

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 10-0353.03 Michael Dohr

**SENATE BILL 10-109**

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**SENATE SPONSORSHIP**

**Romer and Spence,** Boyd, Bacon, Hodge, Hudak, Johnston, Tapia, Tochtrop

**HOUSE SPONSORSHIP**

**Massey and McCann,** Rice, Frangas, McFadyen

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**Senate Committees**

Health and Human Services  
Appropriations

**House Committees**

Judiciary  
Appropriations

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**A BILL FOR AN ACT**

101 **CONCERNING REGULATION OF THE PHYSICIAN-PATIENT RELATIONSHIP**  
102 **FOR MEDICAL MARIJUANA PATIENTS.**

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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://www.leg.state.co.us/billsummaries>.)*

Under the bill, the department of public health and environment (department) will promulgate new rules related to standards for issuing registry identification cards, documentation for physicians who prescribe medical marijuana, and sanctions for physicians who violate the bill.

A physician who certifies that a patient can use medical marijuana

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

SENATE  
3rd Reading Unamended  
February 1, 2010

SENATE  
Amended 2nd Reading  
January 29, 2010

shall certify certain information to the department and maintain a separate record-keeping system for his or her medical marijuana patients. A physician who certifies that a patient can use medical marijuana shall not receive remuneration from or offer it to a primary caregiver, distributor, or any other provider of medical marijuana.

The bill creates a medical marijuana review board (board) that will consider requests by nonveteran patients under 21 years of age who want to be registered medical marijuana patients. For a patient who is under 21 years of age to become a registered medical marijuana patient, a majority of the board must determine that the patient has a debilitating medical condition and could benefit from the use of medical marijuana.

The bill adds the medical marijuana program to the list of statutes that involve medical records.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 25-1.5-106, Colorado Revised Statutes, is amended  
3 to read:

4 **25-1.5-106. Medical marijuana program - powers and duties**  
5 **of state health agency - medical review board - repeal.**

6 (1) **Definitions.** IN ADDITION TO THE DEFINITIONS SET FORTH IN SECTION  
7 14 (1) OF ARTICLE XVIII OF THE STATE CONSTITUTION, AS USED IN THIS  
8 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (a) "BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP", FOR PURPOSES  
10 OF THE MEDICAL MARIJUANA PROGRAM, MEANS:

11 (I) A PHYSICIAN AND A PATIENT HAVE A TREATMENT OR  
12 COUNSELING RELATIONSHIP, IN THE COURSE OF WHICH THE PHYSICIAN HAS  
13 COMPLETED A FULL ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND  
14 CURRENT MEDICAL CONDITION, INCLUDING A PERSONAL PHYSICAL  
15 EXAMINATION;

16 (II) THE PHYSICIAN HAS CONSULTED WITH THE PATIENT WITH  
17 RESPECT TO THE PATIENT'S DEBILITATING MEDICAL CONDITION BEFORE  
18 THE PATIENT APPLIES FOR A REGISTRY IDENTIFICATION CARD; AND

1 (III) THE PHYSICIAN IS AVAILABLE TO OR OFFERS TO PROVIDE  
2 FOLLOW-UP CARE AND TREATMENT TO THE PATIENT, INCLUDING BUT NOT  
3 LIMITED TO PATIENT EXAMINATIONS, TO DETERMINE THE EFFICACY OF THE  
4 USE OF MEDICAL MARIJUANA AS A TREATMENT OF THE PATIENT'S  
5 DEBILITATING MEDICAL CONDITION.

6 (b) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
7 THE STATE HEALTH AGENCY.

8 (c) "IN GOOD STANDING", WITH RESPECT TO A PHYSICIAN'S  
9 LICENSE, MEANS:

10 (I) THE PHYSICIAN HOLDS A DOCTOR OF MEDICINE OR DOCTOR OF  
11 OSTEOPATHIC MEDICINE DEGREE FROM AN ACCREDITED MEDICAL SCHOOL;

12 (II) THE PHYSICIAN HOLDS A VALID, UNRESTRICTED LICENSE TO  
13 PRACTICE MEDICINE IN COLORADO; AND

14 (III) THE PHYSICIAN HAS A VALID AND UNRESTRICTED UNITED  
15 STATES DEPARTMENT OF JUSTICE FEDERAL DRUG ENFORCEMENT  
16 ADMINISTRATION CONTROLLED SUBSTANCES REGISTRATION.

17 (d) "MEDICAL MARIJUANA PROGRAM" MEANS THE PROGRAM  
18 ESTABLISHED BY SECTION 14 OF ARTICLE XVIII OF THE STATE  
19 CONSTITUTION AND THIS SECTION.

20 (e) "REGISTRY IDENTIFICATION CARD" MEANS THE  
21 NONTRANSFERABLE CONFIDENTIAL REGISTRY IDENTIFICATION CARD  
22 ISSUED BY THE STATE HEALTH AGENCY TO PATIENTS AND PRIMARY  
23 CAREGIVERS PURSUANT TO THIS SECTION.

24 (f) "STATE HEALTH AGENCY" MEANS THE PUBLIC HEALTH RELATED  
25 ENTITY OF STATE GOVERNMENT DESIGNATED BY THE GOVERNOR BY  
26 EXECUTIVE ORDER PURSUANT TO SECTION 14 OF ARTICLE XVIII OF THE  
27 STATE CONSTITUTION.

1           (†) (2) **Rulemaking.** The department STATE HEALTH AGENCY  
2 shall, pursuant to section 14 of article XVIII of the state constitution,  
3 promulgate rules of administration concerning the implementation of the  
4 medical marijuana program ~~established by such section and that~~  
5 specifically govern the following:

6           (a) The establishment and maintenance of a confidential registry  
7 of patients who have applied for and are entitled to receive a registry  
8 identification card. == THE CONFIDENTIAL REGISTRY OF PATIENTS MAY  
9 BE USED TO DETERMINE WHETHER A PHYSICIAN SHOULD BE REFERRED TO  
10 THE COLORADO BOARD OF MEDICAL EXAMINERS FOR A SUSPECTED  
11 VIOLATION OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION,  
12 PARAGRAPH (a), (b), OR (c) OF SUBSECTION (3) OF THIS SECTION, OR THE  
13 RULES PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO THIS  
14 SUBSECTION (2). ==

15           (b) The development by the department STATE HEALTH AGENCY  
16 of an application form and THE PROCESS FOR making ~~such~~ THE form  
17 available to residents of this state seeking to be listed on the confidential  
18 registry of patients who are entitled to receive a registry identification  
19 card;

20           (c) The verification by the department STATE HEALTH AGENCY of  
21 medical information concerning patients who have applied for a  
22 ~~confidential~~ registry IDENTIFICATION card OR FOR RENEWAL OF A  
23 REGISTRY IDENTIFICATION CARD;

24           (d) THE DEVELOPMENT BY THE STATE HEALTH AGENCY OF A FORM  
25 THAT CONSTITUTES "WRITTEN DOCUMENTATION" AS DEFINED AND USED  
26 IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, WHICH  
27 FORM A PHYSICIAN SHALL USE WHEN MAKING A MEDICAL MARIJUANA

1 RECOMMENDATION FOR A PATIENT;

2       ~~(d)~~ (e) The CONDITIONS FOR issuance AND RENEWAL, and THE  
3 form, of ~~confidential~~ THE registry identification cards ISSUED TO  
4 PATIENTS, INCLUDING BUT NOT LIMITED TO STANDARDS FOR ENSURING  
5 THAT THE STATE HEALTH AGENCY ISSUES A REGISTRY IDENTIFICATION  
6 CARD TO A PATIENT ONLY IF HE OR SHE HAS A BONA FIDE  
7 PHYSICIAN-PATIENT RELATIONSHIP WITH A PHYSICIAN IN GOOD STANDING  
8 AND LICENSED TO PRACTICE MEDICINE IN THE STATE OF COLORADO;

9       ~~(e)~~ (f) Communications with law enforcement officials about  
10 ~~confidential~~ registry identification cards that have been suspended ~~where~~  
11 WHEN a patient is no longer diagnosed as having a debilitating medical  
12 condition; ~~and~~

13       ~~(f)~~ (g) The manner in which the ~~department~~ STATE HEALTH  
14 AGENCY may consider adding debilitating medical conditions to the list  
15 of debilitating medical conditions contained in section 14 of article XVIII  
16 of the state constitution.

17       (3) **Physicians.** A PHYSICIAN WHO CERTIFIES A DEBILITATING  
18 MEDICAL CONDITION FOR AN APPLICANT TO THE MEDICAL MARIJUANA  
19 PROGRAM SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:

20       (a) THE PHYSICIAN SHALL HAVE A VALID, UNRESTRICTED  
21 COLORADO LICENSE TO PRACTICE MEDICINE, WHICH LICENSE IS IN GOOD  
22 STANDING.

23       (b) THE PHYSICIAN MAY CERTIFY TO THE STATE HEALTH AGENCY  
24 THAT A PATIENT HAS A DEBILITATING MEDICAL CONDITION AND THAT THE  
25 PATIENT MAY BENEFIT FROM THE USE OF MEDICAL MARIJUANA ONLY IF THE  
26 PHYSICIAN HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP WITH THE  
27 PATIENT APPLYING FOR THE MEDICAL MARIJUANA PROGRAM.

1           (c) THE PHYSICIAN SHALL MAINTAIN A \_\_\_\_\_ RECORD-KEEPING  
2 SYSTEM FOR ALL PATIENTS FOR WHOM THE PHYSICIAN HAS RECOMMENDED  
3 THE MEDICAL USE OF MARIJUANA, AND, PURSUANT TO AN INVESTIGATION  
4 INITIATED PURSUANT TO SECTION 12-36-118, C.R.S., THE PHYSICIAN  
5 SHALL PRODUCE SUCH MEDICAL RECORDS TO THE COLORADO STATE  
6 BOARD OF MEDICAL EXAMINERS AFTER REDACTING ANY PATIENT OR  
7 PRIMARY CAREGIVER IDENTIFYING INFORMATION.

8           (d) A PHYSICIAN SHALL NOT:

9           (I) ACCEPT, SOLICIT, OR OFFER ANY FORM OF PECUNIARY  
10 REMUNERATION FROM OR TO A PRIMARY CAREGIVER, DISTRIBUTOR, OR  
11 ANY OTHER PROVIDER OF MEDICAL MARIJUANA;

12           (II) OFFER A DISCOUNT OR ANY OTHER THING OF VALUE TO A  
13 PATIENT WHO USES OR AGREES TO USE A PARTICULAR PRIMARY  
14 CAREGIVER, DISTRIBUTOR, OR OTHER PROVIDER OF MEDICAL MARIJUANA  
15 TO PROCURE MEDICAL MARIJUANA;

16           (III) EXAMINE A PATIENT FOR PURPOSES OF DIAGNOSING A  
17 DEBILITATING MEDICAL CONDITION AT A LOCATION WHERE MEDICAL  
18 MARIJUANA IS SOLD OR DISTRIBUTED; OR

19           (IV) HOLD AN ECONOMIC INTEREST IN AN ENTERPRISE THAT  
20 PROVIDES OR DISTRIBUTES MEDICAL MARIJUANA IF THE PHYSICIAN  
21 CERTIFIES THE DEBILITATING MEDICAL CONDITION OF A PATIENT FOR  
22 PARTICIPATION IN THE MEDICAL MARIJUANA PROGRAM.


23           [REDACTED]

24           (4) **Enforcement.** (a) IF THE STATE HEALTH AGENCY HAS  
25 REASONABLE CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED  
26 SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, PARAGRAPH  
27 (a), (b), OR (c) OF SUBSECTION (3) OF THIS SECTION, OR THE RULES

1 PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO SUBSECTION  
2 (2) OF THIS SECTION, THE STATE HEALTH AGENCY MAY REFER THE MATTER  
3 TO THE STATE BOARD OF MEDICAL EXAMINERS CREATED IN SECTION  
4 12-36-103, C.R.S., FOR AN INVESTIGATION AND DETERMINATION.

5 (b) IF THE STATE HEALTH AGENCY HAS REASONABLE CAUSE TO  
6 BELIEVE THAT A PHYSICIAN HAS VIOLATED PARAGRAPH (d) OF SUBSECTION  
7 (3) OF THIS SECTION, THE STATE HEALTH AGENCY SHALL CONDUCT A  
8 HEARING PURSUANT TO SECTION 24-4-104, C.R.S., TO DETERMINE  
9 WHETHER A VIOLATION HAS OCCURRED.

10 (c) UPON A FINDING OF UNPROFESSIONAL CONDUCT PURSUANT TO  
11 SECTION 12-36-117 (1) (mm), C.R.S., BY THE STATE BOARD OF MEDICAL  
12 EXAMINERS OR A FINDING OF A VIOLATION OF PARAGRAPH (d) OF  
13 SUBSECTION (3) OF THIS SECTION BY THE STATE HEALTH AGENCY, THE  
14 STATE HEALTH AGENCY SHALL RESTRICT A PHYSICIAN'S AUTHORITY TO  
15 RECOMMEND THE USE OF MEDICAL MARIJUANA, WHICH RESTRICTIONS MAY  
16 INCLUDE THE REVOCATION OR SUSPENSION OF A PHYSICIAN'S PRIVILEGE TO  
17 RECOMMEND MEDICAL MARIJUANA. THE RESTRICTION SHALL BE IN  
18 ADDITION TO ANY SANCTION IMPOSED BY THE STATE BOARD OF MEDICAL  
19 EXAMINERS.

20 

21 (5) **Renewal of patient identification card upon criminal**  
22 **conviction.** ANY PATIENT WHO IS CONVICTED OF A CRIMINAL OFFENSE  
23 UNDER ARTICLE 18 OF TITLE 18, C.R.S., SENTENCED OR ORDERED BY A  
24 COURT TO DRUG OR SUBSTANCE ABUSE TREATMENT, OR SENTENCED TO  
25 THE DIVISION OF YOUTH CORRECTIONS, SHALL BE SUBJECT TO IMMEDIATE  
26 RENEWAL OF HIS OR HER PATIENT REGISTRY IDENTIFICATION CARD, AND  
27 THE PATIENT SHALL APPLY FOR THE RENEWAL BASED UPON A

1 RECOMMENDATION FROM A PHYSICIAN WITH WHOM THE PATIENT HAS A  
2 BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP.

3 (6) A PARENT WHO SUBMITS A MEDICAL MARIJUANA REGISTRY  
4 APPLICATION FOR HIS OR HER CHILD SHALL HAVE HIS OR HER SIGNATURE  
5 NOTARIZED ON THE APPLICATION.

6 (2) (7) **Fees.** The department STATE HEALTH AGENCY may  
7 collect fees from patients who, pursuant to section 14 of article XVIII of  
8 the state constitution, apply to the medical marijuana program ~~established~~  
9 ~~by such section~~ for a ~~marijuana~~ registry identification CARD for the  
10 purpose of offsetting the department's STATE HEALTH AGENCY'S direct and  
11 indirect costs of administering the program, AND THE STATE BOARD OF  
12 MEDICAL EXAMINERS' DIRECT AND INDIRECT COSTS ASSOCIATED WITH  
13 INVESTIGATING AND PROSECUTING REFERRALS OF PHYSICIANS FROM THE  
14 STATE HEALTH AGENCY IN RELATION TO THE MEDICAL MARIJUANA  
15 PROGRAM. The amount of ~~such~~ THE fees shall be set by rule of the ~~state~~  
16 ~~board of health~~ STATE HEALTH AGENCY. THE STATE HEALTH AGENCY  
17 SHALL PROMULGATE RULES THAT ALLOW A PATIENT TO CLAIM INDIGENCE  
18 AS IT RELATES TO PAYING THE FEE APPROVED PURSUANT TO THIS  
19 SUBSECTION (7) AND THAT ESTABLISH THE STANDARD FOR INDIGENCE, THE  
20 PROCESS THE STATE HEALTH AGENCY SHALL USE TO DETERMINE WHETHER  
21 A PERSON WHO CLAIMS INDIGENCE MEETS THE STANDARD FOR INDIGENCE,  
22 AND THE PROCESS TO WAIVE THE FEE APPROVED PURSUANT TO THIS  
23 SUBSECTION (7) IF THE STATE HEALTH AGENCY DETERMINES THAT THE  
24 PATIENT MEETS THE STANDARD FOR INDIGENCE. All fees collected by the  
25 department STATE HEALTH AGENCY through the medical marijuana  
26 program shall be transferred to the state treasurer who shall credit the  
27 same to the medical marijuana program cash fund, which fund is hereby



1 created.

2 (3) (8) **Cash fund.** (a) The medical marijuana program cash  
3 fund shall be subject to annual appropriation by the general assembly to  
4 the ~~department~~ STATE HEALTH AGENCY for the purpose of establishing,  
5 operating, and maintaining the medical marijuana program. ~~established~~  
6 ~~by section 14 of article XVIII of the state constitution.~~ THE STATE  
7 HEALTH AGENCY SHALL TRANSFER FROM THE MEDICAL MARIJUANA  
8 PROGRAM CASH FUND TO THE DEPARTMENT OF REGULATORY AGENCIES  
9 FOR THE BENEFIT OF THE STATE BOARD OF MEDICAL EXAMINERS MONEYS  
10 TO PAY THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH  
11 INVESTIGATING AND PROSECUTING REFERRALS OF PHYSICIANS FROM THE  
12 STATE HEALTH AGENCY IN RELATION TO THE MEDICAL MARIJUANA  
13 PROGRAM. All moneys credited to the medical marijuana program cash  
14 fund and all interest derived from the deposit of such moneys that are not  
15 expended during the fiscal year shall be retained in the fund for future use  
16 and shall not be credited or transferred to the general fund or any other  
17 fund.

18 (b) Notwithstanding any provision of paragraph (a) of this  
19 subsection (3) (8) to the contrary, on April 20, 2009, the state treasurer  
20 shall deduct two hundred fifty-eight thousand seven hundred thirty-five  
21 dollars from the medical marijuana program cash fund and transfer such  
22 sum to the general fund.

23 ==  
24 ==

25 **SECTION 2.** 25-1-1202 (1), Colorado Revised Statutes, is  
26 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

27 **25-1-1202. Index of statutory sections regarding medical**

1 **record confidentiality and health information.** (1) Statutory  
2 provisions concerning policies, procedures, and references to the release,  
3 sharing, and use of medical records and health information include the  
4 following:

5 (vv.5) SECTION 25-1.5-106, CONCERNING THE MEDICAL  
6 MARIJUANA PROGRAM;

7 **SECTION 3.** 12-36-117 (1), Colorado Revised Statutes, is  
8 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

9 **12-36-117. Unprofessional conduct - repeal.**

10 (1) "Unprofessional conduct" as used in this article means:

11 (mm) FAILURE TO COMPLY WITH THE REQUIREMENTS OF SECTION  
12 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, SECTION 25-1.5-106,  
13 C.R.S., OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY  
14 PURSUANT TO SECTION 25-1.5-106 (2), C.R.S.

15 **SECTION 4.** 12-36-118 (5) (g), Colorado Revised Statutes, is  
16 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

17 **12-36-118. Disciplinary action by board - immunity.**

18 (5) (g) (X) IN ALL CASES INVOLVING ALLEGED VIOLATIONS OF SECTION  
19 12-36-117(1)(mm), THE BOARD SHALL PROMPTLY NOTIFY THE EXECUTIVE  
20 DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF  
21 ITS FINDINGS, INCLUDING WHETHER IT FOUND THAT THE PHYSICIAN  
22 VIOLATED SECTION 12-36-117(1)(mm) AND ANY RESTRICTIONS IT PLACED  
23 ON THE PHYSICIAN WITH RESPECT TO RECOMMENDING THE USE OF  
24 MEDICAL MARIJUANA.

25 **SECTION 5. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, and safety.