

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

PREAMENDED

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

LLS NO. 21-0330.01 Alana Rosen x2606

HOUSE BILL 21-1058

HOUSE SPONSORSHIP

Gray,

SENATE SPONSORSHIP

Gonzales,

House Committees

Business Affairs & Labor
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROMOTE SOCIAL DISTANCING FOR LEGAL**
102 **MARIJUANA, AND, IN CONNECTION THEREWITH, MODIFYING THE**
103 **PHYSICAL EXAMINATION PROCEDURE TO OBTAIN A MEDICAL**
104 **MARIJUANA CARD AND REPEALING THE PROHIBITION ON**
105 **SELLING RETAIL MARIJUANA PRODUCTS ONLINE AND TO A**
106 **PERSON NOT PHYSICALLY PRESENT IN THE RETAIL MARIJUANA**
107 **STORE'S LICENSED PREMISES.**

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>.)

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.

Under current law, a physician is required to conduct an in-person physical examination of a person prior to certifying that the person would benefit from medical marijuana. The bill permits a physician to treat, counsel, and conduct appropriate personal physical examinations, in person or remotely via telephone or video conference, to establish a bona fide physician-patient relationship with a patient seeking a medical marijuana card.

Under current law, retail marijuana stores are prohibited from selling retail marijuana and retail marijuana products online and to a person not physically present in the retail marijuana store's licensed premises. The bill repeals this prohibition.

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) and (2)(a.5)(III); and **add** (5)(f) as follows:

4 **25-1.5-106. Medical marijuana program - powers and duties**
5 **of state health agency - rules - medical review board - medical**
6 **marijuana program cash fund - subaccount - created - "Ethan's**
7 **Law" - definitions - repeal.** (2) **Definitions.** In addition to the
8 definitions set forth in section 14 (1) of article XVIII of the state
9 constitution, as used in this section, unless the context otherwise requires:

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

12 (I) A physician and a patient have a treatment or counseling
13 relationship, in the course of which the physician has completed a full
14 assessment of the patient's medical history, including reviewing a
15 previous diagnosis for a debilitating or disabling medical condition, and
16 current medical condition, including an appropriate personal physical
17 examination CONDUCTED IN PERSON OR REMOTELY VIA TELEPHONE OR
18 VIDEO CONFERENCE;

19 (III) The physician is available to or offers to provide follow-up

1 care and treatment to the patient, including patient examinations,
2 CONDUCTED IN PERSON OR REMOTELY VIA TELEPHONE OR VIDEO
3 CONFERENCE, to determine the efficacy of the use of medical marijuana
4 as a treatment of the patient's debilitating medical condition or disabling
5 medical condition.

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 (f) (I) A PHYSICIAN MAY TREAT, COUNSEL, AND CONDUCT
10 APPROPRIATE PERSONAL PHYSICAL EXAMINATIONS, IN PERSON OR
11 REMOTELY VIA TELEPHONE OR VIDEO CONFERENCE, TO ESTABLISH A BONA
12 FIDE PHYSICIAN-PATIENT RELATIONSHIP WITH A PATIENT AS DEFINED IN
13 SECTION 25-1.5-106 (2)(a.5).

14 (II) A PHYSICIAN, REFERRED TO IN THIS SUBSECTION (5)(f)(II) AS
15 A "RECOMMENDING PHYSICIAN", SHALL ONLY ISSUE A FIRST-TIME MEDICAL
16 MARIJUANA RECOMMENDATION TO A PATIENT BETWEEN THE AGES OF
17 EIGHTEEN AND TWENTY REMOTELY VIA TELEPHONE OR VIDEO
18 CONFERENCE IF:

19 (A) TWO PHYSICIANS DIAGNOSE THE PATIENT AS HAVING A
20 DEBILITATING MEDICAL CONDITION OR DISABLING MEDICAL CONDITION. IF
21 THE RECOMMENDING PHYSICIAN IS NOT THE PATIENT'S PRIMARY CARE
22 PHYSICIAN, THE RECOMMENDING PHYSICIAN SHALL REVIEW THE RECORDS
23 OF A DIAGNOSING PHYSICIAN OR A LICENSED MENTAL HEALTH PROVIDER
24 ACTING WITHIN THEIR SCOPE OF PRACTICE.

25 (B) THE RECOMMENDING PHYSICIAN HAS EXPLAINED THE POSSIBLE
26 RISKS AND BENEFITS OF THE MEDICAL USE OF MARIJUANA TO THE PATIENT;
27 AND

1 (C) THE RECOMMENDING PHYSICIAN HAS PROVIDED THE PATIENT
2 WITH WRITTEN DOCUMENTATION THAT THE PATIENT HAS BEEN DIAGNOSED
3 WITH A DEBILITATING MEDICAL CONDITION OR DISABLING MEDICAL
4 CONDITION AND THE RECOMMENDING PHYSICIAN HAS CONCLUDED THAT
5 THE PATIENT MIGHT BENEFIT FROM THE MEDICAL USE OF MARIJUANA.

6 (III) THE RECOMMENDING PHYSICIAN DESCRIBED IN SUBSECTION
7 (5)(f)(II) OF THIS SECTION SHALL MAINTAIN A RECORD-KEEPING SYSTEM
8 FOR ALL PATIENTS PURSUANT TO SUBSECTION (5)(c) OF THIS SECTION.

9 **SECTION 2.** In Colorado Revised Statutes, 44-10-601, **repeal**
10 (7)(c) as follows:

11 **44-10-601. Retail marijuana store license - rules - definitions.**

12 (7) (c) ~~A licensed retail marijuana store shall not sell retail marijuana or~~
13 ~~retail marijuana products over the internet nor deliver retail marijuana or~~
14 ~~retail marijuana products to a person not physically present in the retail~~
15 ~~marijuana store's licensed premises.~~

16 **SECTION 3. Effective date.** THIS ACT TAKES EFFECT WHEN
17 EXECUTIVE ORDER D 2021 044 EXTENDING RESTRICTIONS FOR MEDICAL
18 AND RETAIL MARIJUANA EXPIRES AND IS NOT EXTENDED OR WHEN THIS
19 ACT BECOMES LAW, WHICHEVER IS LATER. THE EXECUTIVE DIRECTOR OF
20 THE DEPARTMENT OF REVENUE SHALL NOTIFY THE REVISOR OF STATUTES
21 IN WRITING OF THE DATE ON WHICH EXECUTIVE ORDER D 2021 044
22 EXPIRES AND IS NOT EXTENDED BY EMAILING THE NOTICE TO
23 REVISOROFSTATUTES.GA@STATE.CO.US. THIS ACT TAKES EFFECT UPON
24 THE DATE IDENTIFIED IN THE NOTICE WHEN EXECUTIVE ORDER D 2021 044
25 EXPIRED AND IS NOT EXTENDED, OR, IF THE NOTICE DOES NOT SPECIFY
26 THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.