

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

**INTRODUCED**

LLS NO. 19-0366.01 Michael Dohr x4347

**SENATE BILL 19-218**

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**SENATE SPONSORSHIP**

**Gonzales,**

**HOUSE SPONSORSHIP**

**Jaquez Lewis,**

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**Senate Committees**

Finance

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE CONTINUATION OF THE MEDICAL MARIJUANA**  
102            **PROGRAM, AND, IN CONNECTION THEREWITH, IMPLEMENTING**  
103            **THE RECOMMENDATIONS CONTAINED IN THE 2018 SUNSET**  
104            **REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.**

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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/>.)*

**Sunset Process - Senate Finance Committee.** In a bona fide physician-patient relationship for purposes of a medical marijuana recommendation, the bill clarifies that if the patient is a child, as part of

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

the relationship the physician must consult with the patient's parents. The bill clarifies that only a physician can make a medical marijuana recommendation. The bill clarifies that a parent can be a primary caregiver for a child with a disabling medical condition. The bill clarifies that a primary caregiver for a person with a debilitating or disabling medical condition receives the same confidentiality protections as other primary caregivers. The bill clarifies that if a person with a medical marijuana card is convicted of a drug crime, the card is subject to revocation. The bill extends the medical marijuana program until September 1, 2028, and requires a sunset review prior to the repeal. The bill makes other technical changes and repeals obsolete provisions.

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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)(II), (2)(d.5)(I), (3)(b)(II), (3.5)(d), (5)(c), (6)(a), (6)(c), (7)(d),  
4 (10), and (18)(a); **repeal** (3)(b)(III), (3.7), and (3.8)(b); and **add** (5)(e) as  
5 follows:

6           **25-1.5-106. Medical marijuana program - powers and duties**  
7 **of state health agency - rules - medical review board - medical**  
8 **marijuana program cash fund - subaccount - created - definitions -**  
9 **repeal.** (2) **Definitions.** In addition to the definitions set forth in section  
10 14 (1) of article XVIII of the state constitution, as used in this section,  
11 unless the context otherwise requires:

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

14           (II) The physician has consulted with the patient, AND IF THE  
15 PATIENT IS A MINOR, WITH THE PATIENT'S PARENTS, with respect to the  
16 patient's debilitating medical condition or disabling medical condition  
17 AND HAS EXPLAINED THE POSSIBLE RISKS AND BENEFITS OF USE OF  
18 MEDICAL MARIJUANA TO THE PATIENT, AND THE PATIENT'S PARENTS IF THE  
19 PATIENT IS A MINOR, before the patient applies for a registry identification

1 card; and

2 (d.5) "Primary caregiver" means a natural person, other than the  
3 patient or the patient's physician, who is eighteen years of age or older  
4 and has significant responsibility for managing the well-being of a patient  
5 who has a debilitating medical condition or disabling medical condition.

6 A primary caregiver may have one or more of the following relationships:

7 (I) A parent of a child as described by subsection (6)(e) of section  
8 14 of article XVIII of the ~~Colorado~~ STATE constitution OR A PARENT OF  
9 A CHILD WITH A DISABLING MEDICAL CONDITION and anyone who assists  
10 that parent with caregiver responsibilities, including cultivation and  
11 transportation;

12 (3) **Rule-making.** (b) The state health agency may promulgate  
13 rules regarding the following:

14 (II) The development of a form for a primary caregiver to use in  
15 applying to the registry, which form shall require, at a minimum, that the  
16 applicant provide his or her full name, home address, date of birth, and an  
17 attestation that the applicant has a significant responsibility for managing  
18 the well-being of the patient for whom he or she is designated as the  
19 primary caregiver and that he or she understands and will abide by section  
20 14 of article XVIII of the state constitution, this section, and the rules  
21 promulgated by the state health agency pursuant to this section; AND

22 ~~(III) The development of a form that constitutes "written~~  
23 ~~documentation", as defined and used in section 14 of article XVIII of the~~  
24 ~~state constitution, which form a physician shall use when making a~~  
25 ~~medical marijuana recommendation for a patient; and~~

26 (3.5) **Marijuana laboratory testing reference library.** (d) The  
27 state health agency shall make reference library materials, including the

1 methodologies, publicly available ~~no later than December 31, 2015~~, and  
2 may continuously update the reference library as new materials become  
3 available.

4 (3.7) ~~The state health agency shall convene a group of interested~~  
5 ~~parties including representatives from the state licensing authority,~~  
6 ~~primary caregivers, patients, marijuana testing laboratory licensees, and~~  
7 ~~any other interested persons to explore laboratory testing options for~~  
8 ~~medical marijuana not produced by someone licensed pursuant to article~~  
9 ~~11 of title 44.~~

10 (3.8) (b) ~~The state health agency shall convene a stakeholder~~  
11 ~~process to discuss proposed models for sampling and proficiency testing.~~  
12 ~~The stakeholder process shall be completed by September 1, 2015.~~

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

16 (c) The physician shall maintain a record-keeping system for all  
17 patients for whom the physician has recommended the medical use of  
18 marijuana, and, pursuant to an investigation initiated pursuant to section  
19 12-36-118, ~~C.R.S.~~, the physician shall produce such medical records to  
20 the Colorado ~~state board of medical examiners~~ MEDICAL BOARD after  
21 redacting any patient or primary caregiver identifying information.

22 (e) ONLY A PHYSICIAN CAN MAKE A MEDICAL MARIJUANA  
23 RECOMMENDATION.

24 (6) **Enforcement.** (a) If the state health agency has reasonable  
25 cause to believe that a physician has violated section 14 of article XVIII  
26 of the state constitution, ~~paragraph (a), (b), or (c) of subsection~~  
27 ~~SUBSECTION (5)(a), (5)(b), OR (5)(c) of this section, or the rules~~

1 promulgated by the state health agency pursuant to ~~subsection (2)~~  
2 SUBSECTION (3) of this section, the state health agency may refer the  
3 matter to the ~~state board of medical examiners~~ COLORADO MEDICAL  
4 BOARD created in section 12-36-103 ~~C.R.S.~~, for an investigation and  
5 determination.

6 (c) Upon a finding of unprofessional conduct pursuant to section  
7 12-36-117 (1)(mm) ~~C.R.S.~~, by the ~~state board of medical examiners~~  
8 COLORADO MEDICAL BOARD or a finding of a violation of ~~paragraph (d)~~  
9 ~~of subsection (5)~~ SUBSECTION (5)(d) of this section by the state health  
10 agency, the state health agency shall restrict a physician's authority to  
11 recommend the use of medical marijuana, which restrictions may include  
12 the revocation or suspension of a physician's privilege to recommend  
13 medical marijuana. The restriction shall be in addition to any sanction  
14 imposed by the ~~state board of medical examiners~~ COLORADO MEDICAL  
15 BOARD.

16 (7) **Primary caregivers.** (d) A primary caregiver shall provide  
17 to a law enforcement agency, upon inquiry, the registry identification card  
18 number of each of his or her patients. The state health agency shall  
19 maintain a registry of this information and make it available twenty-four  
20 hours per day and seven days a week to law enforcement for verification  
21 purposes. Upon inquiry by a law enforcement officer as to an individual's  
22 status as a patient or primary caregiver, the state health agency shall  
23 check the registry. If the individual is not registered as a patient or  
24 primary caregiver, the state health agency may provide that response to  
25 law enforcement. If the person is a registered patient or primary caregiver  
26 FOR A PATIENT WITH A DEBILITATING MEDICAL CONDITION OR A DISABLING  
27 MEDICAL CONDITION, the state health agency may not release information

1 unless consistent with section 14 of article XVIII of the state constitution.  
2 The state health agency may promulgate rules to provide for the efficient  
3 administration of this ~~paragraph (d)~~ SUBSECTION (7)(d).

4 (10) **Renewal of patient identification card upon criminal**  
5 **conviction.** Any patient who is convicted of a criminal offense under  
6 article 18 of title 18 who is sentenced or ordered by a court to treatment  
7 for a substance use disorder or sentenced to the division of youth services  
8 is subject to immediate ~~renewal~~ REVOCATION of his or her patient registry  
9 identification card, and the patient ~~shall~~ MAY apply for the renewal based  
10 upon a recommendation from a physician with whom the patient has a  
11 bona fide physician-patient relationship.

12 (18) (a) This section is repealed, effective September 1, ~~2019~~  
13 2028.

14 **SECTION 2.** In Colorado Revised Statutes, 24-34-104, **repeal**  
15 (17)(a)(XIV); and **add** (29)(a)(V) as follows:

16 **24-34-104. General assembly review of regulatory agencies**  
17 **and functions for repeal, continuation, or reestablishment - legislative**  
18 **declaration - repeal.** (17) (a) The following agencies, functions, or both,  
19 are scheduled for repeal on September 1, 2019:

20 (XIV) ~~The medical marijuana program created in section~~  
21 ~~25-1.5-106, C.R.S.;~~

22 (29) (a) The following agencies, functions, or both, are scheduled  
23 for repeal on September 1, 2028:

24 (V) THE MEDICAL MARIJUANA PROGRAM CREATED IN SECTION  
25 25-1.5-106.

26 **SECTION 3. Act subject to petition - effective date.** This act  
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August  
2 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
3 referendum petition is filed pursuant to section 1 (3) of article V of the  
4 state constitution against this act or an item, section, or part of this act  
5 within such period, then the act, item, section, or part will not take effect  
6 unless approved by the people at the general election to be held in  
7 November 2020 and, in such case, will take effect on the date of the  
8 official declaration of the vote thereon by the governor.