

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0366.01 Michael Dohr x4347

**SENATE BILL 19-218**

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**SENATE SPONSORSHIP**

**Gonzales, Tate**

**HOUSE SPONSORSHIP**

**Jaquez Lewis,**

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**Senate Committees**

Finance  
Appropriations

**House Committees**

Finance  
Appropriations

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

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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

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.

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.

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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)(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 MEDICAL  
3 PROFESSIONAL'S 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 MEDICAL PROFESSIONAL HOLDS A DEGREE IN A MEDICAL FIELD WITHIN HIS  
7 OR HER SCOPE OF PRACTICE;

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

14 (III) The physician OR MEDICAL PROFESSIONAL has a valid and  
15 unrestricted United States department of justice federal drug enforcement  
16 administration controlled substances registration.

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

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

26 (I) A parent of a child as described by subsection (6)(e) of section  
27 14 of article XVIII of the Colorado STATE constitution OR A PARENT OF

1 A CHILD WITH A DISABLING MEDICAL CONDITION and anyone who assists  
2 that parent with caregiver responsibilities, including cultivation and  
3 transportation;

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

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

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

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

21 (3.5) **Marijuana laboratory testing reference library.** (d) The  
22 state health agency shall make reference library materials, including the  
23 methodologies, publicly available ~~no later than December 31, 2015~~; and  
24 may continuously update the reference library as new materials become  
25 available.

26 (3.7) ~~The state health agency shall convene a group of interested~~  
27 ~~parties including representatives from the state licensing authority,~~

1 ~~primary caregivers, patients, marijuana testing laboratory licensees, and~~  
2 ~~any other interested persons to explore laboratory testing options for~~  
3 ~~medical marijuana not produced by someone licensed pursuant to article~~  
4 ~~11 of title 44.~~

5 (3.8) (b) ~~The state health agency shall convene a stakeholder~~  
6 ~~process to discuss proposed models for sampling and proficiency testing.~~  
7 ~~The stakeholder process shall be completed by September 1, 2015.~~

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

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

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

21 (e) ONLY A PHYSICIAN CAN MAKE A MEDICAL MARIJUANA  
22 RECOMMENDATION; EXCEPT WHEN MAKING A MEDICAL MARIJUANA  
23 RECOMMENDATION FOR A PATIENT WITH A DISABLING MEDICAL  
24 CONDITION, THE RECOMMENDATION MAY BE MADE BY A MEDICAL  
25 PROFESSIONAL WITH PRESCRIPTIVE AUTHORITY ACTING WITHIN THE SCOPE  
26 OF HIS OR HER PRACTICE.

27 (6) **Enforcement.** (a) If the state health agency has reasonable

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

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

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

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

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

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

25 (18) (a) This section is repealed, effective September 1, 2019  
26 2028.

27 **SECTION 2. In Colorado Revised Statutes, 25-1.5-110, amend**

1 (2) and (3) as follows:

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

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

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

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



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

3           **24-34-104. General assembly review of regulatory agencies**  
4 **and functions for repeal, continuation, or reestablishment - legislative**  
5 **declaration - repeal.** (17) (a) The following agencies, functions, or both,  
6 are scheduled for repeal on September 1, 2019:

7           (XIV) ~~The medical marijuana program created in section~~  
8 ~~25-1.5-106, C.R.S.;~~

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

11           (V) THE MEDICAL MARIJUANA PROGRAM CREATED IN SECTION  
12 25-1.5-106.

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

15           **25-1.5-106. Medical marijuana program - powers and duties**  
16 **of state health agency - rules - medical review board - medical**  
17 **marijuana program cash fund - subaccount - created - repeal.**

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

21           **(a.7) "Disabling medical condition" means:**

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

24           **(II) An autism spectrum disorder as diagnosed by a primary care**  
25 **physician, physician with experience in autism spectrum disorder, or**  
26 **licensed mental health provider acting within his or her scope of practice.**

27           **SECTION 5. Appropriation.** (1) For the 2019-20 state fiscal

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

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

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

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

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

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

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

27 **SECTION 6. Act subject to petition - effective date.** This act

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