

Summary of medical marijuana bills passed by Michigan Legislature in 2012

Near the close of the 2011-12 legislative session, the Michigan Legislature passed a series of six bills that will alter the rights and obligations of patients participating in Michigan's medical marijuana program. As originally introduced, many of these bills contained language that would have been disastrous for patients and the medical marijuana community. For example, HB 4834 originally called for making confidential registry information available to police through the Law Enforcement Information Network. However, after MPP pointed out the potential negative consequences and vocal advocates throughout the state brought them to the attention of legislators, many of the harshest provisions were amended or removed entirely. Still, there are many changes patients and caregivers should be aware of.

The following is a summary of each new law, and how they will affect patients. Most of these laws took effect April 1, 2013. HB 4856, which requires patients carrying marijuana by vehicle to keep it in a case in the trunk, took effect immediately.

HB 4856 — Probably the most important change for patients and caregivers to be aware of is that they will now need to keep marijuana in a container in the trunk whenever transporting marijuana by vehicle. If the vehicle has no trunk, it must be inaccessible to the passengers. The exact operative language is that marijuana must be:

(a) Enclosed in a case that is carried in the trunk of the vehicle[; or]

(b) Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk.

Patients and caregivers who do not comply with this requirement can be charged with a misdemeanor punishable by imprisonment for up to 93 days and a fine of up to \$500.

HB 4834 — The only bill that contains both restrictions and improvements, the most important part of HB 4834 for patients and caregivers is that they will now only need to renew their registry card every other year. Here's the full list of changes included in bill:

- When applying for a registry ID card, patients and caregivers must present proof of residence in the form of a valid Michigan driver's license or state ID, or a valid voter registration card.
- The Department of Licensing and Regulatory Affairs, which oversees the program, has 15 business days to approve or deny applications for registry cards and, if approved, must issue them within five business days.
- Cards are now valid for two years, not one.
- The department has the ability to privatize (i.e. contract out) certain administrative duties under the act, such as issuing ID cards. Any contractor would be subject to the same confidentiality rules that apply to department employees.
- The department is required to appoint a panel to review petitions to add conditions to the list of "debilitating medical conditions." The panel, which will meet twice annually, will be composed of patients, caregivers, and other interested parties, but a majority must be licensed physicians.
- Revenue generated from application and renewal fees required by the law will now go into a separate, dedicated fund available only to the department, rather than the "general fund."

HB 4851 — The centerpiece of the legislative package, HB 4851 requires physicians who recommend marijuana to patients to first establish a “bona fide physician-patient relationship.” As part of this process, physicians must:

- Review the patient’s medical records and complete a full assessment of the patient’s medical history and current medical condition, including an in-person medical evaluation.
- Create and maintain records of the patient’s condition in accord with accepted standards.
- Have an expectation that s/he will provide follow-up care to monitor the efficacy of medical marijuana as a treatment of the condition.
- If the patient gives permission, notify the patient’s primary care physician of the patient’s condition and use of medical marijuana.

The bill also alters the definition of “enclosed, locked facility” where patients can grow marijuana to say that it must be “stationary” and “fully enclosed.” It does explicitly permit outdoor cultivation so long as the plants are not visible to the unaided eye from adjacent property and are grown within a stationary structure enclosed on all sides. The bill specifically mentions chain-linked fencing, wooden slats, or similar material that prevents access as acceptable for the enclosure’s walls. The structure must also be anchored to the ground and equipped with functioning locks. The “enclosed, locked facility” definition is further expanded to include vehicles so long as the patient or his/her caregiver is transporting living plants from one permanent location to another permanent location, and no non-cardholders are in the car.

Next, the bill synchronizes the definitions of “patient” and “qualifying patient” as well as “caregiver” and “primary caregiver,” and prohibits anyone from serving as a caregiver if s/he has been convicted of any felony within the last 10 years. A person can never be a caregiver if he or she has a felony conviction that involved illegal drugs or was defined as an “assaultive crime.”

Finally, the bill requires patients and caregivers to carry both their registry card and a photo ID on in order to have protection from arrest.

HB 4853 — This bill simply applies Michigan’s criminal sentencing guidelines to the crime, prohibited by the original act, of “selling marijuana in violation of registry identification card restrictions.”

SB 321 — Sponsored by Senate Judiciary Chairman Rick Jones (R-Grand Ledge), this bill specifies that insurance companies are not required to provide coverage for medical marijuana or related expenses.

SB 933 – Also sponsored by Sen. Jones, this bill specifies that employers are not required to reimburse charges for medical marijuana treatment.