

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1058

Bill Subtitle: TO AMEND THE DEFINITION OF "WRITTEN CERTIFICATION" WITHIN THE ARKANSAS MEDICAL MARIJUANA AMENDMENT OF 2016; AND TO SPECIFY THAT AN APPLICATION FOR A REGISTRY IDENTIFICATION CARD IS NOT A MEDICAL RECORD.

Basic Change :

Sponsor: Representative House

This bill would amend the Arkansas Medical Marijuana Amendment of 2016 ("Amendment") to amend the definition of "written certification" in reference to the requirement for a physician to issue a written certification to eligible patients for subsequent submission to the Department of Health when the patient applies for a registry identification card. The bill would remove the language requiring the physician to state the potential benefits of the medical use of marijuana which would likely outweigh the health risks for the patient in the physician's written certification. The definition of "written certification" would be amended to require a physician's signed document stating that, after a completed assessment of the qualifying patient's medical history and current medical condition, the patient in fact has a qualifying medical condition as provided in the Amendment.

This proposal also provides that the application or renewal and supporting information as well as the dispensary records with patient information would be treated as confidential records and exempt from disclosure under the Arkansas Freedom of Information Act.

Revenue Impact :

None.

Taxpayer Impact :

The proposal continues the requirement that an eligible patient for medical marijuana use acquire a physician's written certification of eligibility. The bill would change the information required from the physician for the written certification.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

None.

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Other Comments :

None.

Legal Analysis :

HB1058 modifies the language required from physicians to certify an individual as being a qualified patient eligible to use medical marijuana under the Amendment. The modification removes the requirement that a physician certify that the potential benefits of using medical marijuana would outweigh the risks.

Additionally, HB1058 reclassifies records kept to prove qualified patient status from "confidential medical records" to records exempt under the Freedom of Information Act. Under the Arkansas Freedom of Information Act, public records include any records that constitute a record of the performance or lack of performance of official functions that are or should be carried out by a public official or employee, a governmental agency, or any other agency. Records held by a dispensary would not be subject to release under FOIA generally. If the intent is to exempt records collected by ADH or ABC from FOIA with regard to certain specified record types, clarification may be warranted.