

SENATE BILL NO. 1077

September 02, 2020, Introduced by Senators HOLLIER, MOSS, POLEHANKI, BULLOCK, GEISS, CHANG, HERTEL and BRINKS and referred to the Committee on Appropriations.

A bill to amend 2008 IL 1, entitled
"Michigan Medical Marihuana Act,"
by amending section 6 (MCL 333.26426), as amended by 2016 PA 283.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 6. Administering the ~~Department's~~ **Marijuana Regulatory**
2 **Agency's** Rules.

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

1 (1) A written certification. †

2 (2) Application or renewal fee. †

3 (3) Name, address, and date of birth of the qualifying
4 patient, except that if the applicant is homeless, no address is
5 required. †

6 (4) Name, address, and telephone number of the qualifying
7 patient's physician. †

8 (5) Name, address, and date of birth of the qualifying
9 patient's primary caregiver, if any. †

10 (6) Proof of Michigan residency. For the purposes of this
11 subdivision, a person ~~shall be~~ **is** considered to have proved legal
12 residency in this state if any of the following apply:

13 (i) The person provides a copy of a valid, lawfully obtained
14 Michigan driver license issued under the Michigan vehicle code,
15 1949 PA 300, MCL 257.1 to 257.923, or an official state personal
16 identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

17 (ii) The person provides a copy of a valid Michigan voter
18 registration.

19 (7) If the qualifying patient designates a primary caregiver,
20 a designation as to whether the qualifying patient or primary
21 caregiver will be allowed under state law to possess marihuana
22 plants for the qualifying patient's medical use.

23 (b) The ~~department~~ **marijuana regulatory agency** shall not issue
24 a registry identification card to a qualifying patient who is under
25 the age of 18 unless **all of the following conditions are met:**

26 (1) The qualifying patient's physician has explained the
27 potential risks and benefits of the medical use of marihuana to the
28 qualifying patient and to his or her parent or legal guardian. †

29 (2) The qualifying patient's parent or legal guardian submits

1 a written certification from 2 physicians. ~~†and~~

2 (3) The qualifying patient's parent or legal guardian consents
3 in writing to **do all of the following:**

4 (A) Allow the qualifying patient's medical use of marihuana. ~~†~~

5 (B) Serve as the qualifying patient's primary caregiver. ~~†and~~

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

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

21 (d) The ~~department~~ **marijuana regulatory agency** shall issue a
22 registry identification card to the primary caregiver, if any, who
23 is named in a qualifying patient's approved application. ~~†provided~~
24 ~~that~~ **However**, each qualifying patient can have ~~no~~ **not** more than 1
25 primary caregiver, and a primary caregiver may assist ~~no~~ **not** more
26 than 5 qualifying patients with their medical use of marihuana.

27 (e) The ~~department~~ **marijuana regulatory agency** shall issue
28 registry identification cards within 5 business days ~~of~~ **after**
29 approving an application or renewal. ~~†which shall expire~~ **A**

1 **registry identification card expires** 2 years after the date ~~of~~
2 ~~issuance. it is issued.~~ Registry identification cards ~~shall must~~
3 contain all of the following:

4 (1) Name, address, and date of birth of the qualifying
5 patient.

6 (2) Name, address, and date of birth of the primary caregiver,
7 if any, of the qualifying patient.

8 (3) The date of issuance and expiration date of the registry
9 identification card.

10 (4) A random identification number.

11 (5) A photograph, if the ~~department~~ **marijuana regulatory**
12 **agency** requires one by rule.

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

18 (f) If a registered qualifying patient's certifying physician
19 notifies the ~~department~~ **marijuana regulatory agency** in writing that
20 the patient has ceased to suffer from a debilitating medical
21 condition, the card ~~shall become~~ **becomes** null and void upon
22 notification by the ~~department~~ **marijuana regulatory agency** to the
23 patient.

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

1 governmental agency.

2 (h) The following confidentiality rules ~~shall~~ apply:

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

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

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

21 (4) A person, including an employee, contractor, or official
22 of the ~~department-marijuana regulatory agency~~ or another state
23 agency or local unit of government, who discloses confidential
24 information in violation of this act is guilty of a misdemeanor ~~7~~
25 punishable by imprisonment for not more than 6 months ~~7~~ or a fine
26 of not more than \$1,000.00, or both. Notwithstanding this
27 provision, ~~department-marijuana regulatory agency~~ employees may
28 notify law enforcement about falsified or fraudulent information
29 submitted to the ~~department-marijuana regulatory agency~~.

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

6 (1) The number of applications filed for registry
7 identification cards.

8 (2) The number of qualifying patients and primary caregivers
9 approved in each county.

10 (3) The nature of the debilitating medical conditions of the
11 qualifying patients.

12 (4) The number of registry identification cards revoked.

13 (5) The number of physicians providing written certifications
14 for qualifying patients.

15 (j) The ~~department~~ **marijuana regulatory agency** may enter into
16 a contract with a private contractor to assist the ~~department~~
17 **marijuana regulatory agency** in performing its duties under this
18 section. The contract may provide for assistance in processing and
19 issuing registry identification cards, but the ~~department~~ **marijuana**
20 **regulatory agency** shall retain the authority to make the final
21 determination as to issuing the registry identification card. Any
22 contract ~~shall~~ **must** include a provision requiring the contractor to
23 preserve the confidentiality of information in conformity with
24 subsection (h).

25 (k) Not later than 6 months after ~~the effective date of the~~
26 ~~amendatory act that added this subsection,~~ **April 1, 2013**, the
27 ~~department~~ **marijuana regulatory agency** shall appoint a panel to
28 review petitions to approve medical conditions or treatments for
29 addition to the list of debilitating medical conditions under the

~~administrative~~ rules. The panel shall meet at least twice each year and shall review and make a recommendation to the ~~department~~ **marijuana regulatory agency** concerning any petitions that have been submitted that are completed and include any documentation required by ~~administrative~~ rule. **All of the following apply to the panel:**

(1) A majority of the panel members ~~shall~~**must** be licensed physicians, and the panel shall provide recommendations to the ~~department~~**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 ~~shall~~**must** remain in the fund and ~~shall~~**must** not lapse to the general fund. The ~~department of licensing and regulatory affairs~~**marijuana regulatory agency** shall be the administrator of the fund for auditing purposes. The ~~department~~**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**

1 fund is transferred to and must be deposited into the Michigan set
2 aside fund created under section 1i of 1965 PA 213, MCL 780.621i.

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

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