISH A BONAFIDE PHYSICIAN-PATIENT  
23 RELATIONSHIP WITH A PHYSICIAN.

24 (i) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A PHYSICIAN  
25 IS NOT SUBJECT TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE PENALTIES  
26 OR SANCTIONS FOR ISSUING A UNIFORM CERTIFICATION FORM, AS DEFINED  
27 IN SECTION 44-10-501 (15), TO A PATIENT OR REGISTERED PRIMARY

1 CAREGIVER.

2 **SECTION 2.** In Colorado Revised Statutes, 44-10-501, **amend**  
3 (1)(b)(II), (4)(a)(III), (4)(c), (10)(a), and (10)(b)(III); and **add** (4)(d), (13),  
4 (14), and (15) as follows:

5 **44-10-501. Medical marijuana store license - statutorily**  
6 **allowed quantities - uniform certification form - definitions.**

7 (1) (b) (II) In the event of a temporary outage of the seed-to-sale tracking  
8 system, a medical marijuana store:

9 (A) May rely upon the ~~physician's certification required by section~~  
10 ~~25-1.5-106~~ PATIENT'S UNIFORM CERTIFICATION FORM IF THE PATIENT IS  
11 SEEKING TO PURCHASE MORE THAN THE STATUTORILY ALLOWED  
12 QUANTITIES DESCRIBED IN SUBSECTION (10) OF THIS SECTION; and

13 (B) Is not responsible for any unintentional sale THAT OCCURS  
14 DURING THE OUTAGE in excess of the ~~authorized quantity limit that occurs~~  
15 ~~during the outage, provided however that~~ STATUTORILY ALLOWED  
16 QUANTITIES DESCRIBED IN SUBSECTION (10) OF THIS SECTION OR THE  
17 QUANTITIES LISTED ON THE PATIENT'S UNIFORM CERTIFICATION FORM, SO  
18 LONG AS the medical marijuana store uploads its sales data into the  
19 seed-to-sale tracking system as soon as reasonably practical after the end  
20 of the outage.

21 (4) (a) Prior to initiating a sale, the employee of the medical  
22 marijuana store making the sale shall verify:

23 (III) That the patient's or caregiver's purchase will not exceed the  
24 ~~patient's daily authorized quantity limit~~ STATUTORILY ALLOWED  
25 QUANTITIES DESCRIBED IN SUBSECTION (10) OF THIS SECTION or the  
26 amount listed on the patient's ~~certification~~ UNIFORM CERTIFICATION FORM,  
27 whichever is greater, and the purchase aligns with the purchase authority

1 information in the seed-to-sale tracking system.

2 (c) If the patient seeks to purchase more than the statutorily  
3 allowed ~~daily authorized limit~~ QUANTITIES of concentrate for the patient's  
4 age group DESCRIBED IN SUBSECTION (10) OF THIS SECTION, the patient  
5 shall present the patient's ~~certification~~ UNIFORM CERTIFICATION FORM at  
6 the time of purchase, and the medical marijuana store shall not exceed  
7 THE statutorily allowed quantities or the quantities specified in the  
8 UNIFORM certification FORM, WHICHEVER IS GREATER.

9 (d) NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF THE  
10 PATIENT OR CAREGIVER IS SEEKING TO PURCHASE MEDICAL MARIJUANA  
11 PRODUCTS AT OR BELOW THE STATUTORILY ALLOWED QUANTITIES  
12 DESCRIBED IN SUBSECTION (10) OF THIS SECTION, A MEDICAL MARIJUANA  
13 STORE SHALL NOT REQUIRE THE PATIENT OR CAREGIVER TO PRESENT ANY  
14 DOCUMENTATION OTHER THAN THE DOCUMENTATION DESCRIBED IN  
15 SUBSECTIONS (4)(a)(I) AND (4)(a)(II) OF THIS SECTION.

16 (10) (a) Except as provided in subsection (10)(b) of this section,  
17 a medical marijuana store shall not, IN A SINGLE BUSINESS DAY, sell,  
18 individually or in any combination, more than two ounces of medical  
19 marijuana flower, ~~eight~~ FORTY grams of medical marijuana concentrate,  
20 or medical marijuana products containing a combined total of twenty  
21 thousand milligrams to a patient; ~~in a single business day~~ EXCEPT THAT  
22 THE LIMIT DOES NOT APPLY TO NONEDIBLE, NONPSYCHOACTIVE MEDICAL  
23 MARIJUANA PRODUCTS, INCLUDING OINTMENTS, LOTIONS, BALMS, AND  
24 OTHER NONTRANSDERMAL TOPICAL PRODUCTS. EXCEPT AS PROVIDED IN  
25 SUBSECTION (10)(b) OF THIS SECTION, A MEDICAL MARIJUANA STORE  
26 SHALL NOT SELL, INDIVIDUALLY OR IN ANY COMBINATION, MORE THAN THE  
27 EQUIVALENT OF EIGHT GRAMS OF MEDICAL MARIJUANA CONCENTRATE PER



1 DAY TO A PATIENT WITHIN A THIRTY-DAY PERIOD.

2 (b) (III) (A) A medical marijuana store or medical marijuana  
3 stores shall not sell any more than ~~eight~~ FORTY grams of medical  
4 marijuana concentrate to a patient in a single day OR THE EQUIVALENT OF  
5 EIGHT GRAMS OF MEDICAL MARIJUANA CONCENTRATE PER DAY TO A  
6 PATIENT WITHIN ANY THIRTY-DAY PERIOD; except that this subsection  
7 (10)(b) does not apply if the patient is homebound, if the ~~physician's~~  
8 ~~certification~~ PATIENT'S UNIFORM CERTIFICATION FORM specifically states  
9 that the patient needs more than ~~eight~~ FORTY grams of medical marijuana  
10 concentrate, OR if it would be a significant physical or geographic  
11 hardship for the patient to make a daily purchase. ~~or if the patient had a~~  
12 ~~registry identification card prior to eighteen years of age.~~

13 (B) Notwithstanding ~~the provisions of~~ subsection (10)(b)(III)(A)  
14 of this section, if ~~the~~ A patient is eighteen ~~to twenty~~ years of age OR  
15 OLDER BUT UNDER TWENTY-ONE YEARS OF AGE, a medical marijuana store  
16 or medical marijuana stores shall not sell any more than two grams of  
17 medical marijuana concentrate to ~~a~~ THE patient in a single day; except that  
18 this subsection (10)(b) does not apply if the patient is homebound, if the  
19 ~~physician's certification~~ PATIENT'S UNIFORM CERTIFICATION FORM  
20 specifically states the patient needs more than two grams of medical  
21 marijuana concentrate, OR if it would be a significant physical or  
22 geographic hardship for the patient to make a daily purchase. ~~or if the~~  
23 ~~patient had a registry identification card prior to eighteen years of age.~~

24 (C) NOTWITHSTANDING SUBSECTION (10)(b)(III)(B) OF THIS  
25 SECTION, IF A PATIENT IS EIGHTEEN YEARS OF AGE OR OLDER BUT UNDER  
26 TWENTY-ONE YEARS OF AGE AND THE PATIENT HAD A REGISTRY  
27 IDENTIFICATION CARD PRIOR TO EIGHTEEN YEARS OF AGE, A MEDICAL

1 MARIJUANA STORE MAY SELL UP TO EIGHT GRAMS OF MEDICAL MARIJUANA  
2 CONCENTRATE TO THE PATIENT IN A SINGLE DAY; EXCEPT THAT THIS  
3 SUBSECTION (10)(b)(III)(C) DOES NOT APPLY IF THE PATIENT'S UNIFORM  
4 CERTIFICATION FORM SPECIFICALLY STATES THAT THE PATIENT NEEDS  
5 MORE THAN EIGHT GRAMS OF MEDICAL MARIJUANA CONCENTRATE IN A  
6 SINGLE DAY.

7 (13) WHEN ISSUING A UNIFORM CERTIFICATION FORM TO A PATIENT  
8 EIGHTEEN YEARS OF AGE OR OLDER, A PHYSICIAN MAY CONSIDER  
9 WHETHER THE PATIENT HAD A REGISTRY IDENTIFICATION CARD PRIOR TO  
10 EIGHTEEN YEARS OF AGE AS A FACTOR IN RECOMMENDING THAT THE  
11 PATIENT OR REGISTERED PRIMARY CAREGIVER BE ALLOWED TO PURCHASE  
12 MORE THAN THE STATUTORILY ALLOWED QUANTITIES OF MEDICAL  
13 MARIJUANA PRODUCTS DESCRIBED IN SUBSECTION (10) OF THIS SECTION.

14 (14) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A MEDICAL  
15 MARIJUANA STORE LICENSEE IS NOT SUBJECT TO ANY CRIMINAL, CIVIL, OR  
16 ADMINISTRATIVE PENALTIES OR SANCTIONS FOR ACCEPTING A UNIFORM  
17 CERTIFICATION FORM PROVIDED BY A PATIENT OR REGISTERED PRIMARY  
18 CAREGIVER.

19 (15) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
20 REQUIRES, "UNIFORM CERTIFICATION FORM" MEANS THE FORM DEVELOPED  
21 BY THE STATE LICENSING AUTHORITY FOR PHYSICIANS TO RECOMMEND A  
22 PATIENT OR REGISTERED PRIMARY CAREGIVER BE ABLE TO PURCHASE  
23 MORE THAN THE STATUTORILY ALLOWED QUANTITIES OF MEDICAL  
24 MARIJUANA PRODUCTS DESCRIBED IN SUBSECTION (10) OF THIS SECTION.

25 **SECTION 3.** In Colorado Revised Statutes, 44-10-601, **add** (18)  
26 as follows:

27 **44-10-601. Retail marijuana store license - rules - definitions.**

1 (18) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF A PATIENT  
2 OR REGISTERED PRIMARY CAREGIVER PRESENTS A VALID REGISTRY  
3 IDENTIFICATION CARD ISSUED PURSUANT TO SECTION 25-1.5-106 (9) AND  
4 THE PATIENT OR REGISTERED PRIMARY CAREGIVER IS TWENTY-ONE YEARS  
5 OF AGE OR OLDER, A RETAIL MARIJUANA STORE MAY SELL RETAIL  
6 MARIJUANA PRODUCTS AT THE STATUTORILY ALLOWED QUANTITIES FOR  
7 MEDICAL MARIJUANA PRODUCTS DESCRIBED IN SECTION 44-10-501 (10) TO  
8 THE PATIENT OR REGISTERED PRIMARY CAREGIVER.

9 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF A  
10 REGISTERED PRIMARY CAREGIVER PRESENTS A VALID REGISTRY  
11 IDENTIFICATION CARD ISSUED PURSUANT TO SECTION 25-1.5-106 (9) AND  
12 IS TWENTY-ONE YEARS OF AGE OR OLDER, A RETAIL MARIJUANA STORE  
13 MAY SELL RETAIL MARIJUANA PRODUCTS AT THE STATUTORILY ALLOWED  
14 QUANTITIES FOR MEDICAL MARIJUANA PRODUCTS DESCRIBED IN SECTION  
15 44-10-501 (10) TO THE REGISTERED PRIMARY CAREGIVER FOR THE  
16 PRIMARY CAREGIVER'S PATIENT UNDER TWENTY-ONE YEARS OF AGE.

17 **SECTION 4. Safety clause.** The general assembly hereby finds,  
18 determines, and declares that this act is necessary for the immediate  
19 preservation of the public peace, health, or safety.