

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

ENGROSSED

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

LLS NO. 19-0366.01 Michael Dohr x4347

SENATE BILL 19-218

SENATE SPONSORSHIP

Gonzales,

HOUSE SPONSORSHIP

Jaquez Lewis,

Senate Committees

Finance
Appropriations

House Committees

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.

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 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 ADVERSE 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.