

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0366.01 Michael Dohr x4347

SENATE BILL 19-218

SENATE SPONSORSHIP

Gonzales, Tate

HOUSE SPONSORSHIP

Jaquez Lewis,

Senate Committees

Finance
Appropriations

House Committees

Finance
Appropriations

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 AND**
105 **MAKING AN APPROPRIATION.**

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

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.

HOUSE
Amended 2nd Reading
April 27, 2019

SENATE
3rd Reading Unamended
April 23, 2019

SENATE
Amended 2nd Reading
April 19, 2019

recommendation, the bill clarifies that if the patient is a child, as part of 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.

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)(c), (2)(d.5)(I), (3)(b)(II), (3.5)(d), (5)(a), (5)(c), (6)(a),
4 (6)(c), (7)(d), (9)(c), (10), and (18)(a); **repeal** (3)(b)(III), (3.7), and
5 (3.8)(b); and **add** (2)(d.4), (3)(d), and (5)(e) as 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 (c) "In good standing", with respect to a physician's OR DENTIST
3 OR ADVANCED PRACTICE PRACTITIONER license, means:

4 (I) The physician holds a doctor of medicine or doctor of
5 osteopathic medicine degree from an accredited medical school, OR THE
6 DENTIST OR ADVANCED PRACTICE PRACTITIONER HOLDS A DEGREE IN A
7 MEDICAL FIELD WITHIN HIS OR HER SCOPE OF PRACTICE;

8 (II) The physician holds a valid license to practice medicine, OR
9 THE DENTIST OR ADVANCED PRACTICE PRACTITIONER HOLDS A VALID
10 LICENSE TO PRACTICE WITHIN HIS OR HER SCOPE OF PRACTICE, in Colorado
11 that does not contain a restriction or condition that prohibits the
12 recommendation of medical marijuana or for a license issued prior to July
13 1, 2011, a valid, unrestricted and unconditioned license; and

14 (III) The physician OR DENTIST OR ADVANCED PRACTICE
15 PRACTITIONER has a valid and unrestricted United States department of
16 justice federal drug enforcement administration controlled substances
17 registration.

18 (d.4) "PHYSICIAN", WHEN MAKING MEDICAL MARIJUANA
19 RECOMMENDATIONS FOR A DISABLING MEDICAL CONDITION, INCLUDES A
20 DENTIST OR ADVANCED PRACTICE PRACTITIONER WITH PRESCRIPTIVE
21 AUTHORITY ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE.

22 (d.5) "Primary caregiver" means a natural person, other than the
23 patient or the patient's physician, who is eighteen years of age or older
24 and has significant responsibility for managing the well-being of a patient
25 who has a debilitating medical condition or disabling medical condition.
26 A primary caregiver may have one or more of the following relationships:

27 (I) A parent of a child as described by subsection (6)(e) of section

1 14 of article XVIII of the ~~Colorado~~ STATE constitution OR A PARENT OF
2 A CHILD WITH A DISABLING MEDICAL CONDITION and anyone who assists
3 that parent with caregiver responsibilities, including cultivation and
4 transportation;

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

7 (II) The development of a form for a primary caregiver to use in
8 applying to the registry, which form shall require, at a minimum, that the
9 applicant provide his or her full name, home address, date of birth, and an
10 attestation that the applicant has a significant responsibility for managing
11 the well-being of the patient for whom he or she is designated as the
12 primary caregiver and that he or she understands and will abide by section
13 14 of article XVIII of the state constitution, this section, and the rules
14 promulgated by the state health agency pursuant to this section; AND

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

19 (d) THE STATE HEALTH AGENCY SHALL PROMULGATE RULES
20 RELATED TO THE LENGTH OF TIME A REGISTRY IDENTIFICATION CARD
21 ISSUED TO A PATIENT WITH A DISABLING MEDICAL CONDITION IS VALID.

22 (3.5) **Marijuana laboratory testing reference library.** (d) The
23 state health agency shall make reference library materials, including the
24 methodologies, publicly available ~~no later than December 31, 2015~~; and
25 may continuously update the reference library as new materials become
26 available.

27 ~~(3.7) The state health agency shall convene a group of interested~~

1 ~~parties including representatives from the state licensing authority,~~
2 ~~primary caregivers, patients, marijuana testing laboratory licensees, and~~
3 ~~any other interested persons to explore laboratory testing options for~~
4 ~~medical marijuana not produced by someone licensed pursuant to article~~
5 ~~11 of title 44.~~

6 (3.8) (b) ~~The state health agency shall convene a stakeholder~~
7 ~~process to discuss proposed models for sampling and proficiency testing.~~
8 ~~The stakeholder process shall be completed by September 1, 2015.~~

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

12 (a) The physician shall have HAS a valid and active license to
13 practice medicine, which license is in good standing, OR THE DENTIST OR
14 ADVANCED PRACTICE PRACTITIONER HOLDS A VALID LICENSE TO PRACTICE
15 WITHIN HIS OR HER SCOPE OF PRACTICE, WHICH LICENSE IS IN GOOD
16 STANDING.

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

23 (e) ONLY A PHYSICIAN CAN MAKE A MEDICAL MARIJUANA
24 RECOMMENDATION; EXCEPT WHEN MAKING A MEDICAL MARIJUANA
25 RECOMMENDATION FOR A PATIENT WITH A DISABLING MEDICAL
26 CONDITION, THE RECOMMENDATION MAY BE MADE BY A MEDICAL DOCTOR,
27 DENTIST, OR ADVANCED PRACTICE PRACTITIONER WITH PRESCRIPTIVE

1 AUTHORITY ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE.

2 (6) **Enforcement.** (a) If the state health agency has reasonable
3 cause to believe that a physician has violated section 14 of article XVIII
4 of the state constitution, ~~paragraph (a), (b), or (c) of subsection~~
5 ~~SUBSECTION (5)(a), (5)(b), OR (5)(c) of this section, or the rules~~
6 ~~promulgated by the state health agency pursuant to subsection (2)~~
7 ~~SUBSECTION (3) of this section, the state health agency may refer the~~
8 ~~matter to the state board of medical examiners COLORADO MEDICAL~~
9 ~~BOARD created in section 12-36-103 C.R.S., for an investigation and~~
10 ~~determination.~~

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

21 (7) **Primary caregivers.** (d) A primary caregiver shall provide
22 to a law enforcement agency, upon inquiry, the registry identification card
23 number of each of his or her patients. The state health agency shall
24 maintain a registry of this information and make it available twenty-four
25 hours per day and seven days a week to law enforcement for verification
26 purposes. Upon inquiry by a law enforcement officer as to an individual's
27 status as a patient or primary caregiver, the state health agency shall

1 check the registry. If the individual is not registered as a patient or
2 primary caregiver, the state health agency may provide that response to
3 law enforcement. If the person is a registered patient or primary caregiver
4 FOR A PATIENT WITH A DEBILITATING MEDICAL CONDITION OR A DISABLING
5 MEDICAL CONDITION, the state health agency may not release information
6 unless consistent with section 14 of article XVIII of the state constitution.
7 The state health agency may promulgate rules to provide for the efficient
8 administration of this ~~paragraph (d)~~ SUBSECTION (7)(d).

9 **(9) Registry identification card required - denial - revocation**
10 **- renewal. (c) A patient or primary caregiver registry identification card**
11 **shall be IS valid for one year UNLESS THE STATE HEALTH AGENCY**
12 **CHANGES THE LENGTH OF VALIDITY PURSUANT TO ITS AUTHORITY IN**
13 **SUBSECTION (3)(d) OF THIS SECTION and shall MUST contain a unique**
14 **identification number. It shall be IS the responsibility of the patient or**
15 **primary caregiver to apply to renew his or her registry identification card**
16 **prior to the date on which the card expires. The state health agency shall**
17 **develop a form for a patient or primary caregiver to use in renewing his**
18 **or her registry identification card.**

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

27 (18) (a) This section is repealed, effective September 1, 2019

1 2028.

2 SECTION 2. In Colorado Revised Statutes, 25-1.5-110, amend
3 (2) and (3) as follows:

4 25-1.5-110. Monitor health effects of marijuana - report. (2)

5 (a) The department shall appoint a panel of health care professionals with
6 expertise in, cannabinoid physiology to monitor the relevant information
7 BUT NOT LIMITED TO, NEUROSCIENCE, EPIDEMIOLOGY, TOXICOLOGY,
8 CANNABIS PHYSIOLOGY, AND CANNABIS QUALITY CONTROL TO FURTHER
9 DIRECT POLICY. Notwithstanding section 24-1-136 (11)(a)(I), the panel
10 shall provide a report by January 31, 2015, and every two years thereafter
11 to the state board of health, the department of revenue, and the general
12 assembly. The department shall make the report available on its website.
13 The panel shall establish criteria for studies to be reviewed, reviewing
14 studies and other data, and making recommendations, as appropriate, for
15 policies intended to protect consumers of marijuana or marijuana
16 products and the general public.

17 (b) IN ORDER TO ALLOW THE PUBLIC TO EVALUATE ANY CONFLICT
18 OF INTEREST AMONG THE PANEL, EACH PANELIST SHALL DISCLOSE ALL
19 FINANCIAL INTERESTS THE PANELIST HAS RELATED TO THE HEALTH CARE
20 INDUSTRY AND THE REGULATED MARIJUANA INDUSTRY. THE DISCLOSURES
21 MUST BE INCLUDED IN THE REPORT REQUIRED PURSUANT TO SUBSECTION
22 (2)(a) OF THIS SECTION.

23 (3) The department may collect Colorado-specific data that reports
24 adverse health events involving marijuana use from the all-payer claims
25 database, hospital discharge data, and behavioral risk factors COLLECT
26 COLORADO-SPECIFIC DATA THAT INVOLVES [REDACTED] HEALTH OUTCOMES
27 ASSOCIATED WITH CANNABIS FROM, BUT NOT LIMITED TO, ALL-PAYER

1 CLAIMS DATA, HOSPITAL DISCHARGE DATA, AND AVAILABLE
2 PEER-REVIEWED RESEARCH STUDIES.

3 **SECTION 3.** In Colorado Revised Statutes, 24-34-104, **repeal**
4 (17)(a)(XIV); and **add** (29)(a)(V) as follows:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for repeal, continuation, or reestablishment - legislative**
7 **declaration - repeal.** (17) (a) The following agencies, functions, or both,
8 are scheduled for repeal on September 1, 2019:

9 (XIV) ~~The medical marijuana program created in section~~
10 ~~25-1.5-106, C.R.S.;~~

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

13 (V) THE MEDICAL MARIJUANA PROGRAM CREATED IN SECTION
14 25-1.5-106.

15 **SECTION 4.** In Colorado Revised Statutes, 25-1.5-106, **amend**
16 **as amended by House Bill 19-1028 (2)(a.7)** as follows:

17 **25-1.5-106. Medical marijuana program - powers and duties**
18 **of state health agency - rules - medical review board - medical**
19 **marijuana program cash fund - subaccount - created - repeal.**

20 **(2) Definitions.** In addition to the definitions set forth in section 14 (1)
21 of article XVIII of the state constitution, as used in this section, unless the
22 context otherwise requires:

23 (a.7) "Disabling medical condition" means:

24 (I) Post-traumatic stress disorder as diagnosed by a licensed
25 mental health provider or physician; and OR

26 (II) An autism spectrum disorder as diagnosed by a primary care
27 physician, physician with experience in autism spectrum disorder, or

1 licensed mental health provider acting within his or her scope of practice.

2 **SECTION 5. Appropriation.** (1) For the 2019-20 state fiscal
3 year, \$114,007 is appropriated to the department of public health and
4 environment for use by the center for health and environmental
5 information. This appropriation is from the medical marijuana program
6 cash fund created in section 25-1.5-106 (16)(a), C.R.S. To implement this
7 act, the center may use this appropriation as follows:

8 (a) \$14,007 for personal services related to the medical marijuana
9 registry, which amount is based on an assumption that the department will
10 require an additional 0.2 FTE; and

11 (b) \$100,000 for operating expenses related to the medical
12 marijuana registry.

13 (2) For the 2019-20 state fiscal year, \$560,143 is appropriated to
14 the department of regulatory agencies. This appropriation is from the
15 division of professions and occupations cash fund created in section
16 24-34-105 (2)(b)(I), C.R.S. To implement this act, the department may
17 use this appropriation as follows:

18 (a) \$24,687 for use by the division of professions and occupations
19 for personal services, which amount is based on an assumption that the
20 division will require an additional 0.4 FTE; and

21 (b) \$535,456 for the purchase of legal services.

22 (2) For the 2019-20 state fiscal year, \$535,456 is appropriated to
23 the department of law. This appropriation is from reappropriated funds
24 received from the department of regulatory agencies under subsection
25 (2)(b) of this section and is based on an assumption that the department
26 of law will require an additional 2.9 FTE. To implement this act, the
27 department of law may use this appropriation to provide legal services for

1 the department of regulatory agencies.

2 **SECTION 6. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2020 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.