

SENATE BILL 861

J1, J2

9lr0652

By: **Senator Zirkin**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Natalie M. LaPrade Medical Cannabis Commission – Registration of Certifying**
3 **Providers – Repeal**

4 FOR the purpose of altering the definition of “certifying provider” to repeal the requirement
5 that a certifying provider be registered with the Natalie M. LaPrade Medical
6 Cannabis Commission; altering the definition of “written certification” to repeal the
7 requirement that the certification include certain information; repealing the
8 requirement that the Commission register certain individuals as certifying
9 providers; repealing the requirement that a provider submit a certain proposal to the
10 Commission to be registered as a certifying provider; repealing a provision of law
11 that encourages and authorizes the Commission to approve certain applications;
12 providing that a certifying provider is encouraged to issue written certifications for
13 certain medical conditions; repealing a provision of law that authorizes a certifying
14 provider to apply for a renewal of a registration on a certain basis; repealing the
15 requirement that the Commission grant or deny a renewal of a registration based on
16 a certifying provider’s performance in complying with certain regulations; repealing
17 a requirement that the Commission include information on certain providers in a
18 certain annual report to the General Assembly; repealing certain provisions of law
19 rendered obsolete by this Act; and generally relating to the Natalie M. LaPrade
20 Medical Cannabis Commission and certifying providers.

21 BY repealing and reenacting, with amendments,
22 Article – Health – General
23 Section 13–3301, 13–3304, and 13–3305
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2018 Supplement)

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

28 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 13-3301.

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

3 (b) "Caregiver" means:

4 (1) A person who has agreed to assist with a qualifying patient's medical
5 use of cannabis; and

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

8 (c) "Certifying provider" means an individual who:

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

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

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

16 2. Is in good standing with the State Board of Dental
17 Examiners;

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

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

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

27 2. Is in good standing with the State Board of Nursing; **AND**

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

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

1 (d) “Commission” means the Natalie M. LaPrade Medical Cannabis Commission
2 established under this subtitle.

3 (e) “Dispensary” means an entity licensed under this subtitle that acquires,
4 possesses, processes, transfers, transports, sells, distributes, dispenses, or administers
5 cannabis, products containing cannabis, related supplies, related products containing
6 cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for
7 use by a qualifying patient or caregiver.

8 (f) “Dispensary agent” means an owner, a member, an employee, a volunteer, an
9 officer, or a director of a dispensary.

10 (g) “Fund” means the Natalie M. LaPrade Medical Cannabis Commission Fund
11 established under § 13–3303 of this subtitle.

12 (h) “Grower” means an entity licensed under this subtitle that:

13 (1) Cultivates or packages medical cannabis; and

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

16 (i) “Independent testing laboratory” means a facility, an entity, or a site that
17 offers or performs tests related to the inspection and testing of cannabis and products
18 containing cannabis.

19 (j) “Medical cannabis grower agent” means an owner, an employee, a volunteer,
20 an officer, or a director of a grower.

21 (k) “Processor” means an entity that:

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

23 (2) Packages and labels medical cannabis.

24 (l) “Processor agent” means an owner, a member, an employee, a volunteer, an
25 officer, or a director of a processor.

26 (m) “Qualifying patient” means an individual who:

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

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

30 (n) “Written certification” means a certification that:

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

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

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

8 (ii) For] **FOR** which the potential benefits of the medical use of
9 cannabis would likely outweigh the health risks for the patient; and

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

13 13–3304.

14 [(a) The Commission shall register as a certifying provider an individual who:

15 (1) Meets the requirements of this subtitle; and

16 (2) Submits application materials that meet the requirements of this
17 subtitle.

18 (b) To be registered as a certifying provider, a provider shall submit a proposal to
19 the Commission that includes:

20 (1) The reasons for including a patient under the care of the provider for
21 the purposes of this subtitle, including the patient’s qualifying medical conditions;

22 (2) An attestation that a standard patient evaluation will be completed,
23 including a history, a physical examination, a review of symptoms, and other pertinent
24 medical information; and

25 (3) The provider’s plan for the ongoing assessment and follow–up care of a
26 patient and for collecting and analyzing data.

27 (c) The Commission may not require an individual to meet requirements in
28 addition to the requirements listed in subsections (a) and (b) of this section to be registered
29 as a certifying provider.]

30 [(d)] **(A) [(1) The Commission] A CERTIFYING PROVIDER** is encouraged to
31 [approve provider applications] **ISSUE WRITTEN CERTIFICATIONS** for the following
32 medical conditions:

1 [(i)] (1) A chronic or debilitating disease or medical condition that
2 results in a patient being admitted into hospice or receiving palliative care; [or]

3 [(ii)] (2) A chronic or debilitating disease or medical condition or
4 the treatment of a chronic or debilitating disease or medical condition that produces:

5 [1.] (I) Cachexia, anorexia, or wasting syndrome;

6 [2.] (II) Severe or chronic pain;

7 [3.] (III) Severe nausea;

8 [4.] (IV) Seizures; or

9 [5.] (V) Severe or persistent muscle spasms[.]; **OR**

10 [(2) The Commission may not limit treatment of a particular medical
11 condition to one class of providers.]

12 [(e)] (3) [The Commission may approve applications that include any] **ANY**
13 other condition that is severe and for which other medical treatments have been ineffective
14 if the symptoms reasonably can be expected to be relieved by the medical use of cannabis.

15 [(f)] (B) (1) A certifying provider or the spouse of a certifying provider may
16 not receive any gifts from or have an ownership interest in a medical cannabis grower, a
17 processor, or a dispensary.

18 (2) A certifying provider may receive compensation from a medical
19 cannabis grower, a processor, or a dispensary if the certifying provider:

20 (i) Obtains the approval of the Commission before receiving the
21 compensation; and

22 (ii) Discloses the amount of compensation received from the medical
23 cannabis grower, processor, or dispensary to the Commission.

24 [(g)] (C) (1) (i) Subject to subparagraph (ii) of this paragraph, a
25 qualifying patient may be a patient of the certifying provider or may be referred to the
26 certifying provider.

27 (ii) A referral of a patient to a certifying provider under
28 subparagraph (i) of this paragraph may not be made by any person or entity employed,
29 contracted, volunteering, or compensated by any form of remuneration, gift, donation, or
30 bartering to register individuals as qualifying patients, to complete application forms, or to
31 assist individuals in completing application forms to become qualifying patients, or to

1 transport or deliver to the Commission application forms for individuals seeking to become
2 qualifying patients.

3 (2) A certifying provider shall provide each written certification to the
4 Commission.

5 (3) On receipt of a written certification provided under paragraph (2) of this
6 subsection, the Commission shall issue an identification card to each qualifying patient or
7 caregiver named in the written certification.

8 (4) A certifying provider may discuss medical cannabis with a patient.

9 (5) (i) Except as provided in subparagraph (ii) of this paragraph, a
10 qualifying patient or caregiver may obtain medical cannabis only from a medical cannabis
11 grower licensed by the Commission or a dispensary licensed by the Commission.

12 (ii) A qualifying patient under the age of 18 years may obtain
13 medical cannabis only through the qualifying patient's caregiver.

14 (6) (i) A caregiver may serve no more than five qualifying patients at
15 any time.

16 (ii) A qualifying patient may have no more than two caregivers.

17 [(h) (1) A certifying provider may register biennially.

18 (2) The Commission shall grant or deny a renewal of a registration for
19 approval based on the provider's performance in complying with regulations adopted by the
20 Commission.]

21 13-3305.

22 On or before January 1 each year, the Commission shall report to the Governor and,
23 in accordance with § 2-1246 of the State Government Article, the General Assembly on[:

24 (1) Providers certified under this subtitle; and

25 (2) The] **THE** amount sold, by condition treated, and average consumer
26 price for medical cannabis products provided in accordance with this subtitle.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2019.