

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 923

(Senator Raskin, *et al.*)

Judicial Proceedings

Health and Government Operations

Medical Marijuana - Natalie M. LaPrade Medical Marijuana Commission

This bill expands the purpose and responsibilities of the Natalie M. LaPrade Medical Marijuana Commission to include the approval of certifying physicians as well as conducting research on issues and disseminating information related to the medical use of marijuana. The bill increases the limit on the number of licensed growers to 15, establishes dispensaries, and specifies the process by which a qualifying patient may obtain medical marijuana, including provisions related to issuing identification cards for qualifying patients and their caregivers. Additionally, the bill authorizes the commission to set reasonable fees to cover its operating costs and distributes any fees collected by the commission to the existing Natalie M. LaPrade Medical Marijuana Commission Fund. The commission must adopt regulations to implement the bill by September 15, 2014.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: General fund expenditures increase beginning in FY 2014 for the commission to implement the bill; future years reflect the addition of staff for the commission, contractual services for the Department of Health and Mental Hygiene (DHMH), database development and equipment purchases, and ongoing costs. General fund expenditures increase by about \$56,000 in FY 2014 and more than \$1 million in FY 2015. Beginning in FY 2016, commission special fund revenues increase from application fees submitted by dispensaries and medical marijuana growers as discussed below. As such, general and special fund expenditures increase by about \$695,700 in FY 2016.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
SF Revenue	\$0	\$0	-	-	-
GF Expenditure	\$56,000	\$1,040,900	\$0	\$0	\$0
GF/SF Exp.	\$0	\$0	\$695,700	\$717,900	\$750,300
Net Effect	(\$56,000)	(\$1,040,900)	(\$695,700)	(\$717,900)	(\$750,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Any impact on local government finances is likely minimal and may be offset by fewer violations of current law.

Small Business Effect: Potential meaningful for any small growers or dispensaries that become licensed under the bill.

Analysis

Bill Summary:

Definitions

A “qualifying patient” is someone who either has been provided a written certification by a certifying physician in accordance with a bona fide physician-patient relationship or is enrolled in a research program with a registered academic medical center. Additionally, if younger than age 18, a qualifying patient must have a caregiver. A “caregiver” is a person who has agreed to assist with a qualifying patient’s medical use of marijuana and, for a qualifying patient younger than age 18, a parent or legal guardian. A caregiver may serve no more than five qualifying patients at a time, and a qualifying patient may have no more than two caregivers.

A “certifying physician” is a licensed physician who is approved by the commission to make marijuana available to patients for medical use in accordance with regulations adopted by the commission. A “written certification” is a certification issued by a certifying physician to a qualifying patient and indicates that a patient is justified in receiving medical marijuana by a qualifying condition. The patient’s condition must be one for which the potential benefits of the medical use of marijuana likely outweigh the risks.

A “dispensary” is an entity licensed by the commission that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, related products, or educational materials for use by a qualifying patient or caregiver. A “dispensary agent” is an owner, employee, volunteer, officer, or director of a dispensary. Likewise, a “medical marijuana grower

agent” is an owner, employee, volunteer, officer, or director of a licensed medical marijuana grower.

Expanded Membership and Purpose of the Commission

The bill adds three members to the commission: an individual with experience in horticulture recommended by the Maryland Department of Agriculture; a representative of the University of Maryland Extension; and a representative of the Office of the Comptroller.

The bill adds to the purpose of the Natalie M. LaPrade Medical Marijuana Commission (1) approval of certifying physicians; (2) the publishing and disseminating of any information that relates to the medical use of marijuana and related research; and (3) the researching of issues related to the medical use of marijuana.

Certifying Physicians and Qualifying Patients

The commission must approve a certifying physician who meets all requirements and who submits a satisfactory application. Information that must be included in a certifying physician’s proposal includes (1) reasons for including a patient under the care of the physician; (2) reasons for which the physician will exclude a patient; (3) the physician’s plan for screening a patient for dependence before and after issuing a written certification; and (4) the physician’s plan for ongoing assessment and follow-up care.

The bill encourages the commission to approve physician applications for chronic and debilitating diseases or medical conditions that result in a patient being admitted into hospice or receiving palliative care or diseases or conditions that produce (1) cachexia, anorexia, or wasting syndrome; (2) severe pain; (3) severe nausea; (4) seizures; or (5) severe or persistent muscle spasms. The commission is authorized to approve applications for other conditions as well, if the condition is severe, is one for which other medical treatments have been ineffective, and the symptoms can reasonably be expected to be relieved by the medical use of marijuana.

A certifying physician or the spouse of a certifying physician may not receive any gifts from or have an ownership interest in a medical marijuana grower or dispensary. A certifying physician may receive compensation from a medical marijuana grower or dispensary if the certifying physician (1) obtains the approval of the commission before receiving compensation and (2) discloses the amount of compensation received to the commission.

A certifying physician must submit an annual report that includes the number of patients served, the county of residence of each patient, any medical condition for which medical

marijuana was recommended, and a summary of the clinical outcomes. An annual report may not include identifying information about patients. A certifying physician may apply to the commission for approval biennially, and the commission must grant or deny a renewal based on the physician's performance in complying with regulations adopted by the commission. Likewise, the commission, in its annual report to the Governor and General Assembly, must include information on physicians certified under the bill.

A qualifying patient may be a patient of the certifying physician or may be referred to the certifying physician, and the certifying physician may discuss medical marijuana with a qualifying patient. Generally, a qualifying patient or caregiver may only obtain medical marijuana from a medical marijuana grower or dispensary licensed by the commission; however, a qualifying patient younger than age 18 may only obtain marijuana through the patient's caregiver.

Identification Cards and Website

The commission is required to develop identification cards for qualifying patients and caregivers. DHMH must adopt regulations that establish the requirements for identification cards that are provided by the commission. These regulations must include (1) the information that must be included on the identification card; (2) the method through which the commission will distribute identification cards; and (3) the method through which the commission will track identification cards. A certifying physician must provide each written certification to the commission, at which point, the commission must issue an identification card to each qualifying patient or caregiver named in the certification.

The commission must also develop and maintain a website that provides information on (1) how an individual can obtain medical marijuana in the State; (2) how an individual can find a certifying physician; and (3) contact information for licensed medical marijuana growers and licensed dispensaries.

Licensed Marijuana Growers and Their Agents

The commission may issue licenses to no more than 15 medical marijuana growers; however, beginning June 1, 2016, the commission may issue the number of licenses necessary to meet the demand for medical marijuana by qualifying patients and caregivers issued identification cards in an affordable, accessible, secure, and efficient manner. The commission must establish an application review process for medical marijuana grower licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission; an applicant may not be issued more than one license. A grower must pay an application fee in an amount determined by the commission and must meet all requirements set by the commission. The commission must:

- encourage licensing medical marijuana growers that grow strains of marijuana, including strains with high cannabidiol content, with demonstrated success in alleviating symptoms of specific diseases or conditions;
- encourage licensing medical marijuana growers that prepare medical marijuana in a range of routes of administration;
- encourage licensing medical marijuana growers located in agricultural zones; and
- actively seek to achieve racial, ethnic, and geographic diversity when licensing medical marijuana growers and encourage applicants who qualify as a minority business enterprise; beginning June 1, 2016, a licensed grower must report annually to the commission on the minority owners and employees of the grower.

The application for this license may be submitted in paper or electronic form. Each initial and renewal license is valid for two years. A licensed grower may distribute marijuana at the grower's facility or at a satellite facility of the grower, and marijuana may only be provided to (1) a program operated by an academic medical center; (2) licensed dispensaries; (3) qualified patients; and (4) caregivers.

The commission must set standards for licensure of medical marijuana growers to ensure public safety and safe access to medical marijuana, which may include a requirement for the posting of security. A licensed grower must ensure that safety precautions established by the commission are followed by any facility operated by the grower. An entity that seeks a medical marijuana grower license must also meet local zoning and planning requirements.

Each medical marijuana grower agent must be registered with the commission before the agent may volunteer or work for a licensed grower, as well as obtain a specified State and national criminal history records check (CHRC). The commission may not register a person who has been convicted of a felony drug offense as a grower agent. The licensed grower must apply to the commission for a registration card for each grower agent by submitting the name, address, and date of birth of the agent. Within one business day after a grower agent ceases to be associated with the grower, the grower must notify the commission and return the agent's registration card. On receipt of this notice, the commission must immediately revoke the registration card of the grower agent and, if the registration card was not returned, notify the Department of State Police.

Dispensaries and Their Agents

A dispensary must be licensed by the commission; to obtain a dispensary license, an applicant must submit to the commission:

- an application fee in an amount determined by the commission; and

- an application that includes (1) the legal name and physical address of the proposed dispensary; (2) the name, address, and date of birth of each principal officer and each director, none of whom may have served as a principal officer or director for a dispensary that has had its registration certificate revoked; and (3) operating procedures that the dispensary will use, consistent with commission regulations for oversight, including storage of marijuana only in enclosed and locked facilities.

The commission must (1) establish an application review process for granting dispensary licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the commission and (2) actively seek to achieve racial, ethnic, and geographic diversity when licensing dispensaries.

A dispensary must apply to the commission for a registration card for each of its agents by submitting the name, address, and date of birth of each agent. A dispensary agent must be at least age 21, be registered with the commission before volunteering or working at the dispensary, and obtain a State and national CHRC. The commission may not register a person who has been convicted of a felony drug offense as a dispensary agent. Within one business day after a dispensary agent ceases to be associated with a dispensary, the dispensary must notify the commission and return the agent's registration card. On receipt of a notification of this type, the commission must immediately revoke the registration card of the agent and notify the Department of State Police if the registration card was not returned to the commission.

Protections and Prohibitions

A qualifying patient (who is enrolled in an approved program or in possession of an amount of marijuana determined by the commission to constitute a 30-day supply), certifying physician, caregiver, dispensary, dispensary agent, or hospital or hospice program where a qualifying patient is receiving treatment is not subject to arrest, prosecution, or any civil or administrative penalty (including action by a professional licensing board) and may not be denied any right or privilege for the medical use of marijuana.

Further, the bill's provisions may not be construed to require a hospital or hospice program to report to the commission any disciplinary action taken by the hospital or hospice program against a certifying physician, including the revocation of privileges, after the approval of the certifying physician by the commission.

A licensed dispensary or a registered dispensary agent may not be penalized or arrested under State law for acquiring, possessing, processing, transferring, transporting, selling,

distributing, or dispensing marijuana, products containing marijuana, related supplies, or educational materials for use by a qualifying patient or caregiver.

A person may not distribute, possess, manufacture, or use marijuana that has been diverted from a qualifying patient, a caregiver, a licensed grower, or a licensed dispensary. A violator is guilty of a felony and subject to maximum penalties of five years imprisonment, a \$10,000 fine, or both – in addition to any penalties for manufacture, possession, or distribution of marijuana under the Criminal Law Article.

Required Reports and Studies

By December 1 of any year in which the results of the Maryland Youth Behavior Survey are published, the Natalie M. LaPrade Medical Marijuana Commission must report to specified committees of the General Assembly on any change in marijuana use by minors in Maryland.

By December 1, 2015, the commission must report to the General Assembly on the level of competition in the market for medical marijuana, including (1) whether the supply of medical marijuana exceeds the demand and, if so, whether the oversupply has caused the diversion of medical marijuana to persons not authorized by law to possess it or (2) whether the demand exceeds the supply and, if so, whether additional medical marijuana grower licenses are necessary to meet the demand for medical marijuana by qualifying patients and caregivers issued identification cards in an affordable, accessible, secure, and efficient manner.

The commission must study and report recommendations to the General Assembly related to providing access to medical marijuana for veterans who are receiving treatment at a medical facility operating under the auspices of the U.S. Veterans Health Administration, the U.S. Department of Veterans Affairs, the Maryland Department of Veterans Affairs, or any other facility in the State certified by the U.S. Department of Veterans Affairs Medical Center.

The commission must also study, in consultation with the Comptroller, the taxation of medical marijuana and the impact that medical marijuana laws have had on banking and financial transactions in other states that have implemented medical marijuana laws. This study must examine federal laws and policies related to medical marijuana taxation, banking, and financial transactions affected by medical marijuana laws. By December 1, 2014, the commission must report its findings and recommendations to the General Assembly regarding these issues.

Current Law:

Natalie M. LaPrade Medical Marijuana Commission and Fund

Chapter 403 of 2013 established the Natalie M. LaPrade Medical Marijuana Commission and Fund. A member of the commission may not receive compensation as a member of the commission but is entitled to reimbursement for expenses. In addition, the commission is authorized to employ staff (including contractual staff) in accordance with the State budget.

The commission is required to administer the fund, which consists of any money appropriated in the State budget to the fund and any other money from any other source accepted for the benefit of the fund (in accordance with any conditions adopted by the commission). Expenditures from the fund may be made only in accordance with the State budget. The fund is subject to legislative audit and must be invested in the same manner as other State funds, with investment earnings retained to the credit of the fund. No part of the fund may revert or be credited to the general fund or any other special fund of the State.

The commission must, during fiscal 2014, develop specified policies, procedures, regulations, and guidelines for implementation of Chapter 403. By December 1, 2013, the commission was required to report to the Governor and the General Assembly on sources of funding for, and suggested fees to support, the implementation of Chapter 403 beginning July 1, 2014.

Application Process for Academic Medical Centers

The commission must annually issue a request for applications for academic medical centers to operate medical marijuana compassionate use programs. An “academic medical center” is a hospital that operates a medical residency program for physicians and conducts research that is overseen by the U.S. Department of Health and Human Services and involves human subjects. An application submitted by an academic medical center must:

- specify the medical conditions to be treated, the criteria by which patients will be included in or excluded from participation, how patients will be assessed for addiction before and during treatment, and the length of treatment and dosage permitted;
- describe the source and type of the marijuana to be used, how health care providers will be eligible to participate and what training they will receive, and the plan for defining and monitoring the success or failure of treatment;
- demonstrate approval of the program by the center’s institutional review board;

- include a description of whether and how caregivers will interact with participating patients, a plan for monitoring aggregate data and outcomes and publishing results, and a description of the sources of funding; and
- describe any required training for providers and patients on diversion-related issues, steps the center will take to prevent and monitor diversion, how the program will dispose of any unused marijuana, and how the center and the program will meet any other established criteria.

The commission is required to establish an application review process that includes reviewers with expertise in scientific research and analysis, medical training, and law enforcement. The commission may grant a one-year renewable license to a program and must set application and renewal fees that cover its expenses in reviewing and approving applications and providing program oversight.

The commission may approve no more than five programs to operate at one time. The commission must report annually to the Governor and the General Assembly on approved programs that are operating.

Program Limitations and Requirements

An academic medical center that is approved to operate a program must provide to the commission, on a daily basis, updated data on patients and caregivers; the commission must then make the data available in real time to law enforcement. If a center utilizes caregivers as part of a program, the center is required to limit the number of patients a caregiver is allowed to serve to no more than five and limit the number of caregivers that serve a particular patient to no more than two.

A center must report annually to the commission. In addition, a center that wishes to continue the program has to apply annually to the commission for renewal of approval. A center is also subject to inspection by the commission (which is authorized to rescind approval of a program if the program is found to not be in compliance with established conditions of approval).

Licensed Growers

The commission is required to license medical marijuana growers to operate in the State to provide marijuana to (and only to) approved programs. However, the commission may license no more than five medical marijuana growers for each approved program. In addition, the commission must establish requirements for security (including a product-tracking system) and for the manufacturing process; a grower must meet these requirements to obtain a license. The commission is authorized to inspect licensed

growers to ensure compliance and may impose penalties upon, or rescind the license of, a grower that does not meet the commission's standards for licensure.

An academic medical center may use marijuana obtained only from the federal government or from a licensed medical marijuana grower.

Protections, Penalties, and Other Legal Considerations

The following persons may not be subject to arrest, prosecution, or any civil or administrative penalty – or be denied any right or privilege – for the medical use of marijuana: (1) a patient enrolled in an approved program who is in possession of an amount of marijuana that is authorized under the program; (2) a licensed grower (or the grower's employee) who is acting in accordance with the terms of the license; or (3) an academic medical center or employee of the center (or any other person associated with the operation of an approved program), for activities conducted in accordance with the program.

A person is prohibited from distributing, possessing, manufacturing, or using marijuana that has been diverted from an approved program or from a patient who is enrolled in an approved program. A violator is guilty of a felony and on conviction is subject to (in addition to any existing applicable penalties) imprisonment for up to five years and/or a fine of up to \$10,000.

Chapter 403 does not authorize any individual to engage in (and does not prevent the imposition of any civil, criminal, or other penalties for) any of the following: (1) undertaking any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; (2) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or boat while under the influence of marijuana; or (3) smoking marijuana in any public place, in a motor vehicle, or on a private property that is subject to specified policies prohibiting the smoking of marijuana on the property.

Background:

Natalie M. LaPrade Medical Marijuana Commission Status

The commission is developing policies, procedures, guidelines, and regulations to implement programs for the medical use of marijuana beginning in July 2014. On November 25, 2013, the commission issued its first report to the Governor and members of the General Assembly. According to the report, the commission began to meet in September 2013 and has formed three subcommittees: Governance; Education, Outreach, and Financing; and Policy. Since that time, the commission reports that it has

developed draft regulations related to fees and that it is discussing future-year funding with various philanthropic organizations. The regulations have not yet been promulgated.

Additionally, in a February 2014 report to the General Assembly, the chairman of the commission estimated that the initiative is at least 18 months away from providing medical marijuana to patients. The chairman reported that, in a best-case scenario, it could take up to two years for a medical center to set up a program and to make arrangements for a grower to provide the marijuana. The chairman further reported that the State's academic medical centers have been wary about participating in the program because they receive federal grants and their participation could jeopardize this source of funding.

Federal Marijuana Regulations and Requirements

During the November 2012 elections, voters in Colorado and Washington approved ballot measures to decriminalize marijuana use and possession and create a state-regulated marijuana market. Marijuana remains a controlled dangerous substance under federal law, and residents of Colorado and Washington are not immune from federal prosecution. Though states are not obligated to enforce federal marijuana laws, and the federal government cannot force Colorado and Washington to recriminalize conduct that has been decriminalized in these states, the federal government can try to block the implementation of these laws. In a memorandum released in August 2013, the U.S. Department of Justice (DOJ) announced an update to its federal marijuana enforcement policy in response to the many state initiatives related to marijuana. DOJ makes clear that marijuana remains an illegal drug under the Controlled Dangerous Substances Act and federal prosecutors will continue to aggressively enforce statute. DOJ identified eight enforcement areas for federal prosecutors to focus on that include:

- preventing the distribution of marijuana to minors;
- preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- preventing state-authorized marijuana activity from being used as a cover or pretext for other illegal drugs or activity;
- preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- preventing the growing of marijuana on public lands; and

- preventing marijuana possession or use on federal property.

Recently, the Obama Administration has also issued guidelines intended to give banks confidence that they will not be punished if they provide services to legitimate marijuana businesses in states that have legalized the medical or recreational use of the drug. The guidance requires banks to vigorously monitor marijuana-industry customers in a variety of ways. While the guidelines do not grant immunity to banks, they do direct prosecutors and regulators to focus only on financial institutions that have failed to adhere to the guidance.

State Fiscal Effect: In February 2014, the commission reported to the House of Delegates Marijuana Workgroup that, even within the parameters of its existing program, medical marijuana could not be available for distribution to patients for at least 18 months and more likely two years. Under the current program, before any license is issued to a grower, an academic medical center should express interest and pursue a program. With this bill, a medical marijuana program can be in place more quickly – even so, certain actions have to be taken, both under the bill and current law, before any patients can receive medical marijuana. Because existing requirements for security (including a product-tracking system) and the manufacturing process for growers must still be established, new licensure guidelines under the bill for growers and dispensaries must likewise be established, growers and dispensaries must then be licensed, the system for identification (and registration) cards established, and the approval process for certifying physicians developed, the earliest timeframe for cultivation and distribution of medical marijuana is fiscal 2016.

Additionally, under Chapter 403 of 2013, the operational and financial burdens to implement the program were to be shared by participating academic medical centers in various ways. Under the program expansion established by the bill, this is not the case for certifying physicians; however, dispensaries and growers must share in the costs of licensure. As such, expenditures increase significantly as discussed below.

Special Funding of the Commission

Neither current law nor the bill specifies the purposes for which the Natalie M. LaPrade Medical Marijuana Commission Fund may be used. Nevertheless, this analysis assumes the special fund is intended to be used to cover the operating costs of the commission. The bill does, however, provide a means of capitalizing the special fund by directing fees collected by the commission to it. (Under current law, any fees collected would accrue to the general fund.) Further, the bill gives effect to a current law provision related to the application process for academic medical centers (§ 13-3304(c)), which requires the commission to “set application fees and renewal fees that cover its expenses in reviewing and approving applications and providing oversight to [academic medical center]

programs.” Specifically, the bill authorizes the commission to set reasonable fees to cover its operating costs.

The only fee specified in current law is the one applicable to academic medical centers during the application and renewal process, and that fee includes a cost-recovery provision. Because the academic medical centers in the State (The Johns Hopkins University and the University of Maryland Medical System) continue to advise that they have no plans to participate in the medical marijuana program, no fee revenues are anticipated from this source.

However, for an entity to obtain a dispensary license or medical marijuana grower license under the bill, it must submit with its application an application fee in an amount determined by the commission. The bill does not require cost-recovery for these licenses. The bill is also silent as to any fee or cost-recovery associated with the approval process for certifying physicians, registering dispensary and grower agents, and the process for issuing identification cards to qualifying patients and their caregivers. Thus, it is assumed that a fee is not intended to apply to these individuals. The Department of Legislative Services (DLS) advises that it is unlikely the fees set by the commission could be set at a sufficient level to cover all related costs without being prohibitively high.

Therefore, this estimate assumes that the commission begins to collect minimal fees from dispensary and grower applicants for the special fund beginning in fiscal 2016 as the expanded program begins operations. Thus, all expenditures for the commission (as well as DHMH under the bill) are covered by general funds in fiscal 2014 and 2015, but general and special funds are used beginning in fiscal 2016 (reflecting special fund revenues collected from dispensary and grower application fees being used to cover some commission expenditures). It is unclear how many growers and dispensaries will be licensed under the bill or what fees they will pay; thus, a reliable estimate of special fund revenues and expenditure cannot be made at this time.

Required Staff to Implement the Bill

The demand for medical marijuana in Maryland and the interest of certifying physicians in participating in a program such as that established by the bill is unclear. Nevertheless, this estimate assumes sufficient interest results in implementation of the program outlined in the bill with (1) at most 15 licensed growers; (2) licensed growers directly dispensing marijuana to qualifying patients and caregivers in rural areas where they are likely to be located; and (3) an adequate number of licensed dispensaries in more urban areas of the State to dispense medical marijuana to qualifying patients and their caregivers. However, the estimate is driven more by duties of the commission and DHMH than by the take-up

rates for qualifying patients and certifying physician (or dispensaries and growers), as many of the costs outlined must be incurred regardless of the number of participants.

The commission currently has only one staff and does not have sufficient resources to handle the significant additional duties associated with the expansion of the current medical marijuana program. Chapter 403 of 2013 assumed the commission would receive three staff in fiscal 2014; however, the commission has thus far only hired an executive director. To implement the provisions of this bill, the commission needs at least six additional full-time staff: a physician; a pharmacist; a systems administrator; two program administrators; and an office secretary. While legal and additional secretarial support is also needed, these positions were to have been added under Chapter 403 of 2013. As they have not been, this estimate also includes a full-time attorney and an additional full-time office secretary for a total of eight more full-time staff. Most staff must be hired immediately to develop regulations by the September 15, 2014 deadline. However, the hiring of the administrator needed to process dispensary and grower applications and licenses as well as administrative staff who will administer the identification card system (one program administrator and one office secretary) can be delayed. The administrator is needed October 1, 2014, after the commission's regulations are promulgated; at that time, it is expected that some entities may begin the process of applying for express interest in obtaining dispensary and grower licenses. Even so, applications are not likely to be processed until fiscal 2016. The other two administrative staff are not needed until the program is able to distribute marijuana for medical use to qualifying patients, most likely in fiscal 2016.

In addition to the development of regulations, the physician is needed to review the certifications submitted by certifying physicians. Further, the physician and pharmacist will assist in conducting the research and developing the publications required by the bill – although the commission will likely rely on the expertise of members to do so. The commission comprises numerous legal and medical professionals who specialize in disciplines such as pain management, medical research, discharge and readmission reduction, narcotics enforcement, and medical marijuana issues. The bill adds to the commission representatives from the Comptroller's Office and the University of Maryland, as well as an expert in horticulture. It is assumed that, with the expertise of its members and the staff discussed in this analysis, the commission can handle the bill's numerous study and reporting requirements.

Moreover, general fund expenditures increase by \$40,000 in fiscal 2015 for contractual services for DHMH to inform the regulation process related to identification cards and by about \$2,200 per person per year for office space.

Thus, general fund expenditures increase by \$56,004 in fiscal 2014, which reflects the bill's June 1, 2014 effective date, for the commission to hire the staff needed to promulgate regulations in the short timeframe allotted. Expenditures increase by

\$540,866 in fiscal 2015, reflecting additional required staff, annualization, inflation, and the elimination of one-time costs. Expenditures further increase in fiscal 2016 as the commission hires the staff necessary to operate the identification and registration card system(s).

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
New Regular Positions	5	1	2
Salaries and Fringe Benefits	\$33,006	\$480,368	\$654,387
Contractual Services	0	40,000	0
Operating Expenses	232	3,368	4,733
Ongoing Expenses (Rent)	916	12,760	17,843
Start-up Costs	<u>21,850</u>	<u>4,370</u>	<u>8,740</u>
Total State Expenditures for Staff	\$56,004	\$540,866	\$685,703

DLS advises that the expenditures likely reflect minimal costs necessary to implement the bill. However, to the extent the commission is able to rely more heavily on the expertise of its members in developing regulations, some of these positions could be delayed or brought on in a part-time capacity (or via contractual services) initially, thereby reducing costs. DLS further advises that commission expenditures likely increase in future years to hire additional staff as the commission’s workload grows and participation in the program increases.

Additionally, under current law, the commission is authorized to inspect licensed growers to ensure compliance with security and tracking requirements established by the commission (as well as any additional requirements under the bill); however, there is no comparable provision in the bill that grants the same authority to inspect dispensaries. Because the commission is *not required* to perform grower inspections, this estimate does not include costs related to grower inspections. Should the commission choose to use its inspection authority, and should a meaningful number of entities seek a grower’s license, expenditures increase accordingly. However, it is possible that certain commission members and/or the pharmacist could handle any such inspections initially.

The bill necessitates additional meetings of the commission; any such costs have not been factored into this estimate nor have costs related to reimbursement for additional members.

Identification Cards, Tracking System, and Registration Cards

Because the bill requires DHMH to adopt regulations to specify the information to be included on identification cards, the method through which the commission will distribute the cards, the method through which the commission will track the cards, the format, type, and any security measures to be taken related to issuance of identification

cards for qualifying patients and caregivers, along with associated costs, depend on these regulations. At this time, DHMH reports that it will require the commission to establish a central processing and licensing unit to provide the identification cards; however, other requirements will be established in the regulation process. Nevertheless, this estimate assumes a base level of identification and security for the identification cards and the database that will be used for tracking. The commission is, therefore, assumed to procure the necessary equipment and supplies to develop a system with an adequate level of security – at a likely cost of at least \$500,000 in fiscal 2015 (with ongoing maintenance and supply costs of approximately \$10,000 per year).

The bill necessitates development of a registration card system for dispensary and grower agents. This estimate assumes the system developed for identification cards can be used for registration cards at minimal or no additional cost.

Required Website

It is assumed that establishment of the required website, which must contain a list of certifying physicians and contact information for licensed medical marijuana growers, can be handled with existing resources. The commission already maintains a website that is hosted through the DHMH website, and inclusion of the required list can be handled at minimal cost.

Additional Comments: The bill does not specify the duration of identification cards for qualifying patients and caregivers, and it does not specify the process by which identification cards may be reclaimed by the commission when the card is no longer needed or in use by a patient or caregiver. The regulations that must be adopted by DHMH do not specify that this information is necessary, but such provisions are not precluded.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, HB 881 (Delegate Glenn, *et al.* - Health and Government Operations) is not identical.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), University of Maryland Medical System, The Johns Hopkins University, National Conference of State Legislatures, U.S. Department of Justice, *New York Times*, 2011 Maryland Youth Risk Behavior Survey, U.S. Centers for Disease Control and Prevention, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2014
ncs/ljm Revised - Senate Third Reader/Clarification - March 31, 2014
Revised - Enrolled Bill - May 14, 2014

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