

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 861

(Senator Zirkin)

Judicial Proceedings

Rules and Executive Nominations

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**Natalie M. LaPrade Medical Cannabis Commission - Registration of Certifying  
Providers - Repeal**

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This bill repeals the requirement that a certifying provider register with the Natalie M. LaPrade Medical Cannabis Commission before issuing written certifications to qualifying patients under Maryland's medical cannabis program and makes conforming changes. The definition of "written certification" is altered to require the certification to (1) specify the medical condition with which a qualifying patient has been diagnosed and (2) be in the form prescribed by the commission. The bill also authorizes a certifying provider to issue a written certification for enumerated medical conditions as well as for any other condition under specified circumstances.

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**Fiscal Summary**

**State Effect:** Significant operational impact on the commission, as discussed below. However, the bill does not materially affect State finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:**

*Natalie M. LaPrade Medical Cannabis Commission*

The Natalie M. LaPrade Medical Cannabis Commission is responsible for implementation of the State's medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. The program allows for the

licensure of growers, processors, and dispensaries and the registration of their agents, as well as registration of independent testing laboratories and their agents. There is a framework to certify health care providers (including physicians, dentists, podiatrists, nurse practitioners, and nurse midwives), qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. Additionally, recent legislation extended legal protections to third-party vendors authorized by the commission to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste.

### *Certifying Providers*

Certifying providers must meet specified requirements and submit required application materials, including a proposal with the reasons for including a patient under the care of the provider; an attestation that a standard patient evaluation will be completed (including a history, a physical examination, a review of symptoms, and other pertinent medical information); and the provider's plan for the ongoing assessment and follow-up care of a patient.

The commission is encouraged to approve provider applications for chronic or 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 or chronic pain; (3) severe nausea; (4) seizures; or (5) severe or persistent muscle spasms. Regulations also encourage the commission to approve provider applications for patients who have glaucoma or post-traumatic stress disorder. 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 cannabis. Moreover, in its approval of applications, the commission may not limit treatment of a particular medical condition to one class of providers.

A certifying provider may register biennially and the commission must grant or deny a renewal or registration for approval based on the provider's compliance with commission regulations. The commission is required to annually report the number of providers certified under the State's medical cannabis program to the Governor and the General Assembly. There is no fee to register as a certifying provider.

Commission regulations, which have not been updated to reflect that there are additional categories of certifying providers beyond physicians, authorize the commission to deny a certifying physician's application for registration or revoke a registration to issue written certifications after written notice and a hearing if the physician (1) fraudulently applied for approval; (2) fraudulently issued a written certification; or (3) failed to comply with related regulations. Regulations require the commission to report any instance of fraud or a

certifying physician's conduct that threatens public health to the Maryland Board of Physicians. The commission advises that it plans to update regulations to reflect all certifying providers, not just physicians, after the 2019 legislative session.

### *Written Certifications*

A "written certification" is a certification issued by a certifying provider to a qualifying patient with whom the provider has a bona fide provider-patient relationship. A certifying provider must submit each written certification to the commission. The commission, upon receipt of a written certification, must issue an identification card to each qualifying patient or caregiver named in the written certification.

The written certification must include a written statement that certifies, in the provider's professional opinion, after having completed an assessment of the patient's medical history and current medical condition, the patient has a condition that (1) meets the inclusion criteria and does not meet the exclusion criteria of the certifying provider's application and (2) for which the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient. The written certification may also include a written statement that certifies, in the provider's professional opinion, a 30-day supply of medical cannabis would be inadequate to meet the qualifying patient's medical needs.

**Background:** As of January 9, 2019, the commission issued 15 final and 3 pre-approved grower licenses; 16 final and 2 pre-approved processor licenses; and 71 final and 31 pre-approved dispensary licenses. Additionally, the commission has registered five independent laboratories. The commission maintains a list of licensees and also registered certifying providers on its [website](#). Furthermore, there were 79,427 registered patients, 54,236 certified patients, 4,890 caregivers, and 1,243 certifying providers. The commission reported that, in the first 13 months of sales, there were \$112.1 million in retail sales at medical cannabis dispensaries in the State.

**State Fiscal Effect:** Although the bill does not have a material fiscal impact, it significantly alters how the State's medical cannabis program is organized and functions.

Registration is the commission's primary method of ensuring that a certifying provider is licensed and in good standing with their respective State board and otherwise qualified to issue a written certification. It is also the process through which the commission takes action against a provider who fraudulently issues written certifications or otherwise violates the commission's regulations. Removing the requirement to register will make enforcement actions against providers much more difficult.

The commission also notes that there are fewer than 1,300 registered certifying providers in the State. The commission estimates that less than 6% of physicians in the State are

registered to certify patients for medical cannabis, with similarly low percentages for dentists (2%) and nurse practitioners (7%). Accordingly, patients frequently struggle to find a provider in their area. If certifying providers are not required to register with the commission, the commission will not be able to post registered certifying providers on its website. Thus, removing the requirement for registration may make it even more challenging for qualifying patients to identify medical professionals willing to issue written certifications.

**Small Business Effect:** The bill likely has an operational impact on a dispensary's ability to verify whether a qualifying patient has a valid written certification, as discussed above. However, it is difficult to assess whether the bill has any direct fiscal impact on small businesses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2019  
mag/jc Third Reader - April 1, 2019  
Revised - Amendment(s) - April 1, 2019  
Revised - Updated Information - April 1, 2019

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