

HOUSE BILL No. 4834

June 29, 2011, Introduced by Reps. Haines, Haveman, McBroom, Franz, Horn, Jacobsen, MacGregor, Knollenberg, Bumstead, Wayne Schmidt, Glardon, Opsommer, MacMaster, Moss, Huuki, Crawford, Kowall, Liss, Heise, Cotter and Tyler and referred to the Committee on Judiciary.

A bill to amend 2008 IL 1, entitled
"Michigan medical marihuana act,"
by amending section 6 (MCL 333.26426).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 6. Administering the Department's Rules.

2 Sec. 6. (a) The department shall issue registry identification
3 cards to qualifying patients who submit the following, in
4 accordance with the department's rules:

5 (1) A written certification;

6 (2) Application or renewal fee;

7 (3) Name, address, and date of birth of the qualifying
8 patient, except that if the applicant is homeless, no address is
9 required;

10 (4) Name, address, and telephone number of the qualifying

1 patient's physician;

2 (5) Name, address, and date of birth of the qualifying
3 patient's primary caregiver, if any; and

4 (6) If the qualifying patient designates a primary caregiver,
5 a designation as to whether the qualifying patient or primary
6 caregiver will be allowed under state law to possess marihuana
7 plants for the qualifying patient's medical use.

8 (7) **TWO IDENTICAL, 2 INCH BY 2 INCH, COLOR PHOTOGRAPHS THAT**
9 **SHOW THE APPLICANT'S CURRENT APPEARANCE, HAVE BEEN TAKEN WITHIN THE**
10 **IMMEDIATELY PRECEDING 6 MONTHS, AND MEET ALL OF THE FOLLOWING**
11 **SPECIFICATIONS:**

12 (A) **THE PICTURE IS A FULL FACE, FRONT VIEW AGAINST A PLAIN,**
13 **WHITE OR OFF-WHITE BACKGROUND.**

14 (B) **THE APPLICANT'S HEAD MEASURES BETWEEN 1 INCH AND 1-3/8**
15 **INCHES FROM THE BOTTOM OF THE CHIN TO THE TOP OF THE HEAD.**

16 (C) **THE APPLICANT'S HAIR OR HAIRLINE IS NOT OBSCURED BY A HAT**
17 **OR HEADGEAR.**

18 (D) **THE APPLICANT IS NOT WEARING DARK OR NONPRESCRIPTION**
19 **GLASSES, UNLESS MEDICALLY NECESSARY.**

20 (b) The department shall not issue a registry identification
21 card to a qualifying patient who is under the age of 18 unless:

22 (1) The qualifying patient's physician has explained the
23 potential risks and benefits of the medical use of marihuana to the
24 qualifying patient and to his or her parent or legal guardian;

25 (2) The qualifying patient's parent or legal guardian submits
26 a written certification from 2 physicians; and

27 (3) The qualifying patient's parent or legal guardian consents

1 in writing to:

2 (A) Allow the qualifying patient's medical use of marihuana;

3 (B) Serve as the qualifying patient's primary caregiver; and

4 (C) Control the acquisition of the marihuana, the dosage, and
5 the frequency of the medical use of marihuana by the qualifying
6 patient.

7 (c) The department shall verify the information contained in
8 an application or renewal submitted pursuant to this section, and
9 shall approve or deny an application or renewal within 15 days of
10 receiving it. The department may deny an application or renewal
11 only if the applicant did not provide the information required
12 pursuant to this section, or if the department determines that the
13 information provided was falsified. Rejection of an application or
14 renewal is considered a final department action, subject to
15 judicial review. Jurisdiction and venue for judicial review are
16 vested in the circuit court for the county of Ingham.

17 (d) The department shall issue a registry identification card
18 to the primary caregiver, if any, who is named in a qualifying
19 patient's approved application; provided that each qualifying
20 patient can have no more than 1 primary caregiver, and a primary
21 caregiver may assist no more than 5 qualifying patients with their
22 medical use of marihuana.

23 (e) The department shall issue registry identification cards
24 within 5 days of approving an application or renewal, which shall
25 expire 1 year after the date of issuance. Registry identification
26 cards shall contain all of the following:

27 (1) Name, address, and date of birth of the qualifying

1 patient.

2 (2) Name, address, and date of birth of the primary caregiver,
3 if any, of the qualifying patient.

4 (3) The date of issuance and expiration date of the registry
5 identification card.

6 (4) A random identification number.

7 (5) A photograph ~~, if the department requires 1 by rule.~~**AS**
8 **DESCRIBED IN SUBDIVISION (7).**

9 (6) A clear designation showing whether the primary caregiver
10 or the qualifying patient will be allowed under state law to
11 possess the marihuana plants for the qualifying patient's medical
12 use, which shall be determined based solely on the qualifying
13 patient's preference.

14 (f) If a registered qualifying patient's certifying physician
15 notifies the department in writing that the patient has ceased to
16 suffer from a debilitating medical condition, the card shall become
17 null and void upon notification by the department to the patient.

18 (g) ~~Possession~~**EXCEPT AS OTHERWISE PROVIDED IN THIS ACT,**
19 **POSSESSION** of, or application for, a registry identification card
20 shall not constitute probable cause or reasonable suspicion, nor
21 shall it be used to support the search of the person or property of
22 the person possessing or applying for the registry identification
23 card, or otherwise subject the person or property of the person to
24 inspection by any local, county or state governmental agency.

25 (h) The following confidentiality rules shall apply:

26 (1) ~~Applications~~**SUBJECT TO SUBDIVISIONS (3) AND (4),**
27 **APPLICATIONS** and supporting information submitted by qualifying

1 patients, including information regarding their primary caregivers
2 and physicians, are confidential.

3 (2) The department shall maintain a confidential list of the
4 persons to whom the department has issued registry identification
5 cards. ~~Individual~~ **EXCEPT AS PROVIDED IN SUBDIVISIONS (3) AND (4),**
6 **INDIVIDUAL** names and other identifying information on the list is
7 confidential and is exempt from disclosure under the freedom of
8 information act, 1976 PA 442, MCL 15.231 to 15.246.

9 ~~(3) The department shall verify to law enforcement personnel~~
10 ~~whether a registry identification card is valid, without disclosing~~
11 ~~more information than is reasonably necessary to verify the~~
12 ~~authenticity of the registry identification card.~~

13 (3) **THE DEPARTMENT SHALL NOT ALLOW ANY PERSON ACCESS TO ANY**
14 **INFORMATION ABOUT PATIENTS IN THE DEPARTMENT'S CONFIDENTIAL LIST OF**
15 **PERSONS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY IDENTIFICATION**
16 **CARDS OR FROM WHOM THE DEPARTMENT HAS RECEIVED AN APPLICATION OR TO**
17 **INFORMATION OTHERWISE MAINTAINED BY THE DEPARTMENT CONCERNING**
18 **PHYSICIANS WHO PROVIDE WRITTEN CERTIFICATION AND PRIMARY**
19 **CAREGIVERS, EXCEPT FOR THE FOLLOWING:**

20 (A) **AUTHORIZED EMPLOYEES OF THE DEPARTMENT IN THE COURSE OF**
21 **THEIR OFFICIAL DUTIES.**

22 (B) **STATE OR LOCAL LAW ENFORCEMENT OFFICERS OR OFFICIALS, BUT**
23 **ONLY AS TO INQUIRIES MADE IN THE COURSE OF THEIR OFFICIAL DUTIES**
24 **AND AS TO INFORMATION ASSOCIATED WITH AN INDIVIDUAL FOR WHOM THE**
25 **OFFICERS OR OFFICIAL PROVIDES EITHER A NAME AND DATE OF BIRTH OR A**
26 **REGISTRY IDENTIFICATION NUMBER.**

27 (4) A person, including an employee or official of the

1 department or another state agency or local unit of government, who
2 discloses confidential information in violation of this act is
3 guilty of a misdemeanor, punishable by imprisonment for not more
4 than 6 months, or a fine of not more than \$1, 000.00, or both.
5 Notwithstanding this provision, department employees may notify law
6 enforcement about falsified or fraudulent information submitted to
7 the department.

8 (i) The department shall submit to the legislature an annual
9 report that does not disclose any identifying information about
10 qualifying patients, primary caregivers, or physicians, but does
11 contain, at a minimum, all of the following information:

12 (1) The number of applications filed for registry
13 identification cards.

14 (2) The number of qualifying patients and primary caregivers
15 approved in each county.

16 (3) The nature of the debilitating medical conditions of the
17 qualifying patients.

18 (4) The number of registry identification cards revoked.

19 (5) The number of physicians providing written certifications
20 for qualifying patients.