

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

January 27, 2010  
Date

Committee on Health and Human Services.

After consideration on the merits, the Committee recommends the following:

SB10-109 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, line 5, strike "**department**" and substitute
- 2 "**state health agency**".
  
- 3 Page 2, line 9, strike "RELATIONSHIP"" and substitute "RELATIONSHIP",
- 4 FOR PURPOSES OF THE MEDICAL MARIJUANA PROGRAM,".
  
- 5 Page 3, line 5, strike "DEPARTMENT." and substitute "STATE HEALTH
- 6 AGENCY.".
  
- 7 Page 3, line 21, strike "DEPARTMENT" and substitute "STATE HEALTH
- 8 AGENCY".
  
- 9 Page 3, after line 22 insert:
  
- 10 "(f) "STATE HEALTH AGENCY" MEANS THE PUBLIC HEALTH
- 11 RELATED ENTITY OF STATE GOVERNMENT DESIGNATED BY THE GOVERNOR
- 12 BY EXECUTIVE ORDER PURSUANT TO SECTION 14 OF ARTICLE XVIII OF THE
- 13 STATE CONSTITUTION.".
  
- 14 Page 3, line 23, strike "department" and substitute "~~department~~ STATE
- 15 HEALTH AGENCY".
  
- 16 Page 4, line 7, strike "EXAMINERS, AS AUTHORIZED IN" and substitute
- 17 "EXAMINERS FOR A SUSPECTED VIOLATION OF SECTION 14 OF ARTICLE

1 XVIII OF THE STATE CONSTITUTION, PARAGRAPH (a) OR (b) OF  
2 SUBSECTION (3) OF THIS SECTION, OR THE RULES PROMULGATED BY THE  
3 STATE HEALTH AGENCY PURSUANT TO THIS SUBSECTION (2).".

4 Page 4, strike line 8.

5 Page 4, line 9, strike "department" and substitute "~~department~~ STATE  
6 HEALTH AGENCY".

7 Page 4, line 13, strike "department" and substitute "~~department~~ STATE  
8 HEALTH AGENCY".

9 Page 4, line 16, strike "DEPARTMENT" and substitute "STATE HEALTH  
10 AGENCY".

11 Page 4, line 24, strike "DEPARTMENT" and substitute "STATE HEALTH  
12 AGENCY".

13 Page 5, line 5, strike "department" and substitute "~~department~~ STATE  
14 HEALTH AGENCY".

15 Page 5, strike lines 8 through 16 and substitute "constitution.".

16 Page 5, line 20, strike "DEPARTMENT" and substitute "STATE HEALTH  
17 AGENCY".

18 Page 6, strike lines 20 through 27.

19 Page 7, strike lines 1 through 23 and substitute:

20 "(4) **Enforcement.** (a) IF THE STATE HEALTH AGENCY HAS  
21 REASONABLE CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED  
22 SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, PARAGRAPH  
23 (a) OR (b) OF SUBSECTION (3) OF THIS SECTION, OR THE RULES  
24 PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO SUBSECTION  
25 (2) OF THIS SECTION, THE STATE HEALTH AGENCY MAY REFER THE MATTER  
26 TO THE STATE BOARD OF MEDICAL EXAMINERS CREATED IN SECTION  
27 12-36-103, C.R.S., FOR AN INVESTIGATION AND DETERMINATION.

28 (b) IF THE STATE HEALTH AGENCY HAS REASONABLE CAUSE TO  
29 BELIEVE THAT A PHYSICIAN HAS VIOLATED PARAGRAPH (c) OF SUBSECTION

1 (3) OF THIS SECTION, THE STATE HEALTH AGENCY SHALL CONDUCT A  
2 HEARING PURSUANT TO SECTION 24-4-104, C.R.S., TO DETERMINE  
3 WHETHER A VIOLATION HAS OCCURRED.

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

14 (d) WHEN THE STATE HEALTH AGENCY HAS OBJECTIVE AND  
15 REASONABLE GROUNDS TO BELIEVE AND FINDS, UPON A FULL  
16 INVESTIGATION, THAT A PHYSICIAN HAS BEEN GUILTY OF DELIBERATE AND  
17 WILLFUL VIOLATION OF SECTION 14 OF ARTICLE XVIII OF THE STATE  
18 CONSTITUTION, THIS SECTION, OR THE RULES PROMULGATED BY THE STATE  
19 HEALTH AGENCY PURSUANT TO SUBSECTION (2) OF THIS SECTION OR THAT  
20 THE PUBLIC HEALTH, SAFETY, OR WELFARE IMPERATIVELY REQUIRES  
21 EMERGENCY ACTION, AND THE EXECUTIVE DIRECTOR INCORPORATES  
22 THOSE FINDINGS INTO HIS OR HER ORDER, THE EXECUTIVE DIRECTOR MAY  
23 ORDER THAT THE STATE HEALTH AGENCY SUMMARILY SUSPEND A  
24 PHYSICIAN'S AUTHORITY TO RECOMMEND THE USE OF MEDICAL MARIJUANA  
25 PENDING THE PROCEEDINGS SET FORTH IN PARAGRAPH (a) OR (b) OF THIS  
26 SUBSECTION (4), WHICH SHALL BE PROPERLY INSTITUTED AND  
27 DETERMINED. FOR PURPOSES OF THIS PARAGRAPH (d), "FULL  
28 INVESTIGATION" MEANS A REASONABLE ASCERTAINMENT OF THE  
29 UNDERLYING FACTS ON WHICH THE ACTION IS BASED.

30 (5) **Revocation and surrender of patient identification card**  
31 **upon criminal conviction.** ANY PATIENT WHO IS CONVICTED OF A  
32 CRIMINAL OFFENSE UNDER ARTICLE 18 OF TITLE 18, C.R.S., SENTENCED OR  
33 ORDERED BY A COURT TO DRUG OR SUBSTANCE ABUSE TREATMENT, OR  
34 SENTENCED TO THE DIVISION OF YOUTH CORRECTIONS SHALL  
35 IMMEDIATELY SURRENDER HIS OR HER PATIENT REGISTRY IDENTIFICATION  
36 CARD TO THE COURT, WHICH CARD SHALL BE NULL AND VOID UPON  
37 CONVICTION OR SENTENCING; HOWEVER, A PATIENT WHO SURRENDERS HIS  
38 OR HER REGISTRY IDENTIFICATION CARD PURSUANT TO THIS SUBSECTION

1 (5) MAY APPLY TO THE COURT WITH JURISDICTION OVER THE CRIMINAL  
2 MATTER, AND, UPON A FINDING BY THE COURT THAT IT IS IN THE PATIENT'S  
3 BEST MEDICAL INTEREST AND THE INTEREST OF JUSTICE, THE COURT MAY  
4 ORDER THAT A PATIENT'S REGISTRY IDENTIFICATION CARD BE REISSUED  
5 AND REINSTATED.

6 (6) A PARENT WHO SUBMITS A MEDICAL MARIJUANA REGISTRY  
7 APPLICATION FOR HIS OR HER CHILD SHALL HAVE HIS OR HER SIGNATURE  
8 NOTARIZED ON THE APPLICATION."

9 Page 7, line 24, strike "(5)" and substitute "(7)", and strike "department"  
10 and substitute "~~department~~ STATE HEALTH AGENCY".

11 Page 8, line 1, strike "department's" and substitute "~~department's~~ STATE  
12 HEALTH AGENCY'S", and strike "program." and substitute "program, AND  
13 THE STATE BOARD OF MEDICAL EXAMINERS' DIRECT AND INDIRECT COSTS  
14 ASSOCIATED WITH INVESTIGATING AND PROSECUTING REFERRALS OF  
15 PHYSICIANS FROM THE STATE HEALTH AGENCY IN RELATION TO THE  
16 MEDICAL MARIJUANA PROGRAM."

17 Page 8, strike line 3 and substitute "EXECUTIVE DIRECTOR. THE STATE  
18 HEALTH AGENCY SHALL PROMULGATE RULES THAT ALLOW A PATIENT TO  
19 CLAIM INDIGENCE AS IT RELATES TO PAYING THE FEE APPROVED PURSUANT  
20 TO THIS SUBSECTION (7) AND THAT ESTABLISH THE STANDARD FOR  
21 INDIGENCE, THE PROCESS THE STATE HEALTH AGENCY SHALL USE TO  
22 DETERMINE WHETHER A PERSON WHO CLAIMS INDIGENCE MEETS THE  
23 STANDARD FOR INDIGENCE, AND THE PROCESS TO WAIVE THE FEE  
24 APPROVED PURSUANT TO THIS SUBSECTION (7) IF THE STATE HEALTH  
25 AGENCY DETERMINES THAT THE PATIENT MEETS THE STANDARD FOR  
26 INDIGENCE. All fees collected by the ~~department~~ STATE HEALTH AGENCY  
27 through the".

28 Page 8, line 7, strike "(6)" and substitute "(8)".

29 Page 8, line 9, strike "department" and substitute "~~department~~ STATE  
30 HEALTH AGENCY".

31 Page 8, line 11, before "All" insert "THE STATE HEALTH AGENCY SHALL  
32 TRANSFER FROM THE MEDICAL MARIJUANA PROGRAM CASH FUND TO THE  
33 DEPARTMENT OF REGULATORY AGENCIES FOR THE BENEFIT OF THE STATE  
34 BOARD OF MEDICAL EXAMINERS MONEYS TO COVER THE DIRECT AND

1 INDIRECT COSTS ASSOCIATED WITH INVESTIGATING AND PROSECUTING  
2 REFERRALS OF PHYSICIANS FROM THE STATE HEALTH AGENCY IN RELATION  
3 TO THE MEDICAL MARIJUANA PROGRAM."

4 Page 8, line 17, strike "(6)" and substitute "(8)".

5 Page 8, strike lines 21 through 27.

6 Page 9, strike lines 1 through 7.

7 Renumber succeeding sections accordingly.

8 Page 9, after line 16 insert:

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

11           **12-36-117. Unprofessional conduct - repeal.**

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

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

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

19           **12-36-118. Disciplinary action by board - immunity.**

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

27 Renumber succeeding section accordingly.

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