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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: C
05/03/2023 04:47 PM	.	05/04/2023 03:29 PM
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Senators Rouson and Davis moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (a), (g), and (i) of subsection (4)
of section 381.986, Florida Statutes, are amended to read:

381.986 Medical use of marijuana.—

(4) PHYSICIAN CERTIFICATION.—

(a) A qualified physician may issue a physician
certification only if the qualified physician:

1. Conducted an ~~a physical~~ examination of ~~while physically~~



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12 ~~present in the same room as~~ the patient and a full assessment of
13 the medical history of the patient. Before issuing an initial
14 certification to a patient, the qualified physician must conduct
15 an in-person physical examination of the patient. For
16 certification renewals, a qualified physician who has issued a
17 certification to a patient after conducting an in-person
18 physical examination may conduct subsequent examinations of that
19 patient through telehealth as defined in s. 456.47. For the
20 purposes of this subparagraph, the term "in-person physical
21 examination" means an examination conducted by a qualified
22 physician while the physician is physically present in the same
23 room as the patient.

24 2. Diagnosed the patient with at least one qualifying
25 medical condition.

26 3. Determined that the medical use of marijuana would
27 likely outweigh the potential health risks for the patient, and
28 such determination must be documented in the patient's medical
29 record. If a patient is younger than 18 years of age, a second
30 physician must concur with this determination, and such
31 concurrence must be documented in the patient's medical record.

32 4. Determined whether the patient is pregnant and
33 documented such determination in the patient's medical record. A
34 physician may not issue a physician certification, except for
35 low-THC cannabis, to a patient who is pregnant.

36 5. Reviewed the patient's controlled drug prescription
37 history in the prescription drug monitoring program database
38 established pursuant to s. 893.055.

39 6. Reviews the medical marijuana use registry and confirmed
40 that the patient does not have an active physician certification



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41 from another qualified physician.

42 7. Registers as the issuer of the physician certification
43 for the named qualified patient on the medical marijuana use
44 registry in an electronic manner determined by the department,
45 and:

46 a. Enters into the registry the contents of the physician
47 certification, including the patient's qualifying condition and
48 the dosage not to exceed the daily dose amount determined by the
49 department, the amount and forms of marijuana authorized for the
50 patient, and any types of marijuana delivery devices needed by
51 the patient for the medical use of marijuana.

52 b. Updates the registry within 7 days after any change is
53 made to the original physician certification to reflect such
54 change.

55 c. Deactivates the registration of the qualified patient
56 and the patient's caregiver when the physician no longer
57 recommends the medical use of marijuana for the patient.

58 8. Obtains the voluntary and informed written consent of
59 the patient for medical use of marijuana each time the qualified
60 physician issues a physician certification for the patient,
61 which shall be maintained in the patient's medical record. The
62 patient, or the patient's parent or legal guardian if the
63 patient is a minor, must sign the informed consent acknowledging
64 that the qualified physician has sufficiently explained its
65 content. The qualified physician must use a standardized
66 informed consent form adopted in rule by the Board of Medicine
67 and the Board of Osteopathic Medicine, which must include, at a
68 minimum, information related to:

69 a. The Federal Government's classification of marijuana as



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70 a Schedule I controlled substance.

71 b. The approval and oversight status of marijuana by the
72 Food and Drug Administration.

73 c. The current state of research on the efficacy of
74 marijuana to treat the qualifying conditions set forth in this
75 section.

76 d. The potential for addiction.

77 e. The potential effect that marijuana may have on a
78 patient's coordination, motor skills, and cognition, including a
79 warning against operating heavy machinery, operating a motor
80 vehicle, or engaging in activities that require a person to be
81 alert or respond quickly.

82 f. The potential side effects of marijuana use, including
83 the negative health risks associated with smoking marijuana.

84 g. The risks, benefits, and drug interactions of marijuana.

85 h. That the patient's deidentified health information
86 contained in the physician certification and medical marijuana
87 use registry may be used for research purposes.

88 (g) A qualified physician must evaluate an existing
89 qualified patient at least once every 30 weeks before issuing a
90 new physician certification. A qualified physician who has
91 issued a certification to the patient after conducting an in-
92 person physical examination as defined in subparagraph (a)1. may
93 conduct the evaluation through telehealth as defined in s.
94 456.47. A physician must:

95 1. Determine if the patient still meets the requirements to
96 be issued a physician certification under paragraph (a).

97 2. Identify and document in the qualified patient's medical
98 records whether the qualified patient experienced either of the



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99 following related to the medical use of marijuana:

100 a. An adverse drug interaction with any prescription or
101 nonprescription medication; or

102 b. A reduction in the use of, or dependence on, other types
103 of controlled substances as defined in s. 893.02.

104 3. Submit a report with the findings required pursuant to
105 subparagraph 2. to the department. The department shall submit
106 such reports to the Consortium for Medical Marijuana Clinical
107 Outcomes Research established pursuant to s. 1004.4351.

108 (i) The department shall monitor physician registration in
109 the medical marijuana use registry and the issuance of physician
110 certifications for practices that could facilitate unlawful
111 diversion or misuse of marijuana or a marijuana delivery device
112 and shall take disciplinary action as appropriate. The
113 department may suspend the registration of a qualified physician
114 in the medical marijuana use registry for a period of up to 2
115 years if the qualified physician:

116 1. Fails to comply with this section; or

117 2. Provides, advertises, or markets telehealth services
118 before July 1, 2023.

119 Section 2. (1) Notwithstanding any provision of s.
120 381.986(8) (a)2.b., Florida Statutes, to the contrary, the
121 Department of Health shall, as soon as practicable, license all
122 applicants that applied for licensure during the application
123 window created by the department to accept applications for
124 licensure pursuant to s. 381.986(8) (a)2.b., Florida Statutes,
125 and received:

126 (a) A notice from the department regarding the applicant's
127 application for licensure indicating the department's intent to



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128 approve or deny the application which did not cite any
129 deficiencies with the application, regardless of the applicant's
130 final score; or

131 (b) A final determination from the department as a result
132 of a challenge to the application process, initiated pursuant to
133 s. 120.569, Florida Statutes, determining that the applicant met
134 all requirements for licensure pursuant to s. 381.986(8)(a)2.b.,
135 Florida Statutes, and applicable rules, regardless of the
136 applicant's final score.

137 (2) Upon this section becoming a law, the department shall
138 grant each applicant referenced in subsection (1) 90 days to
139 cure, pursuant to the errors and omissions process established
140 in department Form DH8035-OMMU-10/2021 as incorporated by the
141 department in Rule 64ER21-16, F.A.C., any deficiencies cited in
142 a notice referenced in paragraph (1)(a). If such applicant cures
143 the deficiencies within that 90-day timeframe, the department
144 shall issue a license to the applicant.

145 (3) If an applicant who was alive at the time he or she
146 received the notice referred to in paragraph (1)(a) dies during
147 the challenge referred to in paragraph (1)(b), the death of the
148 applicant may not be a reason to deny the challenge. In such a
149 case and in the event of a successful challenge pursuant to
150 paragraph (1)(b), the department must issue the license to the
151 estate of the applicant.

152 (4) The number of licenses made available for issuance
153 under s. 381.986(8)(a)4., Florida Statutes, must be reduced by
154 the number of licenses awarded under this section, except that
155 the number of licenses awarded under this section may not be
156 deducted from the number of licenses available for the



157 application window held between April 24, 2023, and April 28,
158 2023.

159 (5) This section shall take effect upon becoming a law.

160 Section 3. Except as otherwise expressly provided in this
161 act and except for this section, which shall take effect upon
162 this act becoming a law, this act shall take effect July 1,
163 2023.

164
165 ===== T I T L E A M E N D M E N T =====

166 And the title is amended as follows:

167 Delete everything before the enacting clause
168 and insert:

169 A bill to be entitled
170 An act relating to the medical use of marijuana;
171 amending s. 381.986, F.S.; requiring qualified
172 physicians to perform in-person physical patient
173 examinations before issuing initial physician
174 certifications for the medical use of marijuana;
175 authorizing such qualified physicians to perform
176 patient examinations and evaluations through
177 telehealth for renewals of physician certifications
178 for the medical use of marijuana under certain
179 circumstances; defining the term "in-person physical
180 examination"; authorizing the Department of Health to
181 suspend the registration of a qualified physician in
182 the medical marijuana use registry for a specified
183 timeframe under certain circumstances; requiring the
184 department to issue medical marijuana treatment center
185 licenses to certain applicants as soon as practicable;



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186 requiring the department to grant certain applicants a
187 specified timeframe to cure cited deficiencies;
188 requiring the department to issue a license to such
189 applicants if the deficiencies are cured within the
190 specified timeframe; requiring the department to issue
191 such licenses to the estate of certain applicants
192 under certain circumstances; requiring a specified
193 number of available licenses to be reduced by the
194 award of such licenses; providing effective dates.