

SUBSTITUTE FOR
HOUSE BILL NO. 4834

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
11 patient's physician;

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

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

7 (7) TWO IDENTICAL, 2-INCH BY 2-INCH, COLOR PHOTOGRAPHS THAT
8 SHOW THE APPLICANT'S CURRENT APPEARANCE AND MEET ALL OF THE
9 FOLLOWING SPECIFICATIONS:

10 (A) THE PICTURE IS A FULL-FACE, FRONT VIEW AGAINST A PLAIN,
11 WHITE OR OFF-WHITE BACKGROUND.

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

14 (C) THE APPLICANT'S HAIR OR HAIRLINE IS NOT OBSCURED BY A HAT
15 OR HEADGEAR.

16 (D) THE APPLICANT IS NOT WEARING DARK OR NONPRESCRIPTION
17 GLASSES, UNLESS MEDICALLY NECESSARY.

18 (8) IF THE QUALIFYING PATIENT DESIGNATES A PRIMARY CAREGIVER,
19 2 IDENTICAL, 2-INCH BY 2-INCH, COLOR PHOTOGRAPHS THAT SHOW THE
20 PRIMARY CAREGIVER'S CURRENT APPEARANCE AND MEET ALL OF THE
21 FOLLOWING SPECIFICATIONS:

22 (A) THE PHOTOGRAPH IS A FULL-FACE, FRONT VIEW AGAINST A PLAIN,
23 WHITE, OR OFF-WHITE BACKGROUND.

24 (B) THE PRIMARY CAREGIVER'S HEAD MEASURES BETWEEN 1 INCH AND
25 1-3/8 INCHES FROM THE BOTTOM OF THE CHIN TO THE TOP OF THE HEAD.

26 (C) THE PRIMARY CAREGIVER'S HAIR OR HAIRLINE IS NOT OBSCURED
27 BY A HAT OR HEADGEAR.

1 (D) **THE PRIMARY CAREGIVER IS NOT WEARING DARK OR**
2 **NONPRESCRIPTION GLASSES, UNLESS MEDICALLY NECESSARY.**

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

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

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

10 (3) The qualifying patient's parent or legal guardian consents
11 in writing to:

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

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

14 (C) Control the acquisition of the marihuana, the dosage, and
15 the frequency of the medical use of marihuana by the qualifying
16 patient.

17 (c) The department shall verify the information contained in
18 an application or renewal submitted pursuant to this section, and
19 shall approve or deny an application or renewal within 15 days of
20 receiving it. The department may deny an application or renewal
21 only if the applicant did not provide the information required
22 pursuant to this section, or if the department determines that the
23 information provided was falsified. Rejection of an application or
24 renewal is considered a final department action, subject to
25 judicial review. Jurisdiction and venue for judicial review are
26 vested in the circuit court for the county of Ingham.

27 (d) The department shall issue a registry identification card

1 to the primary caregiver, if any, who is named in a qualifying
2 patient's approved application; provided that each qualifying
3 patient can have no more than 1 primary caregiver, and a primary
4 caregiver may assist no more than 5 qualifying patients with their
5 medical use of marihuana.

6 (e) The department shall issue registry identification cards
7 within 5 days of approving an application or renewal, which shall
8 expire ~~1 year~~ **2 YEARS** after the date of issuance. Registry
9 identification cards shall contain all of the following:

10 (1) Name, address, and date of birth of the qualifying
11 patient.

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

14 (3) The date of issuance and expiration date of the registry
15 identification card.

16 (4) A random identification number.

17 (5) A photograph ~~, if the department requires 1 by rule.~~ **AS**
18 **DESCRIBED IN SUBSECTION (A) (7) FOR A PATIENT REGISTRY**
19 **IDENTIFICATION CARD OR AS DESCRIBED IN SUBSECTION (A) (8) FOR A**
20 **CAREGIVER REGISTRY IDENTIFICATION CARD.**

21 (6) A clear designation showing whether the primary caregiver
22 or the qualifying patient will be allowed under state law to
23 possess the marihuana plants for the qualifying patient's medical
24 use, which shall be determined based solely on the qualifying
25 patient's preference.

26 (f) If a registered qualifying patient's certifying physician
27 notifies the department in writing that the patient has ceased to

1 suffer from a debilitating medical condition, the card shall become
2 null and void upon notification by the department to the patient.

3 (g) Possession of, or application for, a registry
4 identification card shall not constitute probable cause or
5 reasonable suspicion, nor shall it be used to support the search of
6 the person or property of the person possessing or applying for the
7 registry identification card, or otherwise subject the person or
8 property of the person to inspection by any local, county or state
9 governmental agency.

10 (h) The following confidentiality rules shall apply:

11 (1) ~~Applications~~ **SUBJECT TO SUBDIVISIONS (3) AND (4),**
12 **APPLICATIONS** and supporting information submitted by qualifying
13 patients, including information regarding their primary caregivers
14 and physicians, are confidential.

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

21 ~~(3) The department shall verify to law enforcement personnel~~
22 ~~whether a registry identification card is valid, without disclosing~~
23 ~~more information than is reasonably necessary to verify the~~
24 ~~authenticity of the registry identification card.~~

25 (3) **THE DEPARTMENT SHALL NOT ALLOW ANY PERSON ACCESS TO ANY**
26 **INFORMATION ABOUT PATIENTS IN THE DEPARTMENT'S CONFIDENTIAL LIST OF**
27 **PERSONS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY IDENTIFICATION**

1 CARDS OR FROM WHOM THE DEPARTMENT HAS RECEIVED AN APPLICATION OR TO
2 INFORMATION OTHERWISE MAINTAINED BY THE DEPARTMENT CONCERNING
3 PHYSICIANS WHO PROVIDE WRITTEN CERTIFICATION AND PRIMARY
4 CAREGIVERS, EXCEPT FOR THE FOLLOWING:

5 (A) AUTHORIZED EMPLOYEES OF THE DEPARTMENT OR OF A
6 SUBCONTRACTOR UNDER SUBSECTION (J) IN THE COURSE OF THEIR OFFICIAL
7 DUTIES.

8 (B) STATE OR LOCAL LAW ENFORCEMENT OFFICERS OR OFFICIALS, BUT
9 ONLY IF EITHER OF THE FOLLOWING APPLIES:

10 (i) THE OFFICER OR OFFICIAL PROVIDES A REGISTRY IDENTIFICATION
11 NUMBER, THE OFFICER OR OFFICIAL IS ACTING IN THE COURSE OF HIS OR
12 HER OFFICIAL DUTIES, AND THE DEPARTMENT DOES NOT ALLOW ACCESS TO
13 MORE INFORMATION THAN IS REASONABLY NECESSARY TO VERIFY THE
14 AUTHENTICITY OF THE REGISTRY IDENTIFICATION CARD.

15 (ii) THE OFFICER OR OFFICIAL PROVIDES A NAME AND A DATE OF
16 BIRTH FOR AN INDIVIDUAL OR AN ADDRESS; THE OFFICER OR OFFICIAL HAS
17 PROBABLE CAUSE TO BELIEVE A VIOLATION OF LAW THAT INVOLVES THE
18 POSSESSION, USE, TRANSFER, OR TRANSPORTATION OF MARIHUANA HAS
19 OCCURRED; AND THE DEPARTMENT DOES NOT ALLOW ACCESS TO MORE
20 INFORMATION THAN IS REASONABLY NECESSARY TO VERIFY THAT THE
21 INDIVIDUAL OR AN INDIVIDUAL AT THE SPECIFIED ADDRESS HAS A VALID
22 REGISTRY IDENTIFICATION CARD. THE DEPARTMENT SHALL ALLOW ACCESS TO
23 INFORMATION UNDER THIS SUB-SUBPARAGRAPH THROUGH THE LAW ENFORCEMENT
24 INFORMATION NETWORK. THIS SUB-SUBPARAGRAPH DOES NOT REQUIRE THE
25 OFFICER OR OFFICIAL TO OBTAIN A SEARCH WARRANT TO OBTAIN ACCESS TO
26 THE REGISTRY INFORMATION.

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

1 of the department or another state agency or local unit of
2 government, who ~~discloses confidential information in violation of~~
3 ~~this act~~ **ACCESSES, USES, OR DISCLOSES NONPUBLIC INFORMATION**
4 **GOVERNED UNDER THIS ACT FOR PERSONAL USE OR GAIN OR IN A MANNER**
5 **THAT IS NOT AUTHORIZED BY LAW** is guilty of a misdemeanor,
6 punishable by imprisonment for not more than 6 months, or a fine of
7 not more than \$1, 000.00, or both. Notwithstanding this provision,
8 department employees may notify law enforcement about falsified or
9 fraudulent information submitted to the department.

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

14 (1) The number of applications filed for registry
15 identification cards.

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

18 (3) The nature of the debilitating medical conditions of the
19 qualifying patients.

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

21 (5) The number of physicians providing written certifications
22 for qualifying patients.

23 **(J) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE**
24 **AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL**
25 **ENTER INTO A CONTRACT WITH A PRIVATE CONTRACTOR TO ASSIST THE**
26 **DEPARTMENT IN PERFORMING ITS DUTIES UNDER THIS SECTION. THE**
27 **CONTRACT MAY PROVIDE FOR ASSISTANCE IN PROCESSING AND ISSUING**

1 REGISTRY IDENTIFICATION CARDS, BUT THE DEPARTMENT SHALL RETAIN THE
2 AUTHORITY TO MAKE THE FINAL DETERMINATION AS TO ISSUING THE
3 REGISTRY IDENTIFICATION CARD. THE CONTRACT SHALL INCLUDE A
4 PROVISION REQUIRING THE CONTRACTOR TO PRESERVE THE CONFIDENTIALITY
5 OF INFORMATION IN CONFORMITY WITH SUBSECTION (H) .

6 (K) NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE
7 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL
8 APPOINT A PANEL OF NOT MORE THAN 15 MEMBERS TO REVIEW PETITIONS TO
9 APPROVE MEDICAL CONDITIONS OR TREATMENTS FOR ADDITION TO THE LIST
10 OF DEBILITATING MEDICAL CONDITIONS UNDER THE ADMINISTRATIVE RULES .

11 (1) A MAJORITY OF THE PANEL MEMBERS SHALL BE LICENSED
12 PHYSICIANS, AND THE PANEL SHALL PROVIDE RECOMMENDATIONS TO THE
13 DEPARTMENT REGARDING WHETHER THE PETITIONS SHOULD BE APPROVED OR
14 DENIED .

15 (2) MEMBERS OF THE REVIEW PANEL SHALL INCLUDE, BUT NOT BE
16 LIMITED TO, THE MICHIGAN CHIEF MEDICAL EXECUTIVE AND 7 APPOINTED
17 MEMBERS OF THE ADVISORY COMMITTEE ON PAIN AND SYMPTOM MANAGEMENT AS
18 DESCRIBED IN SECTION 16204A OF THE PUBLIC HEALTH CODE, 1978 PA 368,
19 MCL 333.16204A. THE 7 REVIEW PANEL MEMBERS FROM THE ADVISORY
20 COMMITTEE ON PAIN AND SYMPTOM MANAGEMENT SHALL INCLUDE 4 LICENSED
21 PHYSICIANS AND 3 NONPHYSICIANS .

22 (3) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT TO THE REVIEW
23 PANEL TO ASSIST WITH SCHEDULING MEETINGS, CONFERENCE CALLS, AND
24 DISSEMINATING PETITION-RELATED MATERIALS AND TO PERFORM OTHER
25 ADMINISTRATIVE DUTIES RELATED TO THE PERFORMANCE OF THE PANEL'S
26 REVIEW .

27 (4) A QUORUM OF THE REVIEW PANEL SHALL CONCUR WITH THE

1 RECOMMENDATION IN ORDER TO BE CONSIDERED AN OFFICIAL RECOMMENDATION
2 OF THE PANEL. FOR THE PURPOSE OF THIS SUBDIVISION, A MAJORITY OF
3 THE MEMBERS APPOINTED TO AND SERVING ON THE REVIEW PANEL CONSTITUTE
4 A QUORUM.

5 (5) THE DEPARTMENT SHALL ACCEPT A WRITTEN PETITION FROM ANY
6 PERSON REQUESTING THAT A PARTICULAR MEDICAL CONDITION OR TREATMENT
7 BE INCLUDED IN THE LIST OF DEBILITATING MEDICAL CONDITIONS UNDER
8 THE ADMINISTRATIVE RULES.

9 (6) THE DEPARTMENT SHALL SUBMIT THE WRITTEN PETITION TO THE
10 REVIEW PANEL. WITHIN 60 DAYS OF RECEIPT OF THE PETITION, THE PANEL
11 SHALL MAKE A RECOMMENDATION TO THE DEPARTMENT REGARDING APPROVAL OR
12 DENIAL OF THE PETITION.

13 (7) UPON RECEIPT OF A RECOMMENDATION FROM THE REVIEW PANEL,
14 THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

15 (A) POST THE PANEL'S RECOMMENDATIONS ON THE DEPARTMENT'S
16 WEBSITE FOR PUBLIC COMMENT FOR A PERIOD OF 60 DAYS.

17 (B) HOLD A PUBLIC HEARING WITHIN THE 60-DAY TIME PERIOD THAT
18 THE RECOMMENDATION FROM THE PANEL IS POSTED ON THE DEPARTMENT'S
19 WEBSITE.

20 (C) GIVE NOTICE OF THE PUBLIC HEARING NOT LESS THAN 10 DAYS
21 BEFORE THE DATE OF THE HEARING.

22 (8) AFTER THE PUBLIC HEARING, THE DEPARTMENT SHALL FORWARD
23 COMMENTS MADE DURING THE HEARING TO THE PANEL FOR REVIEW. IF, BASED
24 ON A REVIEW OF THE COMMENTS, THE PANEL DETERMINES THAT SUBSTANTIVE
25 CHANGES SHOULD BE MADE TO ITS INITIAL RECOMMENDATION, THE PETITION
26 SHALL BE DENIED, THE DEPARTMENT SHALL PROVIDE THE PETITIONER WITH A
27 COPY OF THE INITIAL RECOMMENDATION AND AN EXPLANATION OF THE

1 SUBSTANTIVE CHANGES, AND THE PETITIONER MAY RESUBMIT THE PETITION
2 TO THE DEPARTMENT AT ANY TIME. IF NO CHANGES ARE MADE TO THE
3 INITIAL RECOMMENDATION OR THE CHANGES ARE MINOR AND DO NOT AFFECT
4 THE GENERAL CONTENT OF THE RECOMMENDATION, THE DEPARTMENT SHALL
5 FORWARD THE RECOMMENDATION TO THE DEPARTMENT DIRECTOR FOR A FINAL
6 DETERMINATION ON THE PETITION.

7 (9) WITHIN 180 DAYS AFTER THE DATE THE PETITION IS FILED WITH
8 THE DEPARTMENT, THE DEPARTMENT DIRECTOR SHALL MAKE A FINAL
9 DETERMINATION ON THE PETITION. THE APPROVAL OR DENIAL OF THE
10 PETITION IS A FINAL DEPARTMENT ACTION SUBJECT TO JUDICIAL REVIEW.

11 (10) IF THE PETITION IS APPROVED, THE DEPARTMENT SHALL CREATE
12 A DOCUMENT VERIFYING THE ADDITION OF THE NEW MEDICAL CONDITION OR
13 TREATMENT TO THE LIST OF DEBILITATING MEDICAL CONDITIONS IDENTIFIED
14 UNDER THE ADMINISTRATIVE RULES. THE DEPARTMENT SHALL DEVELOP A
15 POLICY THAT, UNTIL THIS ACT IS AMENDED TO OFFICIALLY RECOGNIZE THE
16 MEDICAL CONDITION AS A QUALIFYING DEBILITATING MEDICAL CONDITION
17 UNDER SECTION 3, ALLOWS THE NEW MEDICAL CONDITION TO BE USED TO
18 QUALIFY AN INDIVIDUAL FOR A REGISTRY IDENTIFICATION CARD.

19 (l) AS USED IN THIS SECTION, "STATE OR LOCAL LAW ENFORCEMENT
20 OFFICER OR OFFICIAL" MEANS ANY OF THE FOLLOWING:

21 (1) A SHERIFF OR DEPUTY SHERIFF OF A COUNTY OF THIS STATE.

22 (2) AN OFFICER OF THE POLICE DEPARTMENT OF A CITY, VILLAGE, OR
23 TOWNSHIP OF THIS STATE.

24 (3) A MARSHAL OF A CITY, VILLAGE, OR TOWNSHIP OF THIS STATE.

25 (4) A CONSTABLE OF ANY LOCAL UNIT OF GOVERNMENT OF THIS STATE.

26 (5) AN OFFICER OF THE MICHIGAN STATE POLICE.

27 (6) A SECURITY EMPLOYEE EMPLOYED BY THIS STATE AND GRANTED

1 LIMITED ARREST AUTHORITY UNDER SECTION 6C OF 1935 PA 59, MCL 28.6C.

2 (7) A MOTOR CARRIER OFFICER APPOINTED UNDER SECTION 6D OF 1935
3 PA 59, MCL 28.6D.

4 (8) A POLICE OFFICER OR PUBLIC SAFETY OFFICER OF A COMMUNITY
5 COLLEGE, COLLEGE, OR UNIVERSITY IN THIS STATE WHO IS AUTHORIZED BY
6 THE GOVERNING BOARD OF THAT COMMUNITY COLLEGE, COLLEGE, OR
7 UNIVERSITY TO ENFORCE STATE LAW AND THE RULES AND ORDINANCES OF
8 THAT COMMUNITY COLLEGE, COLLEGE, OR UNIVERSITY.

9 (9) A PARK AND RECREATION OFFICER COMMISSIONED UNDER SECTION
10 1606 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
11 1994 PA 451, MCL 324.1606.

12 (10) A STATE FOREST OFFICER COMMISSIONED UNDER SECTION 83107
13 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA
14 451, MCL 324.83107.

15 (11) A JUDGE OF THE DISTRICT COURT, CIRCUIT COURT, OR PROBATE
16 COURT OF THIS STATE.

17 (12) A PAROLE OR PROBATION OFFICER OF THIS STATE.