

Act No. 400
Public Acts of 2020
Approved by the Governor
January 4, 2021
Filed with the Secretary of State
January 4, 2021
EFFECTIVE DATE: January 4, 2021

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senators Hollier, Moss, Polehanki, Bullock, Geiss, Chang, Hertel and Brinks

ENROLLED SENATE BILL No. 1077

AN ACT to amend 2008 IL 1, entitled "An initiation of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to make an appropriation; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act," by amending section 6 (MCL 333.26426), as amended by 2016 PA 283.

The People of the State of Michigan enact:

6. Administering the Marijuana Regulatory Agency's Rules.

Sec. 6. (a) The marijuana regulatory agency shall issue registry identification cards to qualifying patients who submit all of the following, in accordance with the marijuana regulatory agency's rules:

- (1) A written certification.
- (2) Application or renewal fee.
- (3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required.
- (4) Name, address, and telephone number of the qualifying patient's physician.
- (5) Name, address, and date of birth of the qualifying patient's primary caregiver, if any.
- (6) Proof of Michigan residency. For the purposes of this subdivision, a person is considered to have proved legal residency in this state if any of the following apply:
 - (i) The person provides a copy of a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.
 - (ii) The person provides a copy of a valid Michigan voter registration.
- (7) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under state law to possess marihuana plants for the qualifying patient's medical use.
 - (b) The marijuana regulatory agency shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless all of the following conditions are met:
 - (1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian.
 - (2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians.
 - (3) The qualifying patient's parent or legal guardian consents in writing to do all of the following:
 - (A) Allow the qualifying patient's medical use of marihuana.
 - (B) Serve as the qualifying patient's primary caregiver.

(C) Control the acquisition of the marihuana, the dosage, and the frequency of the medical use of marihuana by the qualifying patient.

(c) The marijuana regulatory agency shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 business days after receiving it. The marijuana regulatory agency may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the marijuana regulatory agency determines that the information provided was falsified. Rejection of an application or renewal is considered a final marijuana regulatory agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

(d) The marijuana regulatory agency shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application. However, each qualifying patient can have not more than 1 primary caregiver, and a primary caregiver may assist not more than 5 qualifying patients with their medical use of marihuana.

(e) The marijuana regulatory agency shall issue registry identification cards within 5 business days after approving an application or renewal. A registry identification card expires 2 years after the date it is issued. Registry identification cards must contain all of the following:

- (1) Name, address, and date of birth of the qualifying patient.
- (2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.
- (3) The date of issuance and expiration date of the registry identification card.
- (4) A random identification number.
- (5) A photograph, if the marijuana regulatory agency requires one by rule.

(6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under state law to possess the marihuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference.

(f) If a registered qualifying patient's certifying physician notifies the marijuana regulatory agency in writing that the patient has ceased to suffer from a debilitating medical condition, the card becomes null and void upon notification by the marijuana regulatory agency to the patient.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county, or state governmental agency.

(h) The following confidentiality rules apply:

(1) Subject to subdivisions (3) and (4), applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

(2) The marijuana regulatory agency shall maintain a confidential list of the persons to whom the marijuana regulatory agency has issued registry identification cards. Except as provided in subdivisions (3) and (4), individual names and other identifying information on the list are confidential and are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The marijuana regulatory agency shall verify to law enforcement personnel and to the necessary database created in the marihuana tracking act as established by the medical marihuana facilities licensing act whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including an employee, contractor, or official of the marijuana regulatory agency or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$1,000.00, or both. Notwithstanding this provision, marijuana regulatory agency employees may notify law enforcement about falsified or fraudulent information submitted to the marijuana regulatory agency.

(i) The marijuana regulatory agency shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

- (1) The number of applications filed for registry identification cards.
- (2) The number of qualifying patients and primary caregivers approved in each county.
- (3) The nature of the debilitating medical conditions of the qualifying patients.
- (4) The number of registry identification cards revoked.
- (5) The number of physicians providing written certifications for qualifying patients.

(j) The marijuana regulatory agency may enter into a contract with a private contractor to assist the marijuana regulatory agency in performing its duties under this section. The contract may provide for assistance in processing and issuing registry identification cards, but the marijuana regulatory agency shall retain the

authority to make the final determination as to issuing the registry identification card. Any contract must include a provision requiring the contractor to preserve the confidentiality of information in conformity with subsection (h).

(k) Not later than 6 months after April 1, 2013, the marijuana regulatory agency shall appoint a panel to review petitions to approve medical conditions or treatments for addition to the list of debilitating medical conditions under the rules. The panel shall meet at least twice each year and shall review and make a recommendation to the marijuana regulatory agency concerning any petitions that have been submitted that are completed and include any documentation required by rule. All of the following apply to the panel:

(1) A majority of the panel members must be licensed physicians, and the panel shall provide recommendations to the marijuana regulatory agency regarding whether the petitions should be approved or denied.

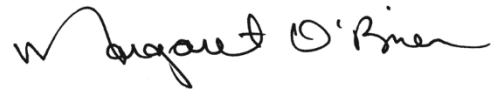
(2) All meetings of the panel are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(l) The marihuana registry fund is created within the state treasury. All fees collected under this act shall be deposited into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund. The marijuana regulatory agency shall be the administrator of the fund for auditing purposes. The marijuana regulatory agency shall expend money from the fund, upon appropriation, for the operation and oversight of the Michigan medical marihuana program. For the fiscal year ending September 30, 2016, \$8,500,000.00 is appropriated from the marihuana registry fund to the department for its initial costs of implementing the medical marihuana facilities licensing act and the marihuana tracking act. For the fiscal year ending September 30, 2021, \$24,000,000.00 of the money in the marihuana registry fund is transferred to and must be deposited into the Michigan set aside fund created under section 1i of 1965 PA 213, MCL 780.621i.

(m) As used in this section, "marijuana regulatory agency" means the marijuana regulatory agency created under Executive Reorganization Order No. 2019-2, MCL 333.27001.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4980 of the 100th Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: House Bill No. 4980, referred to in enacting section 1, was filed with the Secretary of State October 13, 2020, and became 2020 PA 193, Eff. Apr. 11, 2021.