

# SENATE BILL 858

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9lr2565

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By: **Senator Zirkin**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Natalie M. LaPrade Medical Cannabis Commission – Academic Research –**  
3 **Medical Uses and Properties of Cannabis**

4 FOR the purpose of authorizing an institution of higher education or a ~~related medical~~  
5 ~~facility~~ certain facility or firm to file with the Natalie M. LaPrade Medical Cannabis  
6 Commission a registration to purchase medical cannabis for the purpose of  
7 conducting a certain research project; requiring that a certain registration include  
8 certain information; providing that a certain registration is valid until the  
9 Commission receives certain notification; authorizing an academic research  
10 representative to purchase medical cannabis from a licensed dispensary for a certain  
11 purpose; providing that an academic research representative may not be penalized  
12 or arrested under State law for certain actions under certain circumstances;  
13 authorizing the ~~Maryland Department of Health~~ Commission to adopt certain  
14 regulations; adding academic research representatives to the individuals toward  
15 whom a dispensary, dispensary agent, processor, or processor agent may take certain  
16 actions related to the use of cannabis and certain products, supplies, and materials  
17 by certain individuals and not be penalized or arrested under State law; adding  
18 academic research representatives to the persons that may not be subject to arrest,  
19 prosecution, or certain penalties or be denied any right or privilege for the medical  
20 use of or possession of medical cannabis; adding academic research representatives  
21 to the persons from whom a person may not distribute, possess, manufacture, or use  
22 cannabis that has been diverted; making conforming changes; defining a certain  
23 term; and generally relating to dispensing and purchasing medical cannabis for  
24 academic research.

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,  
 2 Article – Health – General  
 3 Section 13–3301, 13–3306(b) and (c), 13–3307, 13–3309(e), and 13–3313  
 4 Annotated Code of Maryland  
 5 (2015 Replacement Volume and 2018 Supplement)

6 BY adding to  
 7 Article – Health – General  
 8 Section 13–3304.1  
 9 Annotated Code of Maryland  
 10 (2015 Replacement Volume and 2018 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 12 That the Laws of Maryland read as follows:

13 **Article – Health – General**

14 13–3301.

15 (a) In this subtitle the following words have the meanings indicated.

16 (B) “ACADEMIC RESEARCH REPRESENTATIVE” MEANS AN EMPLOYEE OR  
 17 AGENT OF AN INSTITUTION OF HIGHER EDUCATION ~~OR~~, A RELATED MEDICAL  
 18 FACILITY, OR AN AFFILIATED BIOMEDICAL RESEARCH FIRM THAT FILED A  
 19 REGISTRATION WITH THE COMMISSION UNDER § 13–3304.1 OF THIS SUBTITLE WHO  
 20 IS AUTHORIZED TO PURCHASE MEDICAL CANNABIS FOR THE INSTITUTION OF  
 21 HIGHER EDUCATION OR RELATED MEDICAL FACILITY.

22 [(b)] (C) “Caregiver” means:

23 (1) A person who has agreed to assist with a qualifying patient’s medical  
 24 use of cannabis; and

25 (2) For a qualifying patient under the age of 18 years, a parent or legal  
 26 guardian.

27 [(c)] (D) “Certifying provider” means an individual who:

28 (1) (i) 1. Has an active, unrestricted license to practice medicine  
 29 that was issued by the State Board of Physicians under Title 14 of the Health Occupations  
 30 Article; and

31 2. Is in good standing with the State Board of Physicians;

1 (ii) 1. Has an active, unrestricted license to practice dentistry  
2 that was issued by the State Board of Dental Examiners under Title 4 of the Health  
3 Occupations Article; and

4 2. Is in good standing with the State Board of Dental  
5 Examiners;

6 (iii) 1. Has an active, unrestricted license to practice podiatry  
7 that was issued by the State Board of Podiatric Medical Examiners under Title 16 of the  
8 Health Occupations Article; and

9 2. Is in good standing with the State Board of Podiatric  
10 Medical Examiners; or

11 (iv) 1. Has an active, unrestricted license to practice registered  
12 nursing and has an active, unrestricted certification to practice as a nurse practitioner or  
13 a nurse midwife that were issued by the State Board of Nursing under Title 8 of the Health  
14 Occupations Article; and

15 2. Is in good standing with the State Board of Nursing;

16 (2) Has a State controlled dangerous substances registration; and

17 (3) Is registered with the Commission to make cannabis available to  
18 patients for medical use in accordance with regulations adopted by the Commission.

19 **[(d)] (E)** “Commission” means the Natalie M. LaPrade Medical Cannabis  
20 Commission established under this subtitle.

21 **[(e)] (F)** “Dispensary” means an entity licensed under this subtitle that  
22 acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or  
23 administers cannabis, products containing cannabis, related supplies, related products  
24 containing cannabis including food, tinctures, aerosols, oils, or ointments, or educational  
25 materials for use by a qualifying patient or caregiver.

26 **[(f)] (G)** “Dispensary agent” means an owner, a member, an employee, a  
27 volunteer, an officer, or a director of a dispensary.

28 **[(g)] (H)** “Fund” means the Natalie M. LaPrade Medical Cannabis Commission  
29 Fund established under § 13–3303 of this subtitle.

30 **[(h)] (I)** “Grower” means an entity licensed under this subtitle that:

31 (1) Cultivates or packages medical cannabis; and

32 (2) Is authorized by the Commission to provide cannabis to a processor,  
33 dispensary, or independent testing laboratory.

1           **[(i)] (J)**       “Independent testing laboratory” means a facility, an entity, or a site  
2 that offers or performs tests related to the inspection and testing of cannabis and products  
3 containing cannabis.

4           **[(j)] (K)**       “Medical cannabis grower agent” means an owner, an employee, a  
5 volunteer, an officer, or a director of a grower.

6           **[(k)] (L)**       “Processor” means an entity that:

7                   (1)       Transforms medical cannabis into another product or extract; and

8                   (2)       Packages and labels medical cannabis.

9           **[(l)] (M)**       “Processor agent” means an owner, a member, an employee, a  
10 volunteer, an officer, or a director of a processor.

11          **[(m)] (N)**       “Qualifying patient” means an individual who:

12                   (1)       Has been provided with a written certification by a certifying provider  
13 in accordance with a bona fide provider–patient relationship; and

14                   (2)       If under the age of 18 years, has a caregiver.

15          **[(n)] (O)**       “Written certification” means a certification that:

16                   (1)       Is issued by a certifying provider to a qualifying patient with whom the  
17 provider has a bona fide provider–patient relationship; and

18                   (2)       Includes a written statement certifying that, in the provider’s  
19 professional opinion, after having completed an assessment of the patient’s medical history  
20 and current medical condition, the patient has a condition:

21                           (i)       That meets the inclusion criteria and does not meet the exclusion  
22 criteria of the certifying provider’s application; and

23                           (ii)       For which the potential benefits of the medical use of cannabis  
24 would likely outweigh the health risks for the patient; and

25                   (3)       May include a written statement certifying that, in the provider’s  
26 professional opinion, a 30–day supply of medical cannabis would be inadequate to meet the  
27 medical needs of the qualifying patient.

28 **13–3304.1.**

1 (A) (1) AN INSTITUTION OF HIGHER EDUCATION ~~OR~~, A RELATED MEDICAL  
2 FACILITY, OR AN AFFILIATED BIOMEDICAL RESEARCH FIRM MAY FILE WITH THE  
3 COMMISSION A REGISTRATION TO PURCHASE MEDICAL CANNABIS FOR THE  
4 PURPOSE OF CONDUCTING A BONA FIDE RESEARCH PROJECT RELATING TO THE  
5 MEDICAL USES ~~OR~~, PROPERTIES, OR COMPOSITION OF CANNABIS.

6 (2) A REGISTRATION FILED UNDER PARAGRAPH (1) OF THIS  
7 SUBSECTION SHALL INCLUDE:

8 (I) THE NAME OF THE PRIMARY RESEARCHER;

9 (II) THE EXPECTED DURATION OF THE RESEARCH; AND

10 (III) THE PRIMARY OBJECTIVES OF THE RESEARCH.

11 (3) A REGISTRATION FILED UNDER PARAGRAPH (1) OF THIS  
12 SUBSECTION SHALL REMAIN VALID UNTIL THE COMMISSION IS NOTIFIED OF A  
13 CHANGE IN THE RESEARCH PROJECT OR A WITHDRAWAL OF THE REGISTRATION.

14 (B) AN ACADEMIC RESEARCH REPRESENTATIVE MAY PURCHASE MEDICAL  
15 CANNABIS FROM A LICENSED DISPENSARY.

16 (C) AN ACADEMIC RESEARCH REPRESENTATIVE MAY NOT BE PENALIZED OR  
17 ARRESTED UNDER STATE LAW FOR ACQUIRING, POSSESSING, OR DISPENSING  
18 CANNABIS, PRODUCTS CONTAINING CANNABIS, RELATED SUPPLIES, OR  
19 EDUCATIONAL MATERIALS FOR USE IN A BONA FIDE RESEARCH PROJECT RELATING  
20 TO THE MEDICAL USES ~~OR~~, PROPERTIES, OR COMPOSITION OF CANNABIS.

21 (D) THE ~~DEPARTMENT~~ COMMISSION MAY ADOPT REGULATIONS TO  
22 IMPLEMENT THIS SECTION.

23 13-3306.

24 (b) An entity licensed to grow medical cannabis under this section may provide  
25 cannabis only to:

26 (1) Processors licensed by the Commission under this subtitle;

27 (2) Dispensaries licensed by the Commission under this subtitle;

28 (3) Qualified patients;

29 (4) Caregivers; [and]

1 (5) Independent testing laboratories registered with the Commission  
2 under this subtitle; AND

3 (6) **ACADEMIC RESEARCH REPRESENTATIVES PURCHASING MEDICAL**  
4 **CANNABIS UNDER § 13-3304.1 OF THIS SUBTITLE.**

5 (c) (1) An entity licensed to grow cannabis under this section may dispense  
6 cannabis from a facility of a grower licensed as a dispensary.

7 (2) A qualifying patient [or], A caregiver, **OR AN ACADEMIC RESEARCH**  
8 **REPRESENTATIVE PURCHASING MEDICAL CANNABIS UNDER § 13-3304.1 OF THIS**  
9 **SUBTITLE** may obtain medical cannabis from a facility of a grower licensed as a dispensary.

10 (3) An entity licensed to grow medical cannabis under this section may  
11 grow and process medical cannabis on the same premises.

12 13-3307.

13 (a) (1) A dispensary shall be licensed by the Commission.

14 (2) (i) Subject to subparagraph (ii) of this paragraph, beginning  
15 December 1, 2024, the Commission may report to the General Assembly, in accordance with  
16 § 2-1246 of the State Government Article, on the number of licenses necessary to meet the  
17 demand for medical cannabis by qualifying patients and caregivers issued identification  
18 cards under this subtitle in an affordable, accessible, secure, and efficient manner.

19 (ii) Before the Commission determines to submit the report  
20 described under subparagraph (i) of this paragraph, the Commission shall provide the  
21 Legislative Policy Committee at least 30 days to submit comments to the Commission.

22 (b) To be licensed as a dispensary, an applicant shall submit to the Commission:

23 (1) An application fee in an amount to be determined by the Commission  
24 consistent with this subtitle; and

25 (2) An application that includes:

26 (i) The legal name and physical address of the proposed dispensary;

27 (ii) The name, address, and date of birth of each principal officer and  
28 each director, none of whom may have served as a principal officer or director for a  
29 dispensary that has had its license revoked; and

30 (iii) Operating procedures that the dispensary will use, consistent  
31 with Commission regulations for oversight, including storage of cannabis and products  
32 containing cannabis only in enclosed and locked facilities.

1 (c) (1) The Commission shall:

2 (i) Establish an application review process for granting dispensary  
3 licenses in which applications are reviewed, evaluated, and ranked based on criteria  
4 established by the Commission;

5 (ii) To the extent permitted by federal and State law, actively seek  
6 to achieve racial, ethnic, gender, and geographic diversity when licensing dispensaries; and

7 (iii) Encourage applicants who qualify as a minority business  
8 enterprise, as defined in § 14–301 of the State Finance and Procurement Article, or who  
9 are small, minority, or women–owned business entities to apply for licensure as  
10 dispensaries.

11 (2) Beginning June 1, 2018, a dispensary licensed under this subtitle shall  
12 report annually to the Commission on:

13 (i) The number of minority and women owners of the dispensary;

14 (ii) The ownership interest of any minority and women owners of the  
15 dispensary; and

16 (iii) The number of minority and women employees of the dispensary.

17 (d) (1) A dispensary license is valid for 6 years on initial licensure.

18 (2) A dispensary license is valid for 4 years on renewal.

19 (e) A dispensary licensed under this section or a dispensary agent registered  
20 under § 13–3308 of this subtitle may not be penalized or arrested under State law for  
21 acquiring, possessing, processing, transferring, transporting, selling, distributing, or  
22 dispensing cannabis, products containing cannabis, related supplies, or educational  
23 materials for use by a qualifying patient [or], a caregiver, **OR AN ACADEMIC RESEARCH**  
24 **REPRESENTATIVE PURCHASING MEDICAL CANNABIS UNDER § 13–3304.1 OF THIS**  
25 **SUBTITLE.**

26 (f) The Commission shall establish requirements for security and product  
27 handling procedures that a dispensary must meet to obtain a license under this section,  
28 including a requirement for a product–tracking system.

29 (g) The Commission may inspect a dispensary licensed under this section to  
30 ensure compliance with this subtitle.

31 (h) The Commission may impose penalties or rescind the license of a dispensary  
32 that does not meet the standards for licensure set by the Commission.

1 (i) (1) Each dispensary licensed under this section shall submit to the  
2 Commission a quarterly report.

3 (2) The quarterly report shall include:

4 (i) The number of patients served;

5 (ii) The county of residence of each patient served;

6 (iii) The medical condition for which medical cannabis was  
7 recommended;

8 (iv) The type and amount of medical cannabis dispensed; and

9 (v) If available, a summary of clinical outcomes, including adverse  
10 events and any cases of suspected diversion.

11 (3) The quarterly report may not include any personal information that  
12 identifies a patient.

13 13–3309.

14 (e) A processor licensed under this section or a processor agent registered under  
15 § 13–3310 of this subtitle may not be penalized or arrested under State law for:

16 (1) Acquiring, possessing, processing, packaging, labeling, transferring,  
17 transporting, selling, or distributing medical cannabis or products containing medical  
18 cannabis to a dispensary for use by a qualifying patient [or], a caregiver, **OR AN ACADEMIC**  
19 **RESEARCH REPRESENTATIVE PURCHASING MEDICAL CANNABIS UNDER § 13–3304.1**  
20 **OF THIS SUBTITLE;** or

21 (2) Transporting medical cannabis or products containing medical  
22 cannabis to an independent testing laboratory.

23 13–3313.

24 (a) Any of the following persons acting in accordance with the provisions of this  
25 subtitle may not be subject to arrest, prosecution, or any civil or administrative penalty,  
26 including a civil penalty or disciplinary action by a professional licensing board, or be  
27 denied any right or privilege, for the medical use of or possession of medical cannabis:

28 (1) A qualifying patient:

29 (i) In possession of an amount of medical cannabis determined by  
30 the Commission to constitute a 30–day supply; or



1 (ii) In possession of an amount of medical cannabis that is greater  
2 than a 30-day supply if the qualifying patient's certifying provider stated in the written  
3 certification that a 30-day supply would be inadequate to meet the medical needs of the  
4 qualifying patient;

5 (2) A grower licensed under § 13-3306 of this subtitle or a grower agent  
6 registered under § 13-3306 of this subtitle;

7 (3) A certifying provider;

8 (4) A caregiver;

9 **(5) AN ACADEMIC RESEARCH REPRESENTATIVE PURCHASING**  
10 **MEDICAL CANNABIS UNDER § 13-3304.1 OF THIS SUBTITLE;**

11 ~~[(5)] (6)~~ A dispensary licensed under § 13-3307 of this subtitle or a  
12 dispensary agent registered under § 13-3308 of this subtitle;

13 ~~[(6)] (7)~~ A processor licensed under § 13-3309 of this subtitle or a  
14 processor agent registered under § 13-3310 of this subtitle;

15 ~~[(7)] (8)~~ A hospital, medical facility, or hospice program where a  
16 qualifying patient is receiving treatment; or

17 ~~[(8)] (9)~~ A third-party vendor authorized by the Commission to test,  
18 transport, or dispose of medical cannabis, medical cannabis products, or medical cannabis  
19 waste under the provisions of this subtitle.

20 (b) (1) A person may not distribute, possess, manufacture, or use cannabis  
21 that has been diverted from a qualifying patient, a caregiver, **AN ACADEMIC RESEARCH**  
22 **REPRESENTATIVE**, a licensed grower, or a licensed dispensary.

23 (2) A person who violates this subsection is guilty of a felony and on  
24 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000  
25 or both.

26 (3) The penalty under this subsection is in addition to any penalties that a  
27 person may be subject to for manufacture, possession, or distribution of marijuana under  
28 the Criminal Law Article.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2019.