

MARYLAND MEDICAL CANNABIS LAW

Updated as of September 2015. Section titles are not part of the law.
Addendum 1 includes additional provisions enacted in Ch. 403 of 2013,
Ch. 256 of 2014, and Ch. 251 of 2015.

Addendum 2 is the text of Criminal Law section § 5-601 relating to the possession of controlled dangerous substances and affirmative defense of medical necessity, and Criminal Law § 5-620 relating to controlled paraphernalia.

Article -- Health – General.

Title 13. Miscellaneous Health Care Programs.

SUBTITLE 33. NATALIE M. LAPRADE MEDICAL CANNABIS COMMISSION.

§ 13-3301. Definitions.

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Caregiver" means:
- (1) A person who has agreed to assist with a qualifying patient's medical use of cannabis; and
 - (2) For a qualifying patient under the age of 18 years, a parent or legal guardian.
- (c) "Certifying physician" means an individual who:
- (1) Has an active, unrestricted license to practice medicine that was issued by the State Board of Physicians under Title 14 of the Health Occupations Article;
 - (2) Is in good standing with the State Board of Physicians;
 - (3) Has a State controlled dangerous substances registration; and
 - (4) Is registered with the Commission to make cannabis available to patients for medical use in accordance with regulations adopted by the Commission.
- (d) "Commission" means the Natalie M. LaPrade Medical Cannabis Commission established under this subtitle.
- (e) "Dispensary" means an entity licensed under this subtitle that acquires, possesses, processes, transfers, transports, sells, distributes, dispenses, or administers cannabis, products containing cannabis, related supplies, related products containing cannabis including food, tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver.
- (f) "Dispensary agent" means an owner, a member, an employee, a volunteer, an officer, or a director of a dispensary.
- (g) "Fund" means the Natalie M. LaPrade Medical Cannabis Commission Fund established under § 13-3303 of this subtitle.
- (h) "Grower" means an entity licensed under this subtitle that:
- (1) (i) Cultivates, manufactures, processes, packages, or dispenses medical cannabis; or
(ii) Processes medical cannabis products; and
 - (2) Is authorized by the Commission to provide cannabis to a qualifying patient, caregiver, processor, dispensary, or independent testing laboratory.
- (i) "Independent testing laboratory" means a facility, an entity, or a site that offers or performs tests related to the inspection and testing of cannabis and products containing cannabis.
- (j) "Medical cannabis grower agent" means an owner, an employee, a volunteer, an

officer, or a director of a grower.

(k) "Processor" means an entity that:

- (1) Transforms medical cannabis into another product or extract; and
- (2) Packages and labels medical cannabis.

(l) "Processor agent" means an owner, a member, an employee, a volunteer, an officer, or a director of a processor.

(m) "Qualifying patient" means an individual who:

(1) Has been provided with a written certification by a certifying physician in accordance with a bona fide physician-patient relationship; and

- (2) If under the age of 18 years, has a caregiver.

(n) "Written certification" means a certification that:

(1) Is issued by a certifying physician to a qualifying patient with whom the physician has a bona fide physician-patient relationship; and

(2) Includes a written statement certifying that, in the physician's professional opinion, after having completed an assessment of the patient's medical history and current medical condition, the patient has a condition:

(i) That meets the inclusion criteria and does not meet the exclusion criteria of the certifying physician's application; and

(ii) For which the potential benefits of the medical use of cannabis would likely outweigh the health risks for the patient; and

(3) May include a written statement certifying that, in the physician's professional opinion, a 30-day supply of medical cannabis would be inadequate to meet the medical needs of the qualifying patient.

HISTORY: 2013, ch. 43, § 5; ch. 403; 2014, chs. 44, 240, 256; 2015, ch. 251.

§ 13-3302. Commission established; purpose and duties, identification cards, Web site.

(a) There is a Natalie M. LaPrade Medical Cannabis Commission.

(b) The Commission is an independent commission that functions within the Department.

(c) The purpose of the Commission is to develop policies, procedures, guidelines, and regulations to implement programs to make medical cannabis available to qualifying patients in a safe and effective manner.

(d) (1) The Commission shall develop identification cards for qualifying patients and caregivers.

(2) (i) The Department shall adopt regulations that establish the requirements for identification cards provided by the Commission.

(ii) The regulations adopted under subparagraph (i) of this paragraph shall include:

1. The information to be included on an identification card;
2. The method through which the Commission will distribute identification cards;

and

3. The method through which the Commission will track identification cards.

(e) The Commission shall develop and maintain a Web site that:

(1) Provides information on how an individual can obtain medical cannabis in the State; and

(2) Provides contact information for licensed dispensaries.

HISTORY: 2013, ch. 403; 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3303. Commission membership, staff, fees, fund.

(a) The Commission consists of the following 16 members:

(1) The Secretary of Health and Mental Hygiene, or the Secretary's designee; and

(2) The following 15 members, appointed by the Governor:

(i) Two members of the public who support the use of cannabis for medical purposes and who are or were patients who found relief from the use of medical cannabis;

(ii) One member of the public designated by the Maryland Chapter of the National Council on Alcoholism and Drug Dependence;

(iii) Three physicians licensed in the State;

(iv) One nurse licensed in the State who has experience in hospice care, nominated by a State research institution or trade association;

(v) One pharmacist licensed in the State, nominated by a State research institution or trade association;

(vi) One scientist who has experience in the science of cannabis, nominated by a State research institution;

(vii) One representative of the Maryland State's Attorneys' Association;

(viii) One representative of law enforcement;

(ix) An attorney who is knowledgeable about medical cannabis laws in the United States;

(x) An individual with experience in horticulture, recommended by the Department of Agriculture;

(xi) One representative of the University of Maryland Extension; and

(xii) One representative of the Office of the Comptroller.

(b)(1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the terms provided for members on October 1, 2013.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member may not serve more than three consecutive full terms.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(c) The Governor shall designate the chair from among the members of the Commission.

(d) A majority of the full authorized membership of the Commission is a quorum.

(e) A member of the Commission:

(1) May not receive compensation as a member of the Commission; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Commission may employ a staff, including contractual staff, in accordance with the State budget.

(g) The Commission may set reasonable fees to cover the costs of operating the Commission.

(h) (1) There is a Natalie M. LaPrade Medical Cannabis Commission Fund.

- (2) The Commission shall administer the Fund.
- (3) The Fund is a special continuing, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.
- (4) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.
- (5) The Fund shall be invested and reinvested in the same manner as other State funds, and any investment earnings shall be retained to the credit of the Fund.
- (6) The Fund shall be subject to an audit by the Office of Legislative Audits as provided for in § 2-1220 of the State Government Article.
- (7) The Comptroller shall pay out money from the Fund as directed by the Commission.
- (8) The Fund consists of:
 - (i) Any money appropriated in the State budget to the Fund;
 - (ii) Any other money from any other source accepted for the benefit of the Fund, in accordance with any conditions adopted by the Commission for the acceptance of donations or gifts to the Fund; and
 - (iii) Any fees collected by the Commission under this subtitle.
- (9) No part of the Fund may revert or be credited to:
 - (i) The General Fund of the State; or
 - (ii) Any other special fund of the State.
- (10) Expenditures from the Fund may be made only in accordance with the State budget.

HISTORY: 2013, ch. 403; 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3304. Certifying physician registration, registration requirements, medical conditions, physician compensation, procedures.

- (a) The Commission shall register as a certifying physician an individual who:
 - (1) Meets the requirements of this subtitle; and
 - (2) Submits application materials that meet the requirements of this subtitle.
- (b) To be registered as a certifying physician, a physician shall submit a proposal to the Commission that includes:
 - (1) The reasons for including a patient under the care of the physician for the purposes of this subtitle, including the patient's qualifying medical conditions;
 - (2) An attestation that a standard patient evaluation will be completed, including a history, a physical examination, a review of symptoms, and other pertinent medical information; and
 - (3) The physician's plan for the ongoing assessment and follow-up care of a patient and for collecting and analyzing data.
- (c) The Commission may not require an individual to meet requirements in addition to the requirements listed in subsections (a) and (b) of this section to be registered as a certifying physician.
- (d) (1) The Commission is encouraged to approve physician applications for the following medical conditions:
 - (i) A chronic or debilitating disease or medical condition that results in a patient being admitted into hospice or receiving palliative care; or

(ii) A chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces:

1. Cachexia, anorexia, or wasting syndrome;
2. Severe or chronic pain;
3. Severe nausea;
4. Seizures; or
5. Severe or persistent muscle spasms.

(2) The Commission may not limit treatment of a particular medical condition to one class of physicians.

(e) The Commission may approve applications that include any other condition that is severe and for which other medical treatments have been ineffective if the symptoms reasonably can be expected to be relieved by the medical use of cannabis.

(f) (1) A certifying physician or the spouse of a certifying physician may not receive any gifts from or have an ownership interest in a medical cannabis grower, a processor, or a dispensary.

(2) A certifying physician may receive compensation from a medical cannabis grower, a processor, or dispensary if the certifying physician:

(i) Obtains the approval of the Commission before receiving the compensation; and

(ii) Discloses the amount of compensation received from the medical cannabis grower, processor, or dispensary to the Commission.

(g) (1) A qualifying patient may be a patient of the certifying physician or may be referred to the certifying physician.

(2) A certifying physician shall provide each written certification to the Commission.

(3) On receipt of a written certification provided under paragraph (2) of this subsection, the Commission shall issue an identification card to each qualifying patient or caregiver named in the written certification.

(4) A certifying physician may discuss medical cannabis with a patient.

(5) (i) Except as provided in subparagraph (ii) of this paragraph, a qualifying patient or caregiver may obtain medical cannabis only from a medical cannabis grower licensed by the Commission or a dispensary licensed by the Commission.

(ii) A qualifying patient under the age of 18 years may obtain medical cannabis only through the qualifying patient's caregiver.

(6) (i) A caregiver may serve no more than five qualifying patients at any time.

(ii) A qualifying patient may have no more than two caregivers.

(h) (1) A certifying physician may register biennially.

(2) The Commission shall grant or deny a renewal of a registration for approval based on the physician's performance in complying with regulations adopted by the Commission.

HISTORY: 2014, chs. 240, 256; 2015, chs. 22, 251.

§ 13-3305. Annual report on physicians by Commission.

On or before January 1 each year, the Commission shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly on physicians certified under this subtitle.

HISTORY: 2013, ch. 403; 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3306. Licensing medical cannabis growers, limitations on distribution, requirements, inspection, penalties.

(a)(1) The Commission shall license medical cannabis growers that meet all requirements established by the Commission to operate in the State to provide cannabis to:

- (i) Processors licensed by the Commission under this subtitle;
- (ii) Dispensaries licensed by the Commission under this subtitle;
- (iii) Qualifying patients and caregivers; and
- (iv) Independent testing laboratories registered with the Commission under this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the Commission may license no more than 15 medical cannabis growers.

(ii) Beginning June 1, 2018, the Commission may issue the number of licenses necessary to meet the demand for medical cannabis by qualifying patients and caregivers issued identification cards under this subtitle in an affordable, accessible, secure, and efficient manner.

(iii) The Commission shall establish an application review process for granting medical cannabis grower licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the Commission.

(iv) The Commission may not issue more than one medical cannabis grower license to each applicant.

(v) A grower shall pay an application fee in an amount to be determined by the Commission consistent with this subtitle.

(3) The Commission shall set standards for licensure as a medical cannabis grower to ensure public safety and safe access to medical cannabis, which may include a requirement for the posting of security.

(4) Each medical cannabis grower agent shall:

(i) Be registered with the Commission before the agent may volunteer or work for a licensed grower; and

(ii) Obtain a State and national criminal history records check in accordance with § 13-3312 of this subtitle.

(5) (i) A licensed grower shall apply to the Commission for a registration card for each grower agent by submitting the name, address, and date of birth of the agent.

(ii) 1. Within 1 business day after a grower agent ceases to be associated with a grower, the grower shall:

A. Notify the Commission; and

B. Return the grower agent's registration card to the Commission.

2. On receipt of a notice described in subsubparagraph 1A of this subparagraph, the Commission shall:

A. Immediately revoke the registration card of the grower agent; and

B. If the registration card was not returned to the Commission, notify the

Department of State Police.

(iii) The Commission may not register a person who has been convicted of a felony drug offense as a grower agent.

(6) (i) A medical cannabis grower license is valid for 4 years on initial licensure.

(ii) A medical cannabis grower license is valid for 2 years on renewal.

(7) An application to operate as a medical cannabis grower may be submitted in paper or electronic form.

(8) (i) The Commission shall encourage licensing medical cannabis growers that grow strains of cannabis, including strains with high cannabidiol content, with demonstrated success in alleviating symptoms of specific diseases or conditions.

(ii) The Commission shall encourage licensing medical cannabis growers that prepare medical cannabis in a range of routes of administration.

(9) (i) The Commission shall:

1. Actively seek to achieve racial, ethnic, and geographic diversity when licensing medical cannabis growers; and

2. Encourage applicants who qualify as a minority business enterprise, as defined in § 14-301 of the State Finance and Procurement Article.

(ii) Beginning June 1, 2016, a grower licensed under this subtitle to operate as a medical cannabis grower shall report annually to the Commission on the minority owners and employees of the grower.

(10) An entity seeking licensure as a medical cannabis grower shall meet local zoning and planning requirements.

(b) An entity licensed to grow medical cannabis under this section may provide cannabis only to:

(1) Processors licensed by the Commission under this subtitle;

(2) Dispensaries licensed by the Commission under this subtitle;

(3) Qualified patients;

(4) Caregivers; and

(5) Independent testing laboratories registered with the Commission under this subtitle.

(c)(1) An entity licensed to grow cannabis under this section may dispense cannabis from a facility of a grower licensed as a dispensary.

(2) A qualifying patient or caregiver may obtain medical cannabis from a facility of a grower licensed as a dispensary.

(3) An entity licensed to grow medical cannabis under this section may grow and process medical cannabis on the same premises.

(d) An entity licensed to grow medical cannabis under this section shall ensure that safety precautions established by the Commission are followed by any facility operated by the grower.

(e) The Commission shall establish requirements for security and the manufacturing process that a grower must meet to obtain a license under this section, including a requirement for a product-tracking system.

(f) The Commission may inspect a grower licensed under this section to ensure compliance with this subtitle.

(g) The Commission may impose penalties or rescind the license of a grower that does not meet the standards for licensure set by the Commission.

HISTORY: 2013, ch. 403; 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3307. Licensing medical cannabis dispensaries, application and review, requirements, reports, inspection, penalties, quarterly reporting to Commission.

(a) A dispensary shall be licensed by the Commission.

- (b) To be licensed as a dispensary, an applicant shall submit to the Commission:
- (1) An application fee in an amount to be determined by the Commission consistent with this subtitle; and
 - (2) An application that includes:
 - (i) The legal name and physical address of the proposed dispensary;
 - (ii) The name, address, and date of birth of each principal officer and each director, none of whom may have served as a principal officer or director for a dispensary that has had its license revoked; and
 - (iii) Operating procedures that the dispensary will use, consistent with Commission regulations for oversight, including storage of cannabis and products containing cannabis only in enclosed and locked facilities.
- (c) The Commission shall:
- (1) Establish an application review process for granting dispensary licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the Commission; and
 - (2) Actively seek to achieve racial, ethnic, and geographic diversity when licensing dispensaries.
- (d) (1) A dispensary license is valid for 4 years on initial licensure.
(2) A dispensary license is valid for 2 years on renewal.
- (e) A dispensary licensed under this section or a dispensary agent registered under § 13-3308 of this subtitle may not be penalized or arrested under State law for acquiring, possessing, processing, transferring, transporting, selling, distributing, or dispensing cannabis, products containing cannabis, related supplies, or educational materials for use by a qualifying patient or a caregiver.
- (f) The Commission shall establish requirements for security and product handling procedures that a dispensary must meet to obtain a license under this section, including a requirement for a product-tracking system.
- (g) The Commission may inspect a dispensary licensed under this section to ensure compliance with this subtitle.
- (h) The Commission may impose penalties or rescind the license of a dispensary that does not meet the standards for licensure set by the Commission.
- (i)(1) Each dispensary licensed under this section shall submit to the Commission a quarterly report.
- (2) The quarterly report shall include:
 - (i) The number of patients served;
 - (ii) The county of residence of each patient served;
 - (iii) The medical condition for which medical cannabis was recommended;
 - (iv) The type and amount of medical cannabis dispensed; and
 - (v) If available, a summary of clinical outcomes, including adverse events and any cases of suspected diversion.
 - (3) The quarterly report may not include any personal information that identifies a patient.

HISTORY: 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3308. Dispensary agent registration, registration card, termination, surrender of card and notice to State Police, disqualification if a felony drug conviction.

(a) A dispensary agent shall:

(1) Be at least 21 years old;

(2) Be registered with the Commission before the agent may volunteer or work for a dispensary; and

(3) Obtain a State and national criminal history records check in accordance with § 13-3312 of this subtitle.

(b) A dispensary shall apply to the Commission for a registration card for each dispensary agent by submitting the name, address, and date of birth of the agent.

(c)(1) Within 1 business day after a dispensary agent ceases to be associated with a dispensary, the dispensary shall:

(i) Notify the Commission; and

(ii) Return the dispensary agent's registration card to the Commission.

(2) On receipt of a notice described in paragraph (1) of this subsection, the Commission shall:

(i) Immediately revoke the registration card of the dispensary agent; and

(ii) If the registration card was not returned to the Commission, notify the Department of State Police.

(d) The Commission may not register an individual who has been convicted of a felony drug offense as a dispensary agent.

HISTORY: 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3309. Licensing Medical Cannabis Processors, requirements, inspection, penalties.

(a) A processor shall be licensed by the Commission.

(b) To be licensed as a processor, an applicant shall submit to the Commission:

(1) An application fee in an amount to be determined by the Commission in accordance with this subtitle; and

(2) An application that includes:

(i) The legal name and physical address of the proposed processor;

(ii) The name, address, and date of birth of each principal officer and director, none of whom may have served as a principal officer or director for a licensee under this subtitle that has had its license revoked; and

(iii) Operating procedures that the processor will use, consistent with Commission regulations for oversight, including storage of cannabis, extracts, and products containing cannabis only in enclosed and locked facilities.

(c) The Commission shall establish an application review process for granting processor licenses in which applications are reviewed, evaluated, and ranked based on criteria established by the Commission.

(d)(1) A processor license is valid for 4 years on initial licensure.

(2) A processor license is valid for 2 years on renewal.

(e) A processor licensed under this section or a processor agent registered under § 13-3310 of this subtitle may not be penalized or arrested under State law for acquiring,

possessing, processing, transferring, transporting, selling, distributing, or dispensing cannabis, products containing cannabis, related supplies, or educational materials for use by a licensee under this subtitle or a qualifying patient or a caregiver.

(f) The Commission shall establish requirements for security and product handling procedures that a processor must meet to obtain a license under this section, including a requirement for a product-tracking system.

(g) The Commission may inspect a processor licensed under this section to ensure compliance with this subtitle.

(h) The Commission may impose penalties or rescind the license of a processor that does not meet the standards for licensure set by the Commission.

HISTORY: 2015, ch. 251.

§ 13-3310. Processor agent registration, registration card, termination, surrender of card and notice to State Police, disqualification if a felony drug conviction.

(a) A processor agent shall:

(1) Be at least 21 years old;

(2) Be registered with the Commission before the agent may volunteer or work for a processor; and

(3) Obtain a State and national criminal history records check in accordance with § 13-3312 of this subtitle.

(b) A processor shall apply to the Commission for a registration card for each processor agent by submitting the name, address, and date of birth of the agent.

(c)(1) Within 1 business day after a processor agent ceases to be associated with a processor, the processor shall:

(i) Notify the Commission; and

(ii) Return the processor agent's registration card to the Commission.

(2) On receipt of a notice described in paragraph (1) of this subsection, the Commission shall:

(i) Immediately revoke the registration card of the processor agent; and

(ii) If the registration card was not returned to the Commission, notify the Department of State Police.

(d) The Commission may not register an individual who has been convicted of a felony drug offense as a processor agent.

HISTORY: 2015, ch. 251.

§ 13-3311. Independent testing laboratory, registration, regulation, inspection.

(a) The Commission shall register at least one private independent testing laboratory to test cannabis and products containing cannabis that are to be sold in the State.

(b) To be registered as an independent testing laboratory, a laboratory shall:

(1) Meet the application requirements established by the Commission;

(2) Pay any applicable fee required by the Commission; and

(3) Meet the standards and requirements for accreditation, inspection, and testing established by the Commission.

(c) The Commission shall adopt regulations that establish:

(1) The standards and requirements to be met by an independent laboratory to obtain a registration;

- (2) The standards of care to be followed by an independent testing laboratory;
 - (3) The initial and renewal terms for an independent laboratory registration and the renewal procedure; and
 - (4) The bases and processes for denial, revocation, and suspension of a registration of an independent testing laboratory.
- (d) The Commission may inspect an independent testing laboratory registered under this section to ensure compliance with this subtitle.

HISTORY: 2015, ch. 251.

§ 13-3312. Criminal history check of applicants.

- (a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.
- (b) As part of an application to the Central Repository for a State and national criminal history records check, an applicant shall submit to the Central Repository:
- (1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;
 - (2) The fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and
 - (3) The processing fee required by the Federal Bureau of Investigation for a national criminal history records check.
- (c) In accordance with §§ 10-201 through 10-228 of the Criminal Procedure Article, the Central Repository shall forward to the Commission and to the applicant the criminal history record information of the applicant.
- (d) If an applicant has made two or more unsuccessful attempts at securing legible fingerprints, the Commission may accept an alternate method of a criminal history records check as permitted by the Director of the Central Repository and the Director of the Federal Bureau of Investigation.
- (e) Information obtained from the Central Repository under this section shall be:
- (1) Confidential and may not be disseminated; and
 - (2) Used only for the registration purpose authorized by this subtitle.
- (f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository, as provided in § 10-223 of the Criminal Procedure Article.

HISTORY: 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3313. Exemption from arrest, prosecution, or penalty; penalty for distributing, possessing, manufacturing, or using diverted cannabis.

- (a) Any of the following persons acting in accordance with the provisions of this subtitle may not be subject to arrest, prosecution, or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use of cannabis:
- (1) A qualifying patient:
 - (i) In possession of an amount of medical cannabis determined by the Commission to constitute a 30-day supply; or
 - (ii) In possession of an amount of medical cannabis that is greater than a 30-day

supply if the qualifying patient's certifying physician stated in the written certification that a 30-day supply would be inadequate to meet the medical needs of the qualifying patient;

(2) A grower licensed under § 13-3306 of this subtitle or a grower agent registered under § 13-3306 of this subtitle;

(3) A certifying physician;

(4) A caregiver;

(5) A dispensary licensed under § 13-3307 of this subtitle or a dispensary agent registered under § 13-3308 of this subtitle;

(6) A processor licensed under § 13-3309 of this subtitle or a processor agent registered under § 13-3310 of this subtitle; or

(7) A hospital, medical facility, or hospice program where a qualifying patient is receiving treatment.

(b) (1) A person may not distribute, possess, manufacture, or use cannabis that has been diverted from a qualifying patient, a caregiver, a licensed grower, or a licensed dispensary.

(2) A person who violates this subsection is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$ 10,000 or both.

(3) The penalty under this subsection is in addition to any penalties that a person may be subject to for manufacture, possession, or distribution of marijuana under the Criminal Law Article.

HISTORY: 2013, ch. 43, § 5; ch. 403; 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3314. Exclusions from protection of subtitle, vaporizing, discipline reporting not required, multiple licenses.

(a) This subtitle may not be construed to authorize any individual to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for, the following:

(1) Undertaking any task under the influence of marijuana or cannabis, when doing so would constitute negligence or professional malpractice;

(2) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or boat while under the influence of marijuana or cannabis;

(3) Smoking marijuana or cannabis in any public place;

(4) Smoking marijuana or cannabis in a motor vehicle; or

(5) Except as provided in subsection (b) of this section, smoking marijuana or cannabis on a private property that:

(i) 1. Is rented from a landlord; and

2. Is subject to a policy that prohibits the smoking of marijuana or cannabis on the property; or

(ii) Is subject to a policy that prohibits the smoking of marijuana or cannabis on the property of an attached dwelling adopted by one of the following entities:

1. The board of directors of the council of unit owners of a condominium regime;

or

2. The governing body of a homeowners association.

(b) The provisions of subsection (a)(5) of this section do not apply to vaporizing cannabis.

(c) This subtitle may not be construed to provide immunity to a person who violates the

provisions of this subtitle from criminal prosecution for a violation of any law prohibiting or regulating the use, possession, dispensing, distribution, or promotion of controlled dangerous substances, dangerous drugs, detrimental drugs, or harmful drugs, or any conspiracy or attempt to commit any of those offenses.

(d) This subtitle may not be construed to require a hospital, medical facility, or hospice program to report to the Commission any disciplinary action taken by the hospital, medical facility, or hospice program against a certifying physician, including the revocation of privileges, after the registration of the certifying physician by the Commission.

(e) This subtitle may not be construed to prohibit a person from being concurrently licensed by the Commission as a grower, a dispensary, or a processor.

HISTORY: 2013, ch. 403; 2014, chs. 240, 256; 2015, ch. 251.

§ 13-3315. Federal investigations or prosecutions, counsel fees, suspension of program.

(a) Notwithstanding § 12-315 of the State Government Article, a State employee who incurs counsel fees in connection with a federal criminal investigation or prosecution solely related to the employee's good faith discharge of public responsibilities under this subtitle is eligible for reimbursement of counsel fees as authorized by § 12-314 of the State Government Article.

(b) The Governor may suspend implementation of this subtitle on making a determination that there is a reasonable chance of federal prosecution of State employees for involvement with implementation of this subtitle.

HISTORY: 2013, ch. 403; 2014, chs. 240, 256.

§ 13-3316. Regulations.

On or before September 15, 2014, the Commission shall adopt regulations to implement the provisions of this subtitle.

HISTORY: 2014, chs. 240, 256.

###

Additional provisions follow:

ADDENDUM 1.

Additional provisions of Chapter 403 of 2013 (H.B. 1101) applicable to the Commission:

From Section 1:

Article – State Finance and Procurement

§ 6–226. (a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

- 69. the Maryland Legal Services Corporation Fund;
- 70. Mortgage Loan Servicing Practices Settlement Fund; and
- 71. Natalie M. Laprade Medical Marijuana Commission Fund.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Medical Marijuana Commission, established under Section 1 of this Act, shall expire as follows:

- (1) four in 2015;
- (2) four in 2016; and
- (3) four in 2017.

SECTION 3. AND BE IT FURTHER ENACTED, That during fiscal year 2014, the Commission shall develop policies, procedures, regulations, and guidelines for implementation of this Act, including:

- (a) the request for proposals;
- (b) the application review process;
- (c) the application renewal process;
- (d) the inspection process;
- (e) data requirements for participating programs;
- (f) the annual report format; and
- (g) the Commission's requirements for licensing, including security and the product-tracking system.

SECTION 4. AND BE IT FURTHER ENACTED, That on or before December 1, 2013, the Commission shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly, on sources of funding for the implementation of the provisions of Section 1 of this Act and suggested fees to support the implementation of this Act beginning July 1, 2014.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act [Chapter 403 of 2013 (H.B. 1101)] shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.

* * *

Additional provisions of Chapter 256 of 2014 (S.B. 923) applicable to the Commission:

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1 of any year in which the results of the Maryland Youth Behavior Survey are published, the Natalie M. LaPrade Medical Marijuana Commission shall report to the Senate Judicial Proceedings Committee, the Senate Education, Health and Environmental Affairs Committee, the House Judiciary Committee, and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on any change in marijuana use by minors in Maryland.

SECTION 3. AND BE IT FURTHER ENACTED, That the Natalie M. LaPrade Medical Marijuana Commission shall study and report its recommendations, in accordance with § 2-1246 of the State Government Article, to the General Assembly on how to provide access to medical marijuana to veterans who are receiving treatment at a medical facility operating under the auspices of the United States Veterans Health Administration, the United States Department of Veterans Affairs, the Maryland Department of Veterans Affairs, or any other facility in the State certified by the United States Department of Veterans Affairs Medical Center.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1, 2015, the Natalie M. LaPrade Medical Marijuana Commission shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the level of competition in the market for medical marijuana and:

(1) whether the supply of medical marijuana exceeds the demand, and, if so, whether the oversupply has caused the diversion of medical marijuana to persons not authorized by law to possess it; or

(2) whether the demand exceeds the supply, and, if so, whether additional medical marijuana grower licenses are necessary to meet the demand for medical marijuana by qualifying patients and caregivers issued identification cards under Title 13, Subtitle 33 of Health – General Article in an affordable, accessible, secure, and efficient manner.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Natalie M. LaPrade Medical Marijuana Commission, in consultation with the Comptroller, shall study the taxation of medical marijuana and the impact that medical marijuana laws have had on banking and financial transactions in other states that have implemented medical marijuana laws.

(b) The study required under subsection (a) of this section shall include an examination of federal laws and policies related to the taxation of medical marijuana and banking and financial transactions affected by medical marijuana laws.

(c) On or before December 1, 2014, the Commission shall report its findings and recommendations to the General Assembly, in accordance with § 2-1246 of the State Government Article, regarding taxation of medical marijuana in this State and the impact of medical marijuana laws on banking and finance transactions.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act [Chapter 256 of 2014 (S.B. 923)] shall take effect June 1, 2014.

Approved by the Governor, April 14, 2014.

* * *

Additional provision of Chapter 251 of 2015 (H.B. 490) applicable to the Commission:

SECTION 2. AND BE IT FURTHER ENACTED, That this Act [Chapter 251 of 2015 (H.B. 490)] is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yea and nay vote supported by three-fifths of all members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 12, 2015.

#

ADDENDUM 2.

CRIMINAL LAW
TITLE 5. CONTROLLED DANGEROUS SUBSTANCES, PRESCRIPTIONS,
AND OTHER SUBSTANCES
SUBTITLE 6. CRIMES INVOLVING CONTROLLED DANGEROUS
SUBSTANCES AND PARAPHERNALIA
PART I. PRIMARY CRIMES

§ 5-601. Possessing or administering controlled dangerous substance.

(a) Except as otherwise provided in this title, a person may not:

(1) possess or administer to another a controlled dangerous substance, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

(2) obtain or attempt to obtain a controlled dangerous substance, or procure or attempt

to procure the administration of a controlled dangerous substance by:

- (i) fraud, deceit, misrepresentation, or subterfuge;
- (ii) the counterfeiting or alteration of a prescription or a written order;
- (iii) the concealment of a material fact;
- (iv) the use of a false name or address;
- (v) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or
- (vi) making, issuing, or presenting a false or counterfeit prescription or written order.

(b) Information that is communicated to a physician in an effort to obtain a controlled dangerous substance in violation of this section is not a privileged communication.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding \$ 25,000 or both.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a person whose violation of this section involves the use or possession of marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both.

(ii) 1. A first violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding \$ 100.

2. A second violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding \$ 250.

3. A third or subsequent violation of this section involving the use or possession of less than 10 grams of marijuana is a civil offense punishable by a fine not exceeding \$ 500.

4. A. In addition to a fine, a court shall order a person under the age of 21 years who commits a violation punishable under subparagraph 1, 2, or 3 of this subparagraph to attend a drug education program approved by the Department of Health and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

B. In addition to a fine, a court shall order a person at least 21 years old who commits a violation punishable under subparagraph 3 of this subparagraph to attend a drug education program approved by the Department of Health and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and refer the person to substance abuse treatment, if necessary.

(3) (i) 1. In this paragraph the following words have the meanings indicated.

2. "Bona fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care, and treatment of a patient's medical condition.

3. "Caregiver" means an individual designated by a patient with a debilitating

medical condition to provide physical or medical assistance to the patient, including assisting with the medical use of marijuana, who:

- A. is a resident of the State;
- B. is at least 21 years old;
- C. is an immediate family member, a spouse, or a domestic partner of the patient;
- D. has not been convicted of a crime of violence as defined in § 14-101 of this article;
- E. has not been convicted of a violation of a State or federal controlled dangerous substances law;
- F. has not been convicted of a crime of moral turpitude;
- G. has been designated as caregiver by the patient in writing that has been placed in the patient's medical record prior to arrest;
- H. is the only individual designated by the patient to serve as caregiver; and
- I. is not serving as caregiver for any other patient.

4. "Debilitating medical condition" means a chronic or debilitating disease or medical condition or the treatment of a chronic or debilitating disease or medical condition that produces one or more of the following, as documented by a physician with whom the patient has a bona fide physician-patient relationship:

- A. cachexia or wasting syndrome;
- B. severe or chronic pain;
- C. severe nausea;
- D. seizures;
- E. severe and persistent muscle spasms; or
- F. any other condition that is severe and resistant to conventional medicine.

(ii) 1. In a prosecution for the use or possession of marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed marijuana because of medical necessity, the court shall dismiss the charge.

(iii) 1. In a prosecution for the use or possession of marijuana under this section, it is an affirmative defense that the defendant used or possessed marijuana because:

- A. the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician-patient relationship;
- B. the debilitating medical condition is severe and resistant to conventional medicine; and
- C. marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition.

2. A. In a prosecution for the possession of marijuana under this section, it is an affirmative defense that the defendant possessed marijuana because the marijuana was intended for medical use by an individual with a debilitating medical condition for whom the defendant is a caregiver.

B. A defendant may not assert the affirmative defense under this subsubparagraph unless the defendant notifies the State's Attorney of the defendant's intention to assert the affirmative defense and provides the State's Attorney with all documentation in support of the affirmative defense in accordance with the rules of discovery provided in Maryland Rules 4-262 and 4-263.

3. An affirmative defense under this subparagraph may not be used if the defendant was:

A. using marijuana in a public place or assisting the individual for whom the defendant is a caregiver in using the marijuana in a public place; or

B. in possession of more than 1 ounce of marijuana.

(d) The provisions of subsection (c)(2)(ii) of this section making the possession of marijuana a civil offense may not be construed to affect the laws relating to:

(1) operating a vehicle or vessel while under the influence of or while impaired by a controlled dangerous substance; or

(2) seizure and forfeiture.

HISTORY: An. Code 1957, art. 27, § 287(a), (b), (e); 2002, ch. 26, § 2; 2003, ch. 21, § 1; ch. 442; 2011, ch. 215; 2012, chs. 193, 194; 2013, chs. 61, 62; 2014, ch. 158; 2015, ch. 351.

PART III. RELATED AND DERIVATIVE CRIMES

CRIMINAL LAW

§ 5-620. Controlled paraphernalia.

(a) Unless authorized under this title, a person may not:

(1) obtain or attempt to obtain controlled paraphernalia by:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) counterfeiting a prescription or a written order;

(iii) concealing a material fact or the use of a false name or address;

(iv) falsely assuming the title of or representing to be a manufacturer, distributor, or authorized provider; or

(v) making or issuing a false or counterfeit prescription or written order; or

(2) possess or distribute controlled paraphernalia under circumstances which reasonably indicate an intention to use the controlled paraphernalia for purposes of illegally administering a controlled dangerous substance.

(b) Evidence of circumstances that reasonably indicate an intent to use controlled paraphernalia to manufacture, administer, distribute, or dispense a controlled dangerous substance unlawfully include the close proximity of the controlled paraphernalia to an adulterant, diluent, or equipment commonly used to illegally manufacture, administer, distribute, or dispense controlled dangerous substances, including:

(1) a scale;

- (2) a sieve;
- (3) a strainer;
- (4) a measuring spoon;
- (5) staples;
- (6) a stapler;
- (7) a glassine envelope;
- (8) a gelatin capsule;
- (9) procaine hydrochloride;
- (10) mannitol;
- (11) lactose;
- (12) quinine; and
- (13) a controlled dangerous substance.

(c) Information that is communicated to a physician to obtain controlled paraphernalia from the physician in violation of this subtitle is not a privileged communication.

(d)(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding \$ 25,000 or both.

(2) A person who violates this section involving the use or possession of marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$ 1,000 or both.

HISTORY: An. Code 1957, art. 27, § 287(b), (d), (e); 2002, ch. 26, § 2.

###