

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0135.01 Michael Dohr x4347

**SENATE BILL 17-017**

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**House Committees**  
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**A BILL FOR AN ACT**

101     **CONCERNING ADDING STRESS DISORDERS TO THE LIST OF**  
102     **DEBILITATING MEDICAL CONDITIONS FOR THE PURPOSES OF THE**  
103     **USE OF MEDICAL MARIJUANA.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Committee on Cost-benefit Analysis of Legalized Marijuana in Colorado.** The bill adds acute stress disorder and post-traumatic stress disorder to the list of debilitating medical conditions for the purposes of the use of medical marijuana.

SENATE  
3rd Reading Unamended  
February 3, 2017

SENATE  
Amended 2nd Reading  
February 2, 2017

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

1     *Be it enacted by the General Assembly of the State of Colorado:*

2       **SECTION 1. In Colorado Revised Statutes, 25-1.5-106, amend**  
3       **(2)(a.5), (2)(d.5) introductory portion, (3)(a)(VI), (5) introductory portion,**  
4       **(5)(b), (5)(d)(III), (5)(d)(IV), (9)(a), (9)(b), (12)(b)(VII), (14), and**  
5       **(16)(a); and add (2)(a.7), (2)(d.3), and (2.5) as follows:**

6       **25-1.5-106. Medical marijuana program - powers and duties**  
7       **of state health agency - rules - medical review board - medical**  
8       **marijuana program cash fund - subaccount - created - repeal.**  
9       **(2) Definitions.** In addition to the definitions set forth in section 14 (1)  
10      of article XVIII of the state constitution, as used in this section, unless the  
11      context otherwise requires:

12       **(a.5) "Bona fide physician-patient relationship", for purposes of**  
13       **the medical marijuana program, means:**

14       **(I) A physician and a patient have a treatment or counseling**  
15      **relationship, in the course of which the physician has completed a full**  
16      **assessment of the patient's medical history, INCLUDING REVIEWING A**  
17      **PREVIOUS DIAGNOSIS FOR A DEBILITATING OR DISABLING MEDICAL**  
18      **CONDITION, and current medical condition, including an appropriate**  
19      **personal physical examination;**

20       **(II) The physician has consulted with the patient with respect to**  
21      **the patient's debilitating medical condition OR DISABLING MEDICAL**  
22      **CONDITION before the patient applies for a registry identification card; and**

23       **(III) The physician is available to or offers to provide follow-up**  
24      **care and treatment to the patient, including patient examinations, to**  
25      **determine the efficacy of the use of medical marijuana as a treatment of**  
26      **the patient's debilitating medical condition OR DISABLING MEDICAL**

1       CONDITION.

2           (a.7) "DISABLING MEDICAL CONDITION" MEANS POST-TRAUMATIC  
3       STRESS DISORDER AS DIAGNOSED BY A LICENSED MENTAL HEALTH  
4       PROVIDER OR PHYSICIAN.

5           (d.3) "PATIENT" MEANS A PERSON WHO HAS A DEBILITATING  
6       MEDICAL CONDITION OR DISABLING MEDICAL CONDITION.

7           (d.5) "Primary caregiver" means a natural person, other than the  
8       patient or the patient's physician, who is eighteen years of age or older  
9       and has significant responsibility for managing the well-being of a patient  
10       who has a debilitating medical condition OR DISABLING MEDICAL  
11       CONDITION. A primary caregiver may have one or more of the following  
12       relationships:

13           (2.5) (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS  
14       (2.5)(h) AND (2.5)(i) OF THIS SECTION AND SECTION 18-18-406.3, A  
15       PATIENT WITH A DISABLING MEDICAL CONDITION OR HIS OR HER PRIMARY  
16       CAREGIVER CHARGED WITH A VIOLATION OF THE STATE'S CRIMINAL LAWS  
17       RELATED TO THE PATIENT'S MEDICAL USE OF MARIJUANA WILL BE DEEMED  
18       TO HAVE ESTABLISHED AN AFFIRMATIVE DEFENSE TO SUCH ALLEGATION  
19       WHERE:

20           (I) THE PATIENT WAS PREVIOUSLY DIAGNOSED BY A PHYSICIAN AS  
21       HAVING A DISABLING MEDICAL CONDITION;

22           (II) THE PATIENT WAS ADVISED BY HIS OR HER PHYSICIAN, IN THE  
23       CONTEXT OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, THAT THE  
24       PATIENT MIGHT BENEFIT FROM THE MEDICAL USE OF MARIJUANA IN  
25       CONNECTION WITH A DISABLING MEDICAL CONDITION; AND

26           (III) THE PATIENT AND HIS OR HER PRIMARY CAREGIVER WERE  
27       COLLECTIVELY IN POSSESSION OF AMOUNTS OF MARIJUANA ONLY AS

1       PERMITTED UNDER THIS SECTION.

2       (b) THE AFFIRMATIVE DEFENSE IN SUBSECTION (2.5)(a) OF THIS  
3       SECTION DOES NOT EXCLUDE THE ASSERTION OF ANY OTHER DEFENSE  
4       WHERE A PATIENT OR PRIMARY CAREGIVER IS CHARGED WITH A VIOLATION  
5       OF STATE LAW RELATED TO THE PATIENT'S MEDICAL USE OF MARIJUANA.

6       (c) IT IS AN EXCEPTION FROM THE STATE'S CRIMINAL LAWS FOR  
7       ANY PATIENT WITH A DISABLING MEDICAL CONDITION OR HIS OR HER  
8       PRIMARY CAREGIVER IN LAWFUL POSSESSION OF A REGISTRY  
9       IDENTIFICATION CARD TO ENGAGE OR ASSIST IN THE MEDICAL USE OF  
10       MARIJUANA, EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2.5)(h) OF  
11       THIS SECTION OR SECTION 18-18-406.3.

12       (d) IT IS AN EXCEPTION FROM THE STATE'S CRIMINAL LAWS FOR  
13       ANY PHYSICIAN TO:

14       (I) ADVISE A PATIENT WHOM THE PHYSICIAN HAS DIAGNOSED AS  
15       HAVING A DISABLING MEDICAL CONDITION ABOUT THE RISKS AND  
16       BENEFITS OF THE MEDICAL USE OF MARIJUANA OR THAT HE OR SHE MIGHT  
17       BENEFIT FROM THE MEDICAL USE OF MARIJUANA, PROVIDED THAT SUCH  
18       ADVICE IS BASED UPON THE PHYSICIAN'S CONTEMPORANEOUS ASSESSMENT  
19       OF THE PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION  
20       AND A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP; OR

21       (II) PROVIDE A PATIENT WITH WRITTEN DOCUMENTATION, BASED  
22       UPON THE PHYSICIAN'S CONTEMPORANEOUS ASSESSMENT OF THE  
23       PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION AND A  
24       BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, STATING THAT THE PATIENT  
25       HAS A DISABLING MEDICAL CONDITION AND MIGHT BENEFIT FROM THE  
26       MEDICAL USE OF MARIJUANA. NO PHYSICIAN SHALL BE DENIED ANY RIGHTS  
27       OR PRIVILEGES FOR THE ACTS AUTHORIZED BY THIS SECTION.

18 (g) (I) A PATIENT WITH A DISABLING MEDICAL CONDITION MAY  
19 ENGAGE IN THE MEDICAL USE OF MARIJUANA, WITH NO MORE MARIJUANA  
20 THAN IS MEDICALLY NECESSARY TO ADDRESS A DISABLING MEDICAL  
21 CONDITION. THE MEDICAL USE OF MARIJUANA BY A PATIENT WITH A  
22 DISABLING MEDICAL CONDITION IS LAWFUL WITHIN THE FOLLOWING  
23 LIMITS:

1 USABLE FORM OF MARIJUANA.

2 (II) FOR QUANTITIES OF MARIJUANA IN EXCESS OF THESE  
3 AMOUNTS, A PATIENT OR HIS OR HER PRIMARY CAREGIVER MAY RAISE AS  
4 AN AFFIRMATIVE DEFENSE TO CHARGES OF VIOLATION OF STATE LAW THAT  
5 SUCH GREATER AMOUNTS WERE MEDICALLY NECESSARY TO ADDRESS THE  
6 PATIENT'S DISABLING MEDICAL CONDITION.

7 (h)(I) NO PATIENT WITH A DISABLING MEDICAL CONDITION SHALL:  
8 (A) ENGAGE IN THE MEDICAL USE OF MARIJUANA IN A WAY THAT  
9 ENDANGERS THE HEALTH OR WELL-BEING OF ANY PERSON; OR  
10 (B) ENGAGE IN THE MEDICAL USE OF MARIJUANA IN PLAIN VIEW OF,  
11 OR IN A PLACE OPEN TO, THE GENERAL PUBLIC.

12 (II) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, THE  
13 STATE HEALTH AGENCY SHALL REVOKE FOR A PERIOD OF ONE YEAR THE  
14 REGISTRY IDENTIFICATION CARD OF ANY PATIENT FOUND TO HAVE  
15 WILLFULLY VIOLATED THE PROVISIONS OF THIS SECTION.

16 (i) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (2.5),  
17 NO PATIENT WITH A DISABLING MEDICAL CONDITION UNDER EIGHTEEN  
18 YEARS OF AGE SHALL ENGAGE IN THE MEDICAL USE OF MARIJUANA  
19 UNLESS:

20 (I) TWO PHYSICIANS HAVE DIAGNOSED THE PATIENT AS HAVING A  
21 DISABLING MEDICAL CONDITION;

22 (II) ONE OF THE PHYSICIANS REFERRED TO IN SUBSECTION  
23 (2.5)(i)(I) OF THIS SECTION HAS EXPLAINED THE POSSIBLE RISKS AND  
24 BENEFITS OF THE MEDICAL USE OF MARIJUANA TO THE PATIENT AND EACH  
25 OF THE PATIENT'S PARENTS RESIDING IN COLORADO;

26 (III) THE PHYSICIAN REFERRED TO IN SUBSECTION (2.5)(i)(II) OF  
27 THIS SECTION HAS PROVIDED THE PATIENT WITH THE WRITTEN

1       DOCUMENTATION SPECIFYING THAT THE PATIENT HAS BEEN DIAGNOSED  
2       WITH A DISABLING MEDICAL CONDITION AND THE PHYSICIAN HAS  
3       CONCLUDED THAT THE PATIENT MIGHT BENEFIT FROM THE MEDICAL USE  
4       OF MARIJUANA;

5       (IV) EACH OF THE PATIENT'S PARENTS RESIDING IN COLORADO  
6       CONSENT IN WRITING TO THE STATE HEALTH AGENCY TO PERMIT THE  
7       PATIENT TO ENGAGE IN THE MEDICAL USE OF MARIJUANA;

8       (V) A PARENT RESIDING IN COLORADO CONSENTS IN WRITING TO  
9       SERVE AS THE PATIENT'S PRIMARY CAREGIVER;

10       (VI) A PARENT SERVING AS A PRIMARY CAREGIVER COMPLETES  
11       AND SUBMITS AN APPLICATION FOR A REGISTRY IDENTIFICATION CARD AND  
12       THE WRITTEN CONSENTS REFERRED TO IN SUBSECTIONS (2.5)(i)(IV) AND  
13       (2.5)(i)(V) OF THIS SECTION TO THE STATE HEALTH AGENCY;

14       (VII) THE STATE HEALTH AGENCY APPROVES THE PATIENT'S  
15       APPLICATION AND TRANSMITS THE PATIENT'S REGISTRY IDENTIFICATION  
16       CARD TO THE PARENT DESIGNATED AS A PRIMARY CAREGIVER;

17       (VIII) THE PATIENT AND PRIMARY CAREGIVER COLLECTIVELY  
18       POSSESS AMOUNTS OF MARIJUANA NO GREATER THAN THOSE SPECIFIED IN  
19       SUBSECTION (2.5)(g) OF THIS SECTION; AND

20       (IX) THE PRIMARY CARE-GIVER CONTROLS THE ACQUISITION OF  
21       SUCH MARIJUANA AND THE DOSAGE AND FREQUENCY OF ITS USE BY THE  
22       PATIENT WITH A DISABLING MEDICAL CONDITION.

23       (3) Rule-making. (a) The state health agency shall, pursuant to  
24       section 14 of article XVIII of the state constitution, promulgate rules of  
25       administration concerning the implementation of the medical marijuana  
26       program that specifically govern the following:

27       (VI) Communications with law enforcement officials about

1 registry identification cards that have been suspended when a patient is  
2 no longer diagnosed as having a debilitating medical condition OR  
3 DISABLING MEDICAL CONDITION;

4       **(5) Physicians.** A physician who certifies a debilitating medical  
5       condition OR DISABLING MEDICAL CONDITION for an applicant to the  
6       medical marijuana program shall comply with all of the following  
7       requirements:

8           **(b) After a physician, who has a bona fide physician-patient**  
9       relationship with the patient applying for the medical marijuana program,  
10       determines, for the purposes of making a recommendation, that the  
11       patient has a debilitating medical condition OR DISABLING MEDICAL  
12       CONDITION and that the patient may benefit from the use of medical  
13       marijuana, the physician shall certify to the state health agency that the  
14       patient has a debilitating medical condition OR DISABLING MEDICAL  
15       CONDITION and that the patient may benefit from the use of medical  
16       marijuana. If the physician certifies that the patient would benefit from  
17       the use of medical marijuana based on a chronic or debilitating disease or  
18       medical condition OR DISABLING MEDICAL CONDITION, the physician shall  
19       specify the chronic or debilitating disease or medical condition OR  
20       DISABLING MEDICAL CONDITION and, if known, the cause or source of the  
21       chronic or debilitating disease or medical condition OR DISABLING  
22       MEDICAL CONDITION.

23           **(d) A physician shall not:**

24           **(III) Examine a patient for purposes of diagnosing a debilitating**  
25       medical condition OR A DISABLING MEDICAL CONDITION at a location  
26       where medical marijuana is sold or distributed; or

27           **(IV) Hold an economic interest in an enterprise that provides or**

1       distributes medical marijuana if the physician certifies the debilitating  
2       medical condition OR DISABLING MEDICAL CONDITION of a patient for  
3       participation in the medical marijuana program.

4                   **(9) Registry identification card required - denial - revocation**  
5       - renewal. (a) A PERSON WITH A DISABLING MEDICAL CONDITION MAY  
6       APPLY TO THE STATE HEALTH AGENCY FOR A REGISTRY IDENTIFICATION  
7       CARD. To be considered in compliance with the provisions of section 14  
8       of article XVIII of the state constitution, this section, and the rules of the  
9       state health agency, a patient or primary caregiver shall have his or her  
10       registry identification card in his or her possession at all times that he or  
11       she is in possession of any form of medical marijuana and produce the  
12       same upon request of a law enforcement officer to demonstrate that the  
13       patient or primary caregiver is not in violation of the law; except that, if  
14       more than thirty-five days have passed since the date the patient or  
15       primary caregiver filed his or her medical marijuana program application  
16       and the state health agency has not yet issued or denied a registry  
17       identification card, a copy of the patient's or primary caregiver's  
18       application along with proof of the date of submission shall be in the  
19       patient's or primary caregiver's possession at all times that he or she is in  
20       possession of any form of medical marijuana until the state health agency  
21       issues or denies the registry identification card. A person who violates  
22       section 14 of article XVIII of the state constitution, this section, or the  
23       rules promulgated by the state health agency may be subject to criminal  
24       prosecution for violations of section 18-18-406. C.R.S.

25                   (b) The state health agency may deny a patient's or primary  
26       caregiver's application for a registry identification card or revoke the card  
27       if the state health agency, in accordance with article 4 of title 24, C.R.S.,

1       determines that the physician who diagnosed the patient's debilitating  
2       medical condition OR DISABLING MEDICAL CONDITION, the patient, or the  
3       primary caregiver violated section 14 of article XVIII of the state  
4       constitution, this section, or the rules promulgated by the state health  
5       agency pursuant to this section; except that, when a physician's violation  
6       is the basis for adverse action, the state health agency may only deny or  
7       revoke a patient's application or registry identification card when the  
8       physician's violation is related to the issuance of a medical marijuana  
9       recommendation.

10       (12) Use of medical marijuana. (b) A patient or primary  
11       caregiver shall not:

12       (VII) Use medical marijuana if the person does not have a  
13       debilitating medical condition OR DISABLING MEDICAL CONDITION as  
14       diagnosed by the person's physician in the course of a bona fide  
15       physician-patient relationship and for which the physician has  
16       recommended the use of medical marijuana.

17       (14) Affirmative defense. If a patient or primary caregiver raises  
18       an affirmative defense as provided in section 14 (4)(b) of article XVIII of  
19       the state constitution OR SUBSECTION (2.5)(g)(II) OF THIS SECTION, the  
20       patient's physician shall certify the specific amounts in excess of two  
21       ounces that are necessary to address the patient's debilitating medical  
22       condition OR DISABLING MEDICAL CONDITION and why such amounts are  
23       necessary. A patient who asserts this affirmative defense shall waive  
24       confidentiality privileges related to the condition or conditions that were  
25       the basis for the recommendation. If a patient, primary caregiver, or  
26       physician raises an exception to the state criminal laws as provided in  
27       section 14 (2)(b) or (2)(c) of article XVIII of the state constitution OR

1 SUBSECTION (2.5)(c) OR (2.5)(d) OF THIS SECTION, the patient, primary  
2 caregiver, or physician waives the confidentiality of his or her records  
3 related to the condition or conditions that were the basis for the  
4 recommendation maintained by the state health agency for the medical  
5 marijuana program. Upon request of a law enforcement agency for such  
6 records, the state health agency shall only provide records pertaining to  
7 the individual raising the exception, and shall redact all other patient,  
8 primary caregiver, or physician identifying information.

9 (16) Fees. (a) The state health agency may collect fees from  
10 patients who, pursuant to section 14 of article XVIII of the state  
11 constitution OR SUBSECTION (9) OF THIS SECTION, apply to the medical  
12 marijuana program for a registry identification card for the purpose of  
13 offsetting the state health agency's direct and indirect costs of  
14 administering the program. The amount of the fees shall be set by rule of  
15 the state health agency. The amount of the fees set pursuant to this section  
16 shall reflect the actual direct and indirect costs of the state licensing  
17 authority in the administration and enforcement of this article so that the  
18 fees avoid exceeding the statutory limit on uncommitted reserves in  
19 administrative agency cash funds as set forth in section 24-75-402 (3).  
20 C.R.S. The state health agency shall not assess a medical marijuana  
21 registry application fee to an applicant who demonstrates, pursuant to a  
22 copy of the applicant's state tax return certified by the department of  
23 revenue, that the applicant's income does not exceed one hundred  
24 eighty-five percent of the federal poverty line, adjusted for family size.  
25 All fees collected by the state health agency through the medical  
26 marijuana program shall be transferred to the state treasurer who shall  
27 credit the same to the medical marijuana program cash fund, which fund

1      is hereby created.

2      **SECTION 2. Safety clause.** The general assembly hereby finds,  
3      determines, and declares that this act is necessary for the immediate  
4      preservation of the public peace, health, and safety.