



AN ACT REQUIRING THE BOARD OF MEDICAL EXAMINERS TO PROVIDE AN ANNUAL REPORT ON THE NUMBER AND TYPES OF COMPLAINTS INVOLVING PHYSICIAN PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE MEDICAL USE OF MARIJUANA; AMENDING SECTIONS 37-3-203, 50-46-103, AND 50-46-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. (1) The board may:

(a) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(d) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness;

(e) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

(f) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) If the board establishes a program pursuant to subsection (1)(d), the board shall ensure that a licensee who is required or volunteers to participate in the program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified program within this state and may not require

a licensee to enroll in a qualified program outside the state unless the board finds that there is no qualified program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 50-46-102, for the medical use of marijuana provided for in Title 50, chapter 46. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and

(v) the number of physicians disciplined by the board for their practices in providing written certification for the medical use of marijuana.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the medical use of marijuana, the report must include:

(i) the name of the physician;

(ii) the general results of the investigation of the physician's practices; and

(iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the children, families, health, and human services interim committee by August 1 of each year and shall make a copy of the report available on the board's website."

Section 2. Section 50-46-103, MCA, is amended to read:

"50-46-103. Procedures -- minors -- confidentiality -- report reports to legislature. (1) The department shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this chapter.

(2) Except as provided in subsection (3), the department shall issue a registry identification card to a qualifying patient who submits the following, in accordance with department rules:

(a) written certification that the person is a qualifying patient;

- (b) an application or renewal fee;
- (c) the name, address, and date of birth of the qualifying patient;
- (d) the name, address, and telephone number of the qualifying patient's physician; and
- (e) the name, address, and date of birth of the qualifying patient's caregiver, if any.

(3) The department shall issue a registry identification card to a minor if the materials required under subsection (2) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions signs and submits a written statement that:

- (a) the minor's physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the medical use of marijuana; and
- (b) the minor's custodial parent or legal guardian with responsibility for health care decisions:
 - (i) consents to the medical use of marijuana by the minor;
 - (ii) agrees to serve as the minor's caregiver; and
 - (iii) agrees to control the acquisition of marijuana and the dosage and frequency of the medical use of marijuana by the minor.

(4) (a) The department shall issue a registry identification card to the caregiver who is named in a qualifying patient's approved application if the caregiver signs a statement:

- (i) agreeing to provide marijuana only to qualifying patients who have named the applicant as caregiver; and
- (ii) acknowledging that possession of the registry identification card does not allow the caregiver to engage in the use of marijuana or to use paraphernalia for any purpose other than cultivating, manufacturing, delivering, transferring, or transporting marijuana for medical use by a qualifying patient.

(b) The department may not issue a registry identification card to a proposed caregiver who has previously been convicted of a felony drug offense.

(c) A caregiver may receive reasonable compensation for services provided to assist with a qualifying patient's medical use of marijuana.

(5) (a) The department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within 15 days of receipt of the application or renewal.

(b) The department may deny an application or renewal only if the applicant did not provide the

information required pursuant to this section, the department determines that the information was falsified, or the applicant is not qualified to receive a registry identification card under the provisions of this chapter. Rejection of an application or renewal is considered a final department action, subject to judicial review.

(6) The department shall issue a registry identification card within 5 days of approving an application or renewal. Registry identification cards expire 1 year after the date of issuance. Registry identification cards must state:

- (a) the name, address, and date of birth of the qualifying patient;
- (b) the name, address, and date of birth of the qualifying patient's caregiver, if any;
- (c) the date of issuance and expiration date of the registry identification card; and
- (d) other information that the department may specify by rule.

(7) A person who has been issued a registry identification card shall notify the department of any change in the qualifying patient's name, address, physician, or caregiver or change in status of the qualifying patient's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

(8) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

- (a) authorized employees of the department as necessary to perform official duties of the department;

or

(b) authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry identification card.

(9) The department shall report annually to the legislature the number of applications for registry identification cards, the number of qualifying patients and caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registry identification cards revoked, and the number of physicians providing written certification for qualifying patients. The department may not provide any identifying information of qualifying patients, caregivers, or physicians.

(10) The board of medical examiners shall report annually to the legislature, as provided in 37-3-203, on the number and types of complaints the board has received involving physician practices in providing written certification for the medical use of marijuana."

Section 3. Section 50-46-202, MCA, is amended to read:

"50-46-202. Disclosure of confidential information relating to medical use of marijuana -- penalty.

(1) ~~A~~ Except as provided in 37-3-203, a person, including an employee or official of the department or other state or local government agency, commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of 50-46-103.

(2) A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both."

Section 4. Coordination instruction. (1) If House Bill No. 161 is passed and approved, then [this act] is void.

(2) If House Bill No. 175 is passed by the electorate in 2012, then [this act] is void on [the effective date of House Bill No. 175].

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0082, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 82

INTRODUCED BY D. SANDS

AN ACT REQUIRING THE BOARD OF MEDICAL EXAMINERS TO PROVIDE AN ANNUAL REPORT ON THE NUMBER AND TYPES OF COMPLAINTS INVOLVING PHYSICIAN PRACTICES IN PROVIDING WRITTEN CERTIFICATION FOR THE MEDICAL USE OF MARIJUANA; AMENDING SECTIONS 37-3-203, 50-46-103, AND 50-46-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.