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BILL



ANALYSIS

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House Bill 4851 (Substitute S-3 as reported by the Committee of the Whole)
Sponsor: Representative Philip M. Cavanagh
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Medical Marihuana Act to do the following:

- Require a physician's written certification of a qualifying patient's debilitating medical condition to state that the physician completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation.
- Define "bona fide physician-patient relationship".
- In the definition of "enclosed, locked facility" (where a qualifying patient or primary caregiver may keep cultivated marihuana plants), specify conditions for plants grown outdoors and include situations in which a vehicle could be an enclosed, locked facility.
- Revise the definition of "primary caregiver" to refer to a person who had not been convicted of a felony within the past 10 years and had never been convicted of an "assaultive crime" as defined in a section of the Code of Criminal Procedure (MCL 770.9a).
- Require a qualifying patient or primary caregiver to present both his or her registry identification card and a valid driver license or government-issued photo ID card, in order to be protected from arrest.

"Bona fide physician-patient relationship" would mean a treatment or counseling relationship between a physician and a patient in which the physician has reviewed the patient's relevant medical records and completed a full assessment of his or her medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient; the physician has created and maintained records of the patient's condition in accord with medically accepted standards; the physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marihuana as a treatment of the patient's debilitating medical condition; and, if the patient has given permission, the physician has notified the patient's primary care physician of the medical marihuana certification.

(The Act authorizes the Department of Licensing and Regulatory Affairs to issue a registry identification card to a qualifying patient who submits a written certification, a fee, and specified information. The Department also may issue a registry identification card to a primary caregiver, who may assist with a patient's medical use of marihuana. A patient or caregiver who possesses a registry ID card is not subject to arrest, prosecution, or penalty for the medical use of marihuana if the amount does not exceed quantities specified in the Act and the possession and use of marihuana meet specified standards. Also, a physician is not subject to arrest, prosecution, or penalty solely for providing a written certification in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana.)

The bill would take effect on April 1, 2013.

MCL 333.26423 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 12-5-12

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.