

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

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

House Bill 104

(Delegate Morhaim, *et al.*)

Health and Government Operations

Judicial Proceedings and Finance

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**Medical Cannabis - Written Certifications - Certifying Providers**

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This bill authorizes dentists, podiatrists, and certain registered nurses to be “certifying providers” – along with physicians – under the State’s medical cannabis program, thereby expanding the types of health care practitioners who may discuss medical cannabis with a patient, complete an assessment of a patient’s medical condition, and certify that the patient qualifies for medical cannabis. The bill subjects these certifying providers to the same processes for registration, restrictions, and protections that are required for certifying physicians under current law. Thus, the bill replaces “certifying physician” with “certifying provider” throughout the Natalie M. LaPrade Medical Cannabis Commission statute. To become a certifying provider, a dentist, podiatrist, or registered nurse must have an active, unrestricted license, be in good standing with their respective board, and have a State controlled dangerous substances (CDS) registration; a registered nurse must also have an active, unrestricted State Board of Nursing-issued certification to practice as a nurse practitioner or a nurse midwife.

The bill takes effect June 1, 2017.

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**Fiscal Summary**

**State Effect:** Minimal increase in special fund expenditures for computer programming changes in FY 2017 only. The commission can likely promulgate updated regulations to address the bill’s provisions, review additional certifying provider registration applications and renewals, and complete the required provider report with existing budgeted resources and staff levels. Special fund revenues are likely not affected because the commission does not collect a fee for registration of certifying physicians. It is not anticipated that the bill’s changes have a material impact on the number of qualifying patients or caregivers.

**Local Effect:** Local governments are not affected.

**Small Business Effect:** Potential minimal.

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## Analysis

**Current Law:** Chapter 403 of 2013 established, Chapters 240 and 256 of 2014 expanded, and Chapter 251 of 2015 further modified the State’s medical cannabis program. The Natalie M. LaPrade Medical Cannabis Commission currently allows for the licensure of growers, processors, and dispensaries and the registration of their agents. The program also establishes a framework to certify physicians and qualifying patients (and their caregivers) to provide qualifying patients with medical cannabis legally under State law via written certification.

Specifically, a qualifying patient who has been provided with a written certification from a certifying physician in accordance with a *bona fide* physician-patient relationship may obtain medical cannabis.

A “certifying physician” must be licensed by the State Board of Physicians; have an active, unrestricted license to practice medicine; be in good standing with the board; and have a State CDS registration. The commission must register a certifying physician that meets the requirements of the statute and may *not* require a certifying physician to meet requirements beyond those delineated in specified provisions of statute to be registered. A certifying physician may renew a registration biennially.

In order to qualify as a certifying physician, the physician must submit a proposal that includes the reasons for including a patient under the care of the physician; an attestation that a standard patient evaluation will be completed (including a history, a physician examination, a review of symptoms, and other pertinent medical information); and the physician’s plan for the ongoing assessment and follow-up care of a patient.

The commission is encouraged 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 or chronic 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 cannabis. Moreover, in its approval of physician applications, the commission may not limit treatment of a particular medical condition to one class of physicians.

A certifying physician 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 cannabis.

The commission's statute 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.

The commission must annually report to the Governor and General Assembly on the physicians certified under the program.

**Background:** The commission promulgated regulations in September 2015, and the certifying physician registration form required by regulation is available online. Certifying physicians must provide a license number and a CDS registration number to complete the form. The commission advises that, as of January 2016, there are 85 registered certifying physicians. The commission opened applications for grower, processor, and dispensary licenses in September 2015 and received 146 grower license, 124 processor license, and 811 dispensary license applications by the deadline. The commission's [website](#) advises that it anticipates issuing stage one approvals for grower and processor applicants by summer 2016.

According to the Department of Health and Mental Hygiene (DHMH), there are 258 registered nurses who are certified nurse midwives, 5,112 registered nurses who are certified registered nurse practitioners, 436 podiatrists, and 5,178 dentists in the State. It is unknown how many of these individuals hold a CDS registration. The State Board of Physicians reported in the 2015 annual report for the board that there are 30,628 active physician licenses. DHMH also reported that 40,048 health care providers had active CDS registrations in 2015.

**State Expenditures:** Special fund expenditures for the Natalie M. LaPrade Medical Cannabis Commission Fund increase minimally – by as much as \$28,000 – in fiscal 2017 to reprogram the online database that is currently used to register certifying physicians. The database must be expanded to include registration of specified registered nurses, podiatrists, and dentists under the bill. This estimate assumes expenditures are incurred in fiscal 2017, despite the bill's June 1, 2017 effective date. Otherwise, expenditures may be delayed until fiscal 2018.

As stated above, the commission can likely promulgate updated regulations to address the bill's provisions, review additional certifying provider registration applications and renewals, and complete the required report on certifying providers with existing budgeted resources. This estimate assumes that only a portion of the potentially qualified 10,984

new providers actually register. This assumption is based in part on the fact that it is likely that a number of these providers do not have a CDS registration. Further, only a fraction of licensed physicians have registered (85 of 30,628). If a similar percentage of potentially qualified registered nurses, dentists, or podiatrists register, only approximately 30 additional qualified providers will register. It is also unclear whether a significant number of potentially qualified providers practice in a setting where issuance of a written certification would occur. For example, the Maryland Board of Podiatric Medical Examiners advises that it would be atypical for a podiatric practice to recommend use of medical cannabis.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 1, 2016  
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