

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1435 Medical Marijuana Use Registry Identification Cards for Veterans

SPONSOR(S): Healthcare Regulation Subcommittee, Valdés

TIED BILLS: **IDEN./SIM. BILLS:** SB 1514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthcare Regulation Subcommittee	14 Y, 1 N, As CS	McElroy	McElroy
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Section 381.986, F.S., authorizes patients with certain debilitating medical conditions to obtain medical marijuana from Medical Marijuana Treatment Centers (MMTC). To certify a patient for medical use of marijuana, a qualified physician must conduct a physical examination of the patient and determine that the patient has a qualifying medical condition and that medical marijuana would likely outweigh the health risks to the patient. After diagnosing a patient with a qualifying condition, a qualified physician must review and enter certain data into the medical marijuana use registry.

A qualified patient must have a physician certification in the medical marijuana use registry and have a valid medical marijuana use registry identification card to obtain medical marijuana and medical marijuana delivery devices from a MMTC. The Department of Health (DOH), through the Office of Medical Marijuana Use (OMMU), must issue medical marijuana use registry identification cards to qualified patients and caregivers who are residents of this state. The identification cards must be resistant to counterfeiting and tampering and must include, at a minimum, the following:

- The name, address, and date of birth of the qualified patient or caregiver;
- A full-face, passport-type, color photograph of the qualified patient or caregiver taken within the 90 days immediately preceding registration or the Florida driver license or Florida identification card photograph of the qualified patient or caregiver obtained directly from the Department of Highway Safety and Motor Vehicles;
- Identification as a qualified patient or a caregiver;
- The unique numeric identifier used for the qualified patient in the medical marijuana use registry; and
- The expiration date of the identification card.

As of January 26, 2024, there are 871,459 qualified patients with active medical marijuana use registry identification cards. The OMMU processes applications for identification cards within 5 business days of receipt of a complete application. The annual application fee is \$75 and OMMU does not currently offer a reduction or waiver of this fee.

Florida is home to 21 military installations and 69,290 military personnel. Florida also has the nation's third-largest veteran population with almost 1.4 million veterans.

CS/HB 1435 prohibits DOH from charging service-disabled veterans a fee for the issuance, renewal or replacement of a medical marijuana registry identification card.

The bill has an indeterminate, negative fiscal impact on DOH and no fiscal impact local government.

The bill provides an effective date of July 1, 2024.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h1435a.HRS

DATE: 2/2/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Marijuana for Medical Use

Section 381.986, F.S., authorizes patients with any of the following debilitating medical conditions to obtain medical marijuana from Medical Marijuana Treatment Centers (MMTC):

- Cancer
- Epilepsy
- Glaucoma
- Positive status for human immunodeficiency virus
- Acquired immune deficiency syndrome
- Post-traumatic stress disorder
- Amyotrophic lateral sclerosis
- Crohn's disease
- Parkinson's disease
- Multiple sclerosis
- Medical conditions of the same kind or class as or comparable to those enumerated above

To obtain marijuana for medical use from a MMTC, and maintain the immunity from criminal prosecution, the patient must obtain a physician certification from a qualified physician¹ and an identification card from DOH.

Physician Certification

To certify a patient for medical use of marijuana, a qualified physician must conduct a physical examination of the patient and determine that the patient has a qualifying medical condition and that medical marijuana would likely outweigh the health risks to the patient.² A qualified physician must be physically present in the same room when conducting the initial examination on a qualified patient.³ The physician must evaluate an existing patient at least once every 30 weeks before issuing a renewal physician certification.⁴ Under current law, the physician must conduct the in-person⁵ physical examination of the patient to issue the initial certification and may conduct any subsequent examinations for renewal certifications through telehealth.⁶

After diagnosing a patient with a qualifying condition, a qualified physician must review and enter certain data into the medical marijuana use registry. The physician must review the medical marijuana use registry and confirm that the patient does not have an active physician certification from another qualified physician.⁷ The physician must then register as the issuer of the physician certification for the named qualified patient in the medical marijuana use registry and enter into the registry the contents of the physician certification, including the patient's qualifying condition, the dosage, the amount and forms of marijuana authorized, and any types of marijuana delivery devices needed by the patient.⁸

Medical Marijuana Use Registry Identification Card

¹ To certify patients for medical use of marijuana, a physician must hold an active, unrestricted license as an allopathic physician under chapter 458 or as an osteopathic physician under chapter 459 and comply with certain physician education requirements. See ss.

381.986(1)(m), F.S. and 381.986(3)(a), F.S.

² S. 381.986, F.S.

³ S. 381.986(a), F.S.

⁴ S. 381.986(4)(g), F.S.

⁵ This means that the physician must be physically present and in the same room as the patient. S. 381.986(4)(a)1, F.S.

⁶ S. 381.986, F.S.

⁷ *Id.*

⁸ *Id.*

A qualified patient must have a physician certification in the medical marijuana use registry and have a valid medical marijuana use registry identification card to obtain medical marijuana and medical marijuana delivery devices from a MMTC. The Department of Health (DOH) must issue medical marijuana use registry identification cards to qualified patients and caregivers who are residents of this state. The identification cards must be resistant to counterfeiting and tampering and must include, at a minimum, the following:

- The name, address, and date of birth of the qualified patient or caregiver;
- A full-face, passport-type, color photograph of the qualified patient or caregiver taken within the 90 days immediately preceding registration or the Florida driver license or Florida identification card photograph of the qualified patient or caregiver obtained directly from the Department of Highway Safety and Motor Vehicles;
- Identification as a qualified patient or a caregiver;
- The unique numeric identifier used for the qualified patient in the medical marijuana use registry;
- For a caregiver, the name and unique numeric identifier of the caregiver and the qualified patient or patients that the caregiver is assisting; and
- The expiration date of the identification card.

As of January 26, 2024, there are 871,459 qualified patients with active medical marijuana use registry identification cards.⁹ The Office of Medical Marijuana Use (OMMU) processes applications for identification cards within 5 business days of receipt of a complete application. The annual application fee is \$75 and OMMU does not currently offer a reduction or waiver of this fee.

Veterans

Florida is home to 21 military installations¹⁰ and 69,290 military personnel.¹¹ Florida also has the nation's third-largest veteran¹² population with almost 1.4 million veterans.¹³ Many of these veterans are recently transitioned servicemembers.

The U.S. Department of Veterans Affairs has issued informational guidance for the use of medical marijuana by veterans:¹⁴

- Veterans will not be denied VA benefits because of marijuana use.
- Veterans are encouraged to discuss marijuana use with their VA providers.
- VA health care providers will record marijuana use in the Veteran's VA medical record in order to have the information available in treatment planning. As with all clinical information, this is part of the confidential medical record and protected under patient privacy and confidentiality laws and regulations.
- VA clinicians may not recommend medical marijuana.

⁹ *Office of Medical Marijuana Use Weekly Updates, January 26, 2024*, DOH, Office of Medical Marijuana Use, available at https://knowthefactsmmj.com/wp-content/uploads/ommu_updates/2024/012624-OMMU-Update.pdf (last visited on January 29, 2024).

¹⁰ Select Florida, *Defense & Homeland Security*, 2, <https://selectflorida.org/wp-content/uploads/defense-and-homeland-security-industry-profile.pdf> (last visited Jan. 26, 2024).

¹¹ Data from September 2021. Florida Military & Defense, *Economic Impact Summary* (2022), 2, available at <https://selectflorida.org/wp-content/uploads/Florida-2022-EIS-Summary-Book-Final.pdf> (last visited Jan. 26, 2024).

¹² S. 1.01(14), F.S., defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions. The definition in s. 1.01(14), F.S., is cited in numerous statutes, including ss. 117.02, 265.003, 292.055, 295.02, 295.07, 295.187, 295.188, 296.02, 296.08, 296.33, 296.36, 409.1664, 548.06, 943.17, and 1009.26, F.S.

¹³ U.S. Department of Veterans Affairs (VA), National Center for Veterans Analysis and Statistics, *VetPop2020 by State, Age Group, Gender, 2020-2050*, available at https://www.va.gov/vetdata/veteran_population.asp (last visited Jan. 25, 2024). The Veteran Population Projection Model 2020 (VetPop2020) provides an official veteran population projection from the U.S. Department of Veterans Affairs.

¹⁴ *VA and Marijuana – What Veterans need to know*, U.S. Department of Veterans Affairs, <https://www.publichealth.va.gov/marijuana.asp> (last visited on January 26, 2024).

- VA clinicians may only prescribe medications that have been approved by the U.S. Food and Drug Administration (FDA) for medical use. At present most products containing tetrahydrocannabinol (THC), cannabidiol (CBD), or other cannabinoids are not approved for this purpose by the FDA.
- VA clinicians may not complete paperwork/forms required for Veteran patients to participate in state-approved marijuana programs.
- VA pharmacies may not fill prescriptions for medical marijuana.
- VA will not pay for medical marijuana prescriptions from any source.
- VA scientists may conduct research on marijuana benefits and risks, and potential for abuse, under regulatory approval.
- The use or possession of marijuana is prohibited at all VA medical centers, locations and grounds. When you are on VA grounds it is federal law that is in force, not the laws of the state.
- Veterans who are VA employees are subject to drug testing under the terms of employment.

The number of veterans who hold active medical marijuana use registry identification cards is unknown.

Effect of the Bill

CS/HB 1435 prohibits DOH from charging service-disabled veterans a fee for the issuance, renewal or replacement of a medical marijuana registry identification card if the veteran provides his or her DD 214 form with the application.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 381.986, F.S., relating to medical use of marijuana.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate, negative fiscal impact on DOH. Currently, there are 871,459 qualified patients with active medical marijuana use registry identification cards who must pay \$75 annually to retain an active identification card. The number of service-disabled veterans who hold active medical marijuana use registry identification cards is unknown however, DOH will no longer be able to collect fees from these patients.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a positive fiscal impact on service-disabled veterans who will not be required to pay the identification card fees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOH has sufficient rulemaking authority to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Healthcare Regulation Subcommittee adopted an amendment and reported the bill favorable. The amendment prohibited DOH from charging service-disabled veterans a fee for the issuance, renewal or replacement of a medical marijuana registry identification card.

This analysis is drafted to the committee substitute as passed by the Healthcare Regulation Subcommittee.