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**HOUSE BILL 1415**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Schmick and Cody; by request of Department of Health

AN ACT Relating to funding the medical marijuana authorization database; amending RCW 43.70.320 and 69.51A.230; reenacting and amending RCW 69.50.540; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 43.70.320 and 2017 c 108 s 7 are each amended to read as follows:

(1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, compact privileges, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department ((~~and implementing and administering the medical marijuana authorization database established in RCW 69.51A.230~~)) shall be paid from the account as authorized by legislative appropriation, except as provided in subsections (4) and (5) of this section. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees.

(4) The fees received by the department from applicants for compact privilege under RCW 18.74.500 must be used for the purpose of meeting financial obligations imposed on the state as a result of this state's participation in the physical therapy licensure compact.

(5) The secretary shall, at the request of a board or commission as applicable, spend unappropriated funds in the health professions account that are allocated to the requesting board or commission to meet unanticipated costs of that board or commission when revenues exceed more than fifteen percent over the department's estimated six‑year spending projections for the requesting board or commission. Unanticipated costs shall be limited to spending as authorized in subsection (3) of this section for anticipated costs.

**Sec.**  RCW 69.50.540 and 2018 c 299 s 910 and 2018 c 201 s 8014 are each reenacted and amended to read as follows:

The legislature must annually appropriate moneys in the dedicated marijuana account created in RCW 69.50.530 as follows:

(1) For the purposes listed in this subsection (1), the legislature must appropriate to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis:

(a) Beginning July 1, 2017, one hundred twenty-five thousand dollars to the health care authority to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor and cannabis board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(b) Beginning July 1, 2017, fifty thousand dollars to the health care authority for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ends after production of the final report required by RCW 69.50.550;

(c) Beginning July 1, 2017, five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(d)(i) An amount not less than one million two hundred fifty thousand dollars to the state liquor and cannabis board for administration of this chapter as appropriated in the omnibus appropriations act;

(ii) Two million six hundred fifty-one thousand seven hundred fifty dollars for fiscal year 2018 and three hundred fifty-one thousand seven hundred fifty dollars for fiscal year 2019 to the health professions account established under RCW 43.70.320 for the development and administration of the marijuana authorization database by the department of health;

(iii) Two million eight hundred three thousand dollars for fiscal year 2019 to the Washington state patrol for a drug enforcement task force. It is the intent of the legislature that this policy will be continued in the 2019-2021 fiscal biennium; and

(iv) Ninety-eight thousand dollars for fiscal year 2019 to the department of ecology for research on accreditation of marijuana product testing laboratories((~~.~~));

(e) ((~~Twenty-three thousand seven hundred fifty dollars to the department of enterprise services provided solely for the state building code council established under RCW 19.27.070, to develop and adopt fire and building code provisions related to marijuana processing and extraction facilities. The distribution under this subsection (1)(e) is for fiscal year 2016 only~~)) An amount not less than three hundred thousand dollars to the department of health to administer the medical marijuana authorization database established in RCW 69.51A.230, as appropriated in the omnibus appropriations act;

(2) From the amounts in the dedicated marijuana account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:

(a)(i) Up to fifteen percent to the health care authority for the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

(B) Up to fifteen percent of the funds appropriated under (a)(i) of this subsection for new programs and new services may be directed to proven and tested practices, emerging best practices, or promising practices.

(ii) In deciding which programs and practices to fund, the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.

(iii) For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of twenty-seven million seven hundred eighty-six thousand dollars, and for each subsequent fiscal year thereafter, the legislature must appropriate a minimum of twenty-five million five hundred thirty-six thousand dollars under this subsection (2)(a);

(b)(i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):

(A) Creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(I) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(III) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(B) The Washington poison control center; and

(C) During the 2015-2017 fiscal biennium, the funds appropriated under this subsection (2)(b) may be used for prevention activities that target youth and populations with a high incidence of tobacco use.

(ii) For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of seven million five hundred thousand dollars and for each subsequent fiscal year thereafter, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b);

(c)(i) Up to six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.

(ii) For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of two hundred seven thousand dollars and for each subsequent fiscal year, except for the 2017-2019 fiscal biennium, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington. For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of one hundred thirty-eight thousand dollars and for each subsequent fiscal year thereafter, except for the 2017-2019 fiscal biennium, a minimum of six hundred eighty-one thousand dollars to Washington State University under this subsection (2)(c). It is the intent of the legislature that this policy will be continued in the 2019-2021 fiscal biennium;

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.

(ii) For the fiscal year beginning July 1, 2016, and each subsequent fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and

(g) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated marijuana account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in (g)(i) of this subsection (2).

(i) Beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all marijuana excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:

(A) Thirty percent must be distributed to counties, cities, and towns where licensed marijuana retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)(g)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed marijuana retailers physically located in each jurisdiction. For purposes of this subsection (2)(g)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.

(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed marijuana producer, processor, or retailer.

(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.

(iii) By September 15th of each year, the state liquor and cannabis board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in (g)(i) of this subsection (2).

(iv) The total share of marijuana excise tax revenues distributed to counties and cities in (g)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018 and 2019 and twenty million dollars per fiscal year thereafter. It is the intent of the legislature that the policy for the maximum distributions in the subsequent fiscal biennia will be no more than fifteen million dollars per fiscal year.

For the purposes of this section, "marijuana products" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products" as those terms are defined in RCW 69.50.101.

**Sec.**  RCW 69.51A.230 and 2015 c 70 s 21 are each amended to read as follows:

(1) The department must contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database that, beginning July 1, 2016, allows:

(a) A marijuana retailer with a medical marijuana endorsement to add a qualifying patient or designated provider and include the amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;

(c) A qualifying patient or designated provider to request and receive his or her own health care information or information on any person or entity that has queried their name or information;

(d) Appropriate local, state, tribal, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected marijuana-related activity that may be illegal under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;

(e) A marijuana retailer holding a medical marijuana endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;

(f) The department of revenue to verify tax exemptions under chapters 82.08 and 82.12 RCW;

(g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and

(h) Authorizations to expire six months or one year after entry into the medical marijuana authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the medical marijuana authorization database at a marijuana retailer with a medical marijuana endorsement. After a qualifying patient or designated provider is placed in the medical marijuana authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

(a) A randomly generated and unique identifying number;

(b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;

(c) A photograph of the qualifying patient's or designated provider's face taken by an employee of the marijuana retailer with a medical marijuana endorsement at the same time that the qualifying patient or designated provider is being placed in the medical marijuana authorization database in accordance with rules adopted by the department;

(d) The amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under RCW 69.51A.210;

(e) The effective date and expiration date of the recognition card;

(f) The name of the health care professional who authorized the qualifying patient or designated provider; and

(g) For the recognition card, additional security features as necessary to ensure its validity.

(4) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date the health care professional issued the authorization. For qualifying patients who are under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the medical marijuana authorization database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient. After reexamination, a marijuana retailer with a medical marijuana endorsement must reenter the qualifying patient or designated provider into the medical marijuana authorization database and a new recognition card will then be issued in accordance with department rules.

(5) If a recognition card is lost or stolen, a marijuana retailer with a medical marijuana endorsement, in conjunction with the database administrator, may issue a new card that will be valid for six months to one year if the patient is reexamined by a health care professional and determined to meet the definition of qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection (4) of this section. If a reexamination is not performed, the expiration date of the replacement recognition card must be the same as the lost or stolen recognition card.

(6) The database administrator must remove qualifying patients and designated providers from the medical marijuana authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the medical marijuana authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the medical marijuana authorization database if the patient or provider no longer qualifies for the medical use of marijuana. The database administrator must retain database records for at least five calendar years to permit the state liquor and cannabis board and the department of revenue to verify eligibility for tax exemptions.

(7) During development of the medical marijuana authorization database, the database administrator must consult with the department, stakeholders, and persons with relevant expertise to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cybersecurity firm, vendor, or service.

(8) The medical marijuana authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the database must not be susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices, allowing for maximum accuracy of database queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The database must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(9)(a) Personally identifiable information of qualifying patients and designated providers included in the medical marijuana authorization database is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) Information contained in the medical marijuana authorization database may be released in aggregate form, with all personally ((~~identifying [identifiable]~~)) identifiable information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(c) Information contained in the medical marijuana authorization database shall not be shared with the federal government or its agents unless the particular ((~~[qualifying]~~)) qualifying patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10)((~~(a)~~)) The department must charge a one dollar fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement. The marijuana retailer with a medical marijuana endorsement shall collect the fee from the qualifying patient or designated provider at the time that he or she is entered into the database and issued a recognition card. The department shall establish a schedule for marijuana retailers with a medical marijuana endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the ((~~health professions~~)) dedicated marijuana account created under RCW ((~~43.70.320~~)) 69.50.530.

((~~(b) By November 1, 2016, the department shall report to the governor and the fiscal committees of both the house of representatives and the senate regarding the cost of implementation and administration of the medical marijuana authorization database. The report must specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana authorization database as well as estimates of the continuing costs associated with operating the medical marijuana [authorization] database. The report must also provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.~~))

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the health professions account created under RCW 43.70.320.

(12) The department may adopt rules to implement this section.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

**--- END ---**