

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

9.4.14

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LLS NO. 15-####.## Michael Dohr x4347

INTERIM COMMITTEE BILL

**Marijuana Revenues Interim Committee**

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A BILL FOR AN ACT

101 **CONCERNING MEDICAL MARIJUANA.**

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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>.)*

**Marijuana Revenues Interim Committee.** The bill prohibits an existing medical marijuana licensee from transferring its stock to a new retail marijuana license after January 1, 2016.

The bill directs the state health agency to develop by rule criteria that a physician applies when determining whether to include a recommendation for medically necessary extended plant count.

The bill requires all primary caregivers to register with the state

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.

health agency and gives the agency the authority to impose sanctions against those who do not register. After receiving a primary caregiver's cultivation registration, the bill requires the state medical marijuana licensing authority (authority) to determine whether any of the primary caregiver's patients are registered with a different primary caregiver or a medical marijuana center. If the authority determines a patient is already registered with a different primary caregiver or medical marijuana center, the authority shall provide the registry identification number to the state health agency. The state health agency shall contact the patient and request that he or she update his or her registry information.

The state health agency shall provide primary caregiver information to the authority without violating any patient's confidentiality. The state health agency and the authority shall develop a system that is electronically accessible to law enforcement that provides primary caregiver information and the number of plants the primary caregiver is authorized to cultivate.

The bill requires a patient who asserts the affirmative defense that an extended medical marijuana plant count is medically necessary to provide 2 physician recommendations regarding the appropriateness of the extended plant count.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4           (a) Colorado authorizes the sale and use of small amounts of  
5 medical and retail marijuana;

6           (b) The sale and use of medical marijuana is limited to those  
7 Colorado residents who have a physician's recommendation that they  
8 have a debilitating medical condition that could benefit from the use of  
9 medical marijuana;

10           (c) There is a higher tax rate and an additional excise tax imposed  
11 on retail marijuana than for medical marijuana;

12           (d) Therefore, it is important for the state to ensure that those  
13 people who are accessing and engaging in the medical marijuana system  
14 are qualified to do so. Otherwise, the state and local governments lose out

1 on valuable tax revenue.

2 (e) Enacting the following changes will provide additional  
3 protections to ensure that those who should be accessing the retail  
4 marijuana market are not accessing the medical marijuana market.

5 **SECTION 2.** In Colorado Revised Statutes, 12-43.4-104, **add** (1)  
6 (d) as follows:

7 **12-43.4-104. Applicability - retail marijuana - repeal.**  
8 (1) (d) ON AND AFTER JANUARY 1, 2016, AN APPLICANT WITH AN  
9 EXISTING MEDICAL MARIJUANA LICENSE APPLYING PURSUANT TO THIS  
10 SUBSECTION (1) FOR A RETAIL MARIJUANA LICENSE SHALL NOT TRANSFER  
11 THE APPLICANT'S MEDICAL MARIJUANA INVENTORY TO A NEW RETAIL  
12 MARIJUANA LICENSE.

13 **SECTION 3.** In Colorado Revised Statutes, 25-1.5-106, **amend**  
14 (3) (a) (XVIII), (7) (e), and (14); and **add** (3) (a) (IX) 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 (3) **Rule-making.** (a) The state health agency shall, pursuant to section  
19 14 of article XVIII of the state constitution, promulgate rules of  
20 administration concerning the implementation of the medical marijuana  
21 program that specifically govern the following:

22 (VIII) A waiver process to allow a homebound patient who is on  
23 the registry to have a primary caregiver transport the patient's medical  
24 marijuana from a licensed medical marijuana center to the patient; AND

25 (IX) CRITERIA THAT A PHYSICIAN SHALL APPLY WHEN  
26 DETERMINING WHETHER TO INCLUDE A RECOMMENDATION FOR  
27 MEDICALLY NECESSARY EXTENDED PLANT COUNT, INCLUDING SEPARATE

1 INDIVIDUALIZED CRITERIA FOR EACH DEBILITATING MEDICAL CONDITION.

2 (7) **Primary caregivers.** (e) (I) A PRIMARY CAREGIVER SHALL  
3 REGISTER WITH THE STATE HEALTH AGENCY. A primary caregiver who  
4 cultivates medical marijuana for his or her patients shall register the  
5 location of his or her cultivation operation with the state medical  
6 marijuana licensing authority and provide the registration identification  
7 number of each patient to the state licensing authority. A PERSON WHO  
8 FAILS TO PROPERLY REGISTER PURSUANT TO THIS SUBPARAGRAPH (I)  
9 SHALL BE SUBJECT TO DISCIPLINE FROM THE STATE HEALTH DEPARTMENT.  
10 THE STATE HEALTH DEPARTMENT SHALL PROMULGATE RULES REGARDING  
11 THE DISCIPLINE PROCESS AND SANCTIONS FOR PRIMARY CAREGIVERS WHO  
12 FAIL TO REGISTER.

13 (II) THE STATE HEALTH AGENCY SHALL PROVIDE THE STATE  
14 MEDICAL MARIJUANA LICENSING AUTHORITY A LIST OF REGISTERED  
15 PRIMARY CAREGIVERS IN A FORMAT THAT PROTECTS A PATIENT'S RIGHT OF  
16 CONFIDENTIALITY IN SUBSECTION (3) OF SECTION 14 OF ARTICLE XVIII OF  
17 THE COLORADO CONSTITUTION. AFTER RECEIVING A PRIMARY  
18 CAREGIVER'S CULTIVATION REGISTRATION, THE STATE MEDICAL  
19 MARIJUANA LICENSING AUTHORITY SHALL DETERMINE WHETHER ANY OF  
20 THE PRIMARY CAREGIVER'S PATIENTS HAVE REGISTERED WITH A MEDICAL  
21 MARIJUANA CENTER OR ANOTHER PRIMARY CAREGIVER BASED ON THE  
22 REGISTRY IDENTIFICATION NUMBERS. IF THE STATE MEDICAL MARIJUANA  
23 LICENSING AUTHORITY DETERMINES THAT A PATIENT IS ALREADY  
24 REGISTERED WITH A DIFFERENT PRIMARY CAREGIVER OR A MEDICAL  
25 MARIJUANA CENTER, THE LICENSING AUTHORITY SHALL INFORM THE STATE  
26 HEALTH AGENCY WITH THE ASSOCIATED REGISTRY IDENTIFICATION  
27 NUMBER. THE STATE HEALTH AGENCY SHALL CONTACT THE PATIENT AND

1 REQUEST THE PATIENT UPDATE HIS OR HER REGISTRY INFORMATION  
2 REGARDING THE PATIENT'S CURRENT MEDICAL MARIJUANA SOURCE.

3 (III) THE STATE HEALTH AGENCY AND THE MEDICAL MARIJUANA  
4 LICENSING AUTHORITY SHALL DEVELOP A SYSTEM THAT IS  
5 ELECTRONICALLY ACCESSIBLE TO LAW ENFORCEMENT THAT PROVIDES  
6 PRIMARY CAREGIVER INFORMATION AND THE NUMBER OF PLANTS THE  
7 PRIMARY CAREGIVER IS AUTHORIZED TO CULTIVATE.

8 (IV) The information provided to the state medical marijuana  
9 licensing authority pursuant to this paragraph (e) shall not be provided to  
10 the public and shall be confidential. The state licensing authority shall  
11 verify the location of a primary caregiver cultivation operation to a local  
12 government or law enforcement agency upon receiving an  
13 address-specific request for verification. The location of the cultivation  
14 operation shall comply with all applicable local laws, rules, or  
15 regulations.

16 (14) **Affirmative defense.** If a patient or primary caregiver raises  
17 an affirmative defense as provided in section 14 (4) (b) of article XVIII  
18 of the state constitution, THE PATIENT SHALL PROVIDE RECOMMENDATIONS  
19 OF AT LEAST TWO PHYSICIANS SUPPORTING THE AFFIRMATIVE DEFENSE  
20 THAT THE EXCESS AMOUNTS WERE MEDICALLY NECESSARY TO ADDRESS  
21 THE PATIENT'S DEBILITATING MEDICAL CONDITION. The patient's ~~physician~~  
22 PHYSICIANS shall certify the specific amounts in excess of two ounces that  
23 are necessary to address the patient's debilitating medical condition and  
24 why such amounts are necessary. A patient who asserts this affirmative  
25 defense shall waive confidentiality privileges related to the condition or  
26 conditions that were the basis for the recommendation. If a patient,  
27 primary caregiver, or physician raises an exception to the state criminal

1 laws as provided in section 14 (2) (b) or (2) (c) of article XVIII of the  
2 state constitution, the patient, primary caregiver, or physician waives the  
3 confidentiality of his or her records related to the condition or conditions  
4 that were the basis for the recommendation maintained by the state health  
5 agency for the medical marijuana program. Upon request of a law  
6 enforcement agency for such records, the state health agency shall only  
7 provide records pertaining to the individual raising the exception, and  
8 shall redact all other patient, primary caregiver, or physician identifying  
9 information.

10 <{Do you prefer a safety clause or a petition clause?}>