

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 523
Finance

(Senator McKay)

Medical Cannabis - Employees in Health Care Settings Caring for Qualifying
Patients - Exemption

This bill expands the definition of “caregiver” under the State’s medical cannabis program to encompass an individual who (1) is employed by specified health care entities; (2) has been designated in writing to provide care to a qualifying patient by the health care entity, as authorized by the qualifying patient; and (3) has significant responsibility for managing the health care and well-being of the qualifying patient. A caregiver who meets these criteria is exempt from the current limitation on serving no more than five qualifying patients at any time.

Fiscal Summary

State Effect: Special fund expenditures increase by \$50,000 in FY 2024 only for information technology (IT) expenditures. Special fund revenues and expenditures also increase beginning in FY 2024 for issuance of additional caregiver identification cards and receipt of associated fees, resulting in a net special fund revenue increase beginning in FY 2025, as discussed below.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The specified health care entities at which an individual must be employed include (1) an assisted living facility; (2) an intermediate care facility for individuals with

an intellectual disability; (3) a home health agency; (4) a hospice care program; (5) a related institution; or (6) a residential service agency.

Current Law:

Natalie M. LaPrade Medical Cannabis Commission

The Natalie M. LaPrade Medical Cannabis Commission (MMCC) 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, nurse midwives, and physician assistants), qualifying patients, and their “caregivers” to provide qualifying patients with medical cannabis legally under State law via written certification. Additionally, there are legal protections for third-party vendors authorized by the commission to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste.

Medical Cannabis Caregivers

“Caregiver” means a person who has agreed to assist with a qualifying patient’s medical use of cannabis. If the qualifying patient is younger than 18, a caregiver includes a parent or legal guardian and up to two additional adults designated by the parent or legal guardian. “Caregiver” does not include any designated school personnel authorized to administer medical cannabis to a student. A caregiver may serve no more than five qualifying patients at any time; a qualifying patient may not have more than two caregivers unless the qualifying patient is younger than 18, in which case the qualifying patient may have up to four caregivers.

Pursuant to regulations, a caregiver must be at least 21 and register with MMCC by submitting specified information, including a \$50 fee for a required identification card. However, MMCC’s website reports that the current fee for an identification card is \$25.

Medical Cannabis in Hospitals, Medical Facilities, or Hospice Programs

Pursuant to § 13-3313 of the Health–General Article, a hospital, medical facility, or hospice program where a qualifying patient is receiving treatment may not be subject to arrest, prosecution, revocation of mandatory supervision, parole, or probation, or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege for the use of or possession of medical cannabis. The Code of Maryland Regulations (COMAR 10.62.30.04) authorize a medical

cannabis licensee or registrant to deliver and a medical facility to accept medical cannabis at the medical facility where a qualifying patient is receiving inpatient treatment.

Status of Medical Cannabis Implementation

Statute limits the number of grower and processor licenses the commission can issue, and regulations establish a limit on the number of dispensary licenses. Specifically, the commission can issue 22 grower, 28 processor, and 102 dispensary licenses. At the close of calendar 2022, the commission had issued 18 final grower licenses, 21 final processor licenses, and 97 final dispensary licenses. In addition, there are three licensed independent testing laboratories. The commission maintains a list of licensees on its [website](#). Also, at the close of calendar 2022, there were 162,300 certified patients, 8,159 caregivers, and 1,560 certifying providers. The commission additionally reports a preliminary total of \$674.2 million in retail sales at cannabis dispensaries in the State for calendar 2022.

State Fiscal Effect:

Information Technology Expenditures

MMCC advises that one-time modifications to its existing IT platform are necessary to allow specified caregivers to serve more than five qualifying patients at a cost of \$50,000. Thus, special fund expenditures increase by \$50,000 in fiscal 2024 only for IT costs.

Identification Cards

Special fund revenues for MMCC increase beginning in fiscal 2024, to the extent that additional caregivers register under the bill and must obtain an identification card. While regulations specify that the fee for an identification card is \$50, MMCC reports that it only charges a \$25 fee at present.

MMCC special fund expenditures increase beginning in fiscal 2024, to the extent that additional caregivers register under the bill. MMCC advises that the cost of printing each identification card is \$15 and that caregivers must renew their identification cards every two years.

Thus, each additional identification card issued pursuant to the bill (and renewed in subsequent years) generates a net increase in special fund revenues of \$10.

To the extent that fewer than 5,000 new caregivers register with MMCC in fiscal 2024, special fund expenditures exceed special fund revenues in that year due to the one-time IT expenses.

Beginning in fiscal 2025, for each new caregiver that registers with MMCC, special fund revenues increase by a net of \$10. The exact number of caregivers who may register cannot be reliably estimated. MMCC advises that employees at more than 3,700 health care facilities would qualify under the bill.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 685 (Delegate Buckel, *et al.*) - Health and Government Operations.

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

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