

# HOUSE BILL 104

J1, J2

6lr0729

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By: **Delegates Morhaim, Glenn, Hammen, Hill, Lam, and West**

Introduced and read first time: January 18, 2016

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 24, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Medical Cannabis – Written Certifications – Certifying Providers**

3 FOR the purpose of authorizing certain dentists, podiatrists, nurse midwives, and nurse  
4 practitioners, in addition to physicians, to issue written certifications to qualifying  
5 patients by substituting the defined term “certifying provider” for “certifying  
6 physician” as it relates to laws governing medical cannabis; making conforming  
7 changes; making a stylistic change; providing for a delayed effective date; and  
8 generally relating to providers authorized to provide written certifications for  
9 medical cannabis.

10 BY repealing and reenacting, without amendments,

11 Article – Health – General  
12 Section 13–3301(a)  
13 Annotated Code of Maryland  
14 (2015 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article – Health – General  
17 Section 13–3301(c), (m), and (n), 13–3304, 13–3305, 13–3313(a)(1)(ii) and (3), and  
18 13–3314(d)  
19 Annotated Code of Maryland  
20 (2015 Replacement Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

22 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## Article – Health – General

13–3301.

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

(c) “Certifying [physician] PROVIDER” means an individual who:

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

[(2)] 2. Is in good standing with the State Board of Physicians;

(II) 1. HAS AN ACTIVE, UNRESTRICTED LICENSE TO PRACTICE DENTISTRY THAT WAS ISSUED BY THE STATE BOARD OF DENTAL EXAMINERS UNDER TITLE 4 OF THE HEALTH OCCUPATIONS ARTICLE; AND

2. IS IN GOOD STANDING WITH THE STATE BOARD OF DENTAL EXAMINERS;

(III) 1. HAS AN ACTIVE, UNRESTRICTED LICENSE TO PRACTICE PODIATRY THAT WAS ISSUED BY THE STATE BOARD OF PODIATRIC MEDICAL EXAMINERS UNDER TITLE 16 OF THE HEALTH OCCUPATIONS ARTICLE; AND

2. IS IN GOOD STANDING WITH THE STATE BOARD OF PODIATRIC MEDICAL EXAMINERS; OR

(IV) 1. HAS AN ACTIVE, UNRESTRICTED LICENSE TO PRACTICE REGISTERED NURSING AND HAS AN ACTIVE, UNRESTRICTED CERTIFICATION TO PRACTICE AS A NURSE PRACTITIONER OR A NURSE MIDWIFE THAT WERE ISSUED BY THE STATE BOARD OF NURSING UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE; AND

2. IS IN GOOD STANDING WITH THE STATE BOARD OF NURSING;

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

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

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

1 (1) Has been provided with a written certification by a certifying  
2 **[physician] PROVIDER** in accordance with a bona fide **[physician–patient]**  
3 **PROVIDER–PATIENT** relationship; and

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

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

6 (1) Is issued by a certifying **[physician] PROVIDER** to a qualifying patient  
7 with whom the **[physician] PROVIDER** has a bona fide **[physician–patient]**  
8 **PROVIDER–PATIENT** relationship; and

9 (2) Includes a written statement certifying that, in the **[physician’s]**  
10 **PROVIDER’S** professional opinion, after having completed an assessment of the patient’s  
11 medical history and current medical condition, the patient has a condition:

12 (i) That meets the inclusion criteria and does not meet the exclusion  
13 criteria of the certifying **[physician’s] PROVIDER’S** application; and

14 (ii) For which the potential benefits of the medical use of cannabis  
15 would likely outweigh the health risks for the patient; and

16 (3) May include a written statement certifying that, in the **[physician’s]**  
17 **PROVIDER’S** professional opinion, a 30–day supply of medical cannabis would be  
18 inadequate to meet the medical needs of the qualifying patient.

19 13–3304.

20 (a) The Commission shall register as a certifying **[physician] PROVIDER** an  
21 individual who:

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

23 (2) Submits application materials that meet the requirements of this  
24 subtitle.

25 (b) To be registered as a certifying **[physician] PROVIDER**, a **[physician]**  
26 **PROVIDER** shall submit a proposal to the Commission that includes:

27 (1) The reasons for including a patient under the care of the **[physician]**  
28 **PROVIDER** for the purposes of this subtitle, including the patient’s qualifying medical  
29 conditions;

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

4           (3) The [physician's] **PROVIDER'S** plan for the ongoing assessment and  
5 follow-up care of a patient and for collecting and analyzing data.

6           (c) The Commission may not require an individual to meet requirements in  
7 addition to the requirements listed in subsections (a) and (b) of this section to be registered  
8 as a certifying [physician] **PROVIDER**.

9           (d) (1) The Commission is encouraged to approve [physician] **PROVIDER**  
10 applications for the following medical conditions:

11                   (i) A chronic or debilitating disease or medical condition that results  
12 in a patient being admitted into hospice or receiving palliative care; or

13                   (ii) A chronic or debilitating disease or medical condition or the  
14 treatment of a chronic or debilitating disease or medical condition that produces:

15                                 1. Cachexia, anorexia, or wasting syndrome;

16                                 2. Severe or chronic pain;

17                                 3. Severe nausea;

18                                 4. Seizures; or

19                                 5. Severe or persistent muscle spasms.

20           (2) The Commission may not limit treatment of a particular medical  
21 condition to one class of [physicians] **PROVIDERS**.

22           (e) The Commission may approve applications that include any other condition  
23 that is severe and for which other medical treatments have been ineffective if the symptoms  
24 reasonably can be expected to be relieved by the medical use of cannabis.

25           (f) (1) A certifying [physician] **PROVIDER** or the spouse of a certifying  
26 [physician] **PROVIDER** may not receive any gifts from or have an ownership interest in a  
27 medical cannabis grower, a processor, or a dispensary.

28           (2) A certifying [physician] **PROVIDER** may receive compensation from a  
29 medical cannabis grower, a processor, or A dispensary if the certifying [physician]  
30 **PROVIDER**:

1 (i) Obtains the approval of the Commission before receiving the  
2 compensation; and

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

5 (g) (1) A qualifying patient may be a patient of the certifying [physician]  
6 **PROVIDER** or may be referred to the certifying [physician] **PROVIDER**.

7 (2) A certifying [physician] **PROVIDER** shall provide each written  
8 certification to the Commission.

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

12 (4) A certifying [physician] **PROVIDER** may discuss medical cannabis with  
13 a patient.

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

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

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

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

22 (h) (1) A certifying [physician] **PROVIDER** may register biennially.

23 (2) The Commission shall grant or deny a renewal of a registration for  
24 approval based on the [physician's] **PROVIDER'S** performance in complying with  
25 regulations adopted by the Commission.

26 13-3305.

27 On or before January 1 each year, the Commission shall report to the Governor and,  
28 in accordance with § 2-1246 of the State Government Article, the General Assembly on  
29 [physicians] **PROVIDERS** certified under this subtitle.

30 13-3313.

1 (a) Any of the following persons acting in accordance with the provisions of this  
2 subtitle may not be subject to arrest, prosecution, or any civil or administrative penalty,  
3 including a civil penalty or disciplinary action by a professional licensing board, or be  
4 denied any right or privilege, for the medical use of cannabis:

5 (1) A qualifying patient:

6 (ii) In possession of an amount of medical cannabis that is greater  
7 than a 30-day supply if the qualifying patient’s certifying [physician] PROVIDER stated in  
8 the written certification that a 30-day supply would be inadequate to meet the medical  
9 needs of the qualifying patient;

10 (3) A certifying [physician] PROVIDER;

11 13-3314.

12 (d) This subtitle may not be construed to require a hospital, medical facility, or  
13 hospice program to report to the Commission any disciplinary action taken by the hospital,  
14 medical facility, or hospice program against a certifying [physician] PROVIDER, including  
15 the revocation of privileges, after the registration of the certifying [physician] PROVIDER  
16 by the Commission.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 ~~October 1, 2016~~ June 1, 2017.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.