

**Department of Legislative Services**  
Maryland General Assembly  
2020 Session

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

House Bill 378

(Delegate Kipke)

Health and Government Operations

Finance

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**Natalie M. LaPrade Medical Cannabis Commission – Certifying Providers**

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This bill authorizes physician assistants to be “certifying providers” under the State’s medical cannabis program. The bill also amends the composition of the Natalie M. LaPrade Medical Cannabis Commission to include physician assistants on the list of professions from which the two licensed noncertified provider commission members must be selected.

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**Fiscal Summary**

**State Effect:** The commission can likely approve and register physician assistants as certifying providers with existing budgeted resources and staff. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Bill Summary:** Physician assistants are authorized to discuss medical cannabis with a patient, complete an assessment of a patient’s medical condition, and certify that the patient qualifies for medical cannabis. Physician assistants are generally subject to the same processes for registration, restrictions, and protections that are required for certifying physicians, dentists, podiatrists, nurse practitioners, and nurse midwives under current law.

To become a certifying provider, a physician assistant must have an active, unrestricted license, be in good standing with the State Board of Physicians, and have an active delegation agreement with a primary supervising physician who is a certifying provider.

Finally, a physician assistant must have a State controlled dangerous substances (CDS) registration.

**Current Law/Background:** 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. 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. As of January 2020, there were 37,363 registered patients, 88,594 certified patients, 8,003 caregivers, and 1,705 certifying providers.

The commission consists of 13 members as follows:

- the Secretary of Health (or designee);
- 9 members appointed by the Governor with the advice and consent of the Senate, including 2 licensed noncertified providers (who are physicians, dentists, podiatrists, nurse practitioners, or nurse midwives), 1 nurse or health care provider with experience in hospice, 1 pharmacist, and 1 scientist, as specified;
- 1 member appointed by the Governor from a list of 3 individuals recommended by the President of the Senate;
- 1 member appointed by the Governor from a list of 3 individuals recommended by the Speaker of the House; and
- 1 member appointed by the Governor from either of the lists from the President or the Speaker.

A “certifying provider” must have an active, unrestricted license, and be in good standing with their respective board, and have a State 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 commission must register a certifying provider that meets the requirements of the statute and may *not* require a certifying provider to meet requirements beyond those delineated in specified provisions of statute to be registered. A certifying provider may renew a registration biennially.

In order to qualify as a certifying provider, the provider must submit a proposal that includes 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 is not subject to arrest, prosecution, revocation of mandatory supervision, parole, or probation, 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 or possession of medical cannabis.

Physician assistants have prescriptive authority and can obtain a State CDS registration if they have CDS prescriptive authority from their supervising physician. The commission advises that the Maryland Board of Physicians maintains an online record of all primary active delegation agreements between physicians and physician assistants. Additionally, according to the commission, 33 states and the District of Columbia have adopted comprehensive medical cannabis programs. Of these programs, at least 10 states and the District of Columbia have authorized physician assistants to provide certification to patients to obtain medical cannabis.

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### **Additional Information**

**Prior Introductions:** HB 18 of 2019 as amended by the House was substantively identical to this bill; it passed third reading with amendments in the Senate, but the differences were not reconciled.

**Designated Cross File:** SB 304 (Senator West) - Finance.

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

**Fiscal Note History:** First Reader - February 13, 2020  
rh/jc Third Reader - March 14, 2020  
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