

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1094

66th Legislature
2019 Regular Session

Passed by the House April 18, 2019
Yeas 86 Nays 9

Speaker of the House of Representatives

Passed by the Senate April 15, 2019
Yeas 44 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1094** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1094

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Health Care & Wellness (originally sponsored by
Representatives Blake and Walsh)

READ FIRST TIME 02/05/19.

1 AN ACT Relating to establishing compassionate care renewals for
2 medical marijuana qualifying patients; amending RCW 69.51A.030 and
3 69.51A.230; and adding a new section to chapter 69.51A RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 69.51A.030 and 2015 c 70 s 18 are each amended to
6 read as follows:

7 (1) The following acts do not constitute crimes under state law
8 or unprofessional conduct under chapter 18.130 RCW, and a health care
9 professional may not be arrested, searched, prosecuted, disciplined,
10 or subject to other criminal sanctions or civil consequences or
11 liability under state law, or have real or personal property
12 searched, seized, or forfeited pursuant to state law, notwithstanding
13 any other provision of law as long as the health care professional
14 complies with subsection (2) of this section:

15 (a) Advising a patient about the risks and benefits of medical
16 use of marijuana or that the patient may benefit from the medical use
17 of marijuana; or

18 (b) Providing a patient or designated provider meeting the
19 criteria established under RCW 69.51A.010 with an authorization,
20 based upon the health care professional's assessment of the patient's
21 medical history and current medical condition, if the health care

1 professional has complied with this chapter and he or she determines
2 within a professional standard of care or in the individual health
3 care professional's medical judgment the qualifying patient may
4 benefit from the medical use of marijuana.

5 (2)(a) A health care professional may provide a qualifying
6 patient or that patient's designated provider with an authorization
7 for the medical use of marijuana in accordance with this section.

8 (b) In order to authorize for the medical use of marijuana under
9 (a) of this subsection, the health care professional must:

10 (i) Have a documented relationship with the patient, as a
11 principal care provider or a specialist, relating to the diagnosis
12 and ongoing treatment or monitoring of the patient's terminal or
13 debilitating medical condition;

14 (ii) Complete an in-person physical examination of the patient or
15 a remote physical examination of the patient if one is determined to
16 be appropriate under (c)(iii) of this subsection;

17 (iii) Document the terminal or debilitating medical condition of
18 the patient in the patient's medical record and that the patient may
19 benefit from treatment of this condition or its symptoms with medical
20 use of marijuana;

21 (iv) Inform the patient of other options for treating the
22 terminal or debilitating medical condition and documenting in the
23 patient's medical record that the patient has received this
24 information;

25 (v) Document in the patient's medical record other measures
26 attempted to treat the terminal or debilitating medical condition
27 that do not involve the medical use of marijuana; and

28 (vi) Complete an authorization on forms developed by the
29 department, in accordance with subsection (3) of this section.

30 (c)(i) For a qualifying patient eighteen years of age or older,
31 an authorization expires one year after its issuance. For a
32 qualifying patient less than eighteen years of age, an authorization
33 expires six months after its issuance.

34 (ii) An authorization may be renewed upon completion of an in-
35 person physical examination ((and)) or a remote physical examination
36 of the patient if one is determined to be appropriate under (c)(iii)
37 of this subsection and, in compliance with the other requirements of
38 (b) of this subsection.

39 (iii) Following an in-person physical examination to authorize
40 the use of marijuana for medical purposes, the health care

1 professional may determine and note in the patient's medical record
2 that subsequent physical examinations for the purposes of renewing an
3 authorization may occur through the use of telemedicine technology if
4 the health care professional determines that requiring the qualifying
5 patient to attend a physical examination in person to renew an
6 authorization would likely result in severe hardship to the
7 qualifying patient because of the qualifying patient's physical or
8 emotional condition.

9 (iv) When renewing a qualifying patient's authorization for the
10 medical use of marijuana on or after the effective date of this
11 section, the health care professional may indicate that the
12 qualifying patient qualifies for a compassionate care renewal of his
13 or her registration in the medical marijuana authorization database
14 and recognition card if the health care professional determines that
15 requiring the qualifying patient to renew a registration in person
16 would likely result in severe hardship to the qualifying patient
17 because of the qualifying patient's physical or emotional condition.
18 A compassionate care renewal of a qualifying patient's registration
19 and recognition card allows the qualifying patient to receive
20 renewals without the need to be physically present at a retailer and
21 without the requirement to have a photograph taken.

22 (d) A health care professional shall not:

23 (i) Accept, solicit, or offer any form of pecuniary remuneration
24 from or to a marijuana retailer, marijuana processor, or marijuana
25 producer;

26 (ii) Offer a discount or any other thing of value to a qualifying
27 patient who is a customer of, or agrees to be a customer of, a
28 particular marijuana retailer;

29 (iii) Examine or offer to examine a patient for purposes of
30 diagnosing a terminal or debilitating medical condition at a location
31 where marijuana is produced, processed, or sold;

32 (iv) Have a business or practice which consists primarily of
33 authorizing the medical use of marijuana or authorize the medical use
34 of marijuana at any location other than his or her practice's
35 permanent physical location;

36 (v) Except as provided in RCW 69.51A.280, sell, or provide at no
37 charge, marijuana concentrates, marijuana-infused products, or
38 useable marijuana to a qualifying patient or designated provider; or

1 (vi) Hold an economic interest in an enterprise that produces,
2 processes, or sells marijuana if the health care professional
3 authorizes the medical use of marijuana.

4 (3) The department shall develop the form for the health care
5 professional to use as an authorization for qualifying patients and
6 designated providers. The form shall include the qualifying patient's
7 or designated provider's name, address, and date of birth; the health
8 care professional's name, address, and license number; the amount of
9 marijuana recommended for the qualifying patient; a telephone number
10 where the authorization can be verified during normal business hours;
11 the dates of issuance and expiration; and a statement that an
12 authorization does not provide protection from arrest unless the
13 qualifying patient or designated provider is also entered in the
14 medical marijuana authorization database and holds a recognition
15 card.

16 ~~(4) ((Until July 1, 2016, a health care professional who, within~~
17 ~~a single calendar month, authorizes the medical use of marijuana to~~
18 ~~more than thirty patients must report the number of authorizations~~
19 ~~issued.~~

20 ~~(5))~~) The appropriate health professions disciplining authority
21 may inspect or request patient records to confirm compliance with
22 this section. The health care professional must provide access to or
23 produce documents, records, or other items that are within his or her
24 possession or control within twenty-one calendar days of service of a
25 request by the health professions disciplining authority. If the
26 twenty-one calendar day limit results in a hardship upon the health
27 care professional, he or she may request, for good cause, an
28 extension not to exceed thirty additional calendar days. Failure to
29 produce the documents, records, or other items shall result in
30 citations and fines issued consistent with RCW 18.130.230. Failure to
31 otherwise comply with the requirements of this section shall be
32 considered unprofessional conduct and subject to sanctions under
33 chapter 18.130 RCW.

34 ~~((+6))~~ (5) After a health care professional authorizes a
35 qualifying patient for the medical use of marijuana, he or she may
36 discuss with the qualifying patient how to use marijuana and the
37 types of products the qualifying patient should seek from a retail
38 outlet.

1 **Sec. 2.** RCW 69.51A.230 and 2015 c 70 s 21 are each amended to
2 read as follows:

3 (1) The department must contract with an entity to create,
4 administer, and maintain a secure and confidential medical marijuana
5 authorization database that, beginning July 1, 2016, allows:

6 (a) A marijuana retailer with a medical marijuana endorsement to
7 add a qualifying patient or designated provider and include the
8 amount of marijuana concentrates, useable marijuana, marijuana-
9 infused products, or plants for which the qualifying patient is
10 authorized under RCW 69.51A.210;

11 (b) Persons authorized to prescribe or dispense controlled
12 substances to access health care information on their patients for
13 the purpose of providing medical or pharmaceutical care for their
14 patients;

15 (c) A qualifying patient or designated provider to request and
16 receive his or her own health care information or information on any
17 person or entity that has queried their name or information;

18 (d) Appropriate local, state, tribal, and federal law enforcement
19 or prosecutorial officials who are engaged in a bona fide specific
20 investigation of suspected marijuana-related activity that may be
21 illegal under Washington state law to confirm the validity of the
22 recognition card of a qualifying patient or designated provider;

23 (e) A marijuana retailer holding a medical marijuana endorsement
24 to confirm the validity of the recognition card of a qualifying
25 patient or designated provider;

26 (f) The department of revenue to verify tax exemptions under
27 chapters 82.08 and 82.12 RCW;

28 (g) The department and the health care professional's
29 disciplining authorities to monitor authorizations and ensure
30 compliance with this chapter and chapter 18.130 RCW by their
31 licensees; and

32 (h) Authorizations to expire six months or one year after entry
33 into the medical marijuana authorization database, depending on
34 whether the authorization is for a minor or an adult.

35 (2) A qualifying patient and his or her designated provider, if
36 any, may be placed in the medical marijuana authorization database at
37 a marijuana retailer with a medical marijuana endorsement. After a
38 qualifying patient or designated provider is placed in the medical
39 marijuana authorization database, he or she must be provided with a

1 recognition card that contains identifiers required in subsection (3)
2 of this section.

3 (3) The recognition card requirements must be developed by the
4 department in rule and include:

5 (a) A randomly generated and unique identifying number;

6 (b) For designated providers, the unique identifying number of
7 the qualifying patient whom the provider is assisting;

8 (c) A photograph of the qualifying patient's or designated
9 provider's face taken by an employee of the marijuana retailer with a
10 medical marijuana endorsement at the same time that the qualifying
11 patient or designated provider is being placed in the medical
12 marijuana authorization database in accordance with rules adopted by
13 the department;

14 (d) The amount of marijuana concentrates, useable marijuana,
15 marijuana-infused products, or plants for which the qualifying
16 patient is authorized under RCW 69.51A.210;

17 (e) The effective date and expiration date of the recognition
18 card;

19 (f) The name of the health care professional who authorized the
20 qualifying patient or designated provider; and

21 (g) For the recognition card, additional security features as
22 necessary to ensure its validity.

23 (4) (a) For qualifying patients who are eighteen years of age or
24 older and their designated providers, recognition cards are valid for
25 one year from the date the health care professional issued the
26 authorization. For qualifying patients who are under the age of
27 eighteen and their designated providers, recognition cards are valid
28 for six months from the date the health care professional issued the
29 authorization. Qualifying patients may not be reentered into the
30 medical marijuana authorization database until they have been
31 reexamined by a health care professional and determined to meet the
32 definition of qualifying patient. After reexamination, a marijuana
33 retailer with a medical marijuana endorsement must reenter the
34 qualifying patient or designated provider into the medical marijuana
35 authorization database and a new recognition card will then be issued
36 in accordance with department rules.

37 (b) Beginning on the effective date of this section, a qualifying
38 patient's registration in the medical marijuana authorization
39 database and his or her recognition card may be renewed by a
40 qualifying patient's designated provider without the physical

1 presence of the qualifying patient at the retailer if the
2 authorization from the health care professional indicates that the
3 qualifying patient qualifies for a compassionate care renewal, as
4 provided in RCW 69.51A.030. A qualifying patient receiving renewals
5 under the compassionate care renewal provisions is exempt from the
6 photograph requirements under subsection (3)(c) of this section.

7 (5) If a recognition card is lost or stolen, a marijuana retailer
8 with a medical marijuana endorsement, in conjunction with the
9 database administrator, may issue a new card that will be valid for
10 six months to one year if the patient is reexamined by a health care
11 professional and determined to meet the definition of qualifying
12 patient and depending on whether the patient is under the age of
13 eighteen or eighteen years of age or older as provided in subsection
14 (4) of this section. If a reexamination is not performed, the
15 expiration date of the replacement recognition card must be the same
16 as the lost or stolen recognition card.

17 (6) The database administrator must remove qualifying patients
18 and designated providers from the medical marijuana authorization
19 database upon expiration of the recognition card. Qualifying patients
20 and designated providers may request to remove themselves from the
21 medical marijuana authorization database before expiration of a
22 recognition card and health care professionals may request to remove
23 qualifying patients and designated providers from the medical
24 marijuana authorization database if the patient or provider no longer
25 qualifies for the medical use of marijuana. The database
26 administrator must retain database records for at least five calendar
27 years to permit the state liquor and cannabis board and the
28 department of revenue to verify eligibility for tax exemptions.

29 (7) During development of the medical marijuana authorization
30 database, the database administrator must consult with the
31 department, stakeholders, and persons with relevant expertise to
32 include, but not be limited to, qualifying patients, designated
33 providers, health care professionals, state and local law enforcement
34 agencies, and the University of Washington computer science and
35 engineering security and privacy research lab or a certified
36 cybersecurity firm, vendor, or service.

37 (8) The medical marijuana authorization database must meet the
38 following requirements:

1 (a) Any personally identifiable information included in the
2 database must be nonreversible, pursuant to definitions and standards
3 set forth by the national institute of standards and technology;

4 (b) Any personally identifiable information included in the
5 database must not be susceptible to linkage by use of data external
6 to the database;

7 (c) The database must incorporate current best differential
8 privacy practices, allowing for maximum accuracy of database queries
9 while minimizing the chances of identifying the personally
10 identifiable information included therein; and

11 (d) The database must be upgradable and updated in a timely
12 fashion to keep current with state of the art privacy and security
13 standards and practices.

14 (9)(a) Personally identifiable information of qualifying patients
15 and designated providers included in the medical marijuana
16 authorization database is confidential and exempt from public
17 disclosure, inspection, or copying under chapter 42.56 RCW.

18 (b) Information contained in the medical marijuana authorization
19 database may be released in aggregate form, with all personally
20 (~~identifying [identifiable]~~) identifiable information redacted, for
21 the purpose of statistical analysis and oversight of agency
22 performance and actions.

23 (c) Information contained in the medical marijuana authorization
24 database shall not be shared with the federal government or its
25 agents unless the particular (~~[qualifying]~~) qualifying patient or
26 designated provider is convicted in state court for violating this
27 chapter or chapter 69.50 RCW.

28 (10)(~~(a)~~) The department must charge a one dollar fee for each
29 initial and renewal recognition card issued by a marijuana retailer
30 with a medical marijuana endorsement. The marijuana retailer with a
31 medical marijuana endorsement shall collect the fee from the
32 qualifying patient or designated provider at the time that he or she
33 is entered into the database and issued a recognition card. The
34 department shall establish a schedule for marijuana retailers with a
35 medical marijuana endorsement to remit the fees collected. Fees
36 collected under this subsection shall be deposited into the health
37 professions account created under RCW 43.70.320.

38 (~~(b) By November 1, 2016, the department shall report to the~~
39 ~~governor and the fiscal committees of both the house of~~
40 ~~representatives and the senate regarding the cost of implementation~~

1 ~~and administration of the medical marijuana authorization database.~~
2 ~~The report must specify amounts from the health professions account~~
3 ~~used to finance the establishment and administration of the medical~~
4 ~~marijuana authorization database as well as estimates of the~~
5 ~~continuing costs associated with operating the medical marijuana~~
6 ~~[authorization] database. The report must also provide initial~~
7 ~~enrollment figures in the medical marijuana authorization database~~
8 ~~and estimates of expected future enrollment.))~~

9 (11) If the database administrator fails to comply with this
10 section, the department may cancel any contracts with the database
11 administrator and contract with another database administrator to
12 continue administration of the database. A database administrator who
13 fails to comply with this section is subject to a fine of up to five
14 thousand dollars in addition to any penalties established in the
15 contract. Fines collected under this section must be deposited into
16 the health professions account created under RCW 43.70.320.

17 (12) The department may adopt rules to implement this section.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 69.51A
19 RCW to read as follows:

20 The compassionate care renewals permitted in RCW 69.51A.030 and
21 69.51A.230 take effect November 1, 2019. The department may adopt
22 rules to implement these renewals and to streamline administrative
23 functions. However, the policy established in these sections may not
24 be delayed until the rules are adopted.

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