



MARIJUANA REGULATION

by Bill Zepernick and Clare Pramuk

Colorado voters legalized the use of medical marijuana in 2000 and adult use marijuana (commonly referred to as retail or recreational marijuana) in 2012 through amendments to the state constitution. This *issue brief* provides an overview of current state law and regulations pertaining to medical and retail marijuana, and discusses the role of local governments in regulating marijuana.

Background

For **medical marijuana**, the Colorado Constitution provides an affirmative defense against criminal prosecution for marijuana-related offenses for persons with debilitating medical conditions who have registered with the state (patients) and their caregivers. Medical marijuana patients or their caregivers may grow up to six plants and possess up to two ounces of marijuana. These limits may be exceeded in cases where a patient has a medical need for more plants.

For **recreational marijuana**, Amendment 64 allows the purchase, use, and possession of up to one ounce of marijuana, for persons aged 21 and older. It also requires the state to operate a regulatory structure for retail sales of marijuana that includes licensing for stores, growers, manufacturers, staff, and testing labs. Adults (who are not on the medical marijuana registry) may grow up to six plants and keep the marijuana harvested from these plants or share it with other adults. Neither medical nor retail marijuana may be consumed in public.

State Regulation of Medical Marijuana

The Colorado Medical Marijuana Code (Medical Code) was enacted in 2010 to provide a regulatory structure for medical marijuana centers, cultivation facilities, and medical marijuana-infused products manufacturers. It is currently scheduled for repeal on July 1, 2015. The Marijuana Enforcement Division (MED) in the Department of Revenue (DOR) is the licensing authority and primary regulator for medical marijuana. The General Assembly will consider a bill based on the 2014 sunset review of the Medical Code to continue, modify, or repeal the law during the 2015 legislative session.

Business licensing. Under the Medical Code, the MED issues four types of medical marijuana business licenses. As of November 30, 2014, the following number and type of facilities and employees at medical marijuana businesses have been licensed:

- 501 medical marijuana centers;
- 739 medical marijuana cultivation facilities;
- 158 medical marijuana infused-product manufacturers; and
- 15,248 employee occupational licenses.

Patient registry. The Department of Public Health and Environment (DPHE) maintains the registry of medical marijuana patients. The marijuana registry began accepting and processing applications June 1, 2001, and is fully funded by registration fees. As of October 31, 2014, the registry included 117,239 patients. Nearly 50 percent of patients on the registry have designated either a caregiver to provide them with medical marijuana or a medical marijuana center to grow marijuana plants on

their behalf. A patient may only designate one caregiver or one medical marijuana center to provide marijuana at any given time.

Medical marijuana caregivers. Caregivers are limited in state law to providing services for no more than five patients unless a waiver is granted by DPHE. A primary caregiver cannot charge a patient more than the actual cost of cultivating or purchasing medical marijuana, but is allowed to charge for other types of services provided. Caregivers are required to register the location of their marijuana cultivation sites with the DOR, but are not otherwise licensed.

Medical marijuana centers. Medical marijuana centers must share common ownership with their cultivation facilities. This structure is known as vertical integration. Generally, a medical marijuana center can grow up to six plants for each patient who designates it as his or her caregiver. A center can sell any marijuana produced in excess of that purchased by its designated patients to other patients on the registry. Any patient on the medical marijuana registry may purchase marijuana at any medical marijuana center, even if they have designated a different caregiver or center to grow plants on their behalf.

State Regulation of Retail Marijuana

In response to the passage of Amendment 64, during the 2013 legislative session, the General Assembly created the Retail Marijuana Code (Retail Code) which expanded the authority of the DOR to include regulation of retail marijuana.

Business licensing. Under the Retail Code, businesses that grow, process, test, and sell retail marijuana are licensed by the MED. As of December 2014, the following number and type of businesses have been licensed:

- 306 retail marijuana stores;
- 375 retail marijuana cultivation centers;
- 92 retail marijuana product manufacturers; and
- 15 retail marijuana testing facilities.

Employees at retail marijuana businesses also must have an occupational license; however, data on these licenses are not currently available.

Retail marijuana stores. Any adult aged 21 and over may purchase marijuana from a licensed retail store; however, out-of-state residents are limited to purchasing no more than one-quarter ounce of marijuana at a time. During the first nine months of legal sales, retail marijuana stores had to grow marijuana at a commonly owned cultivation facility (i.e., vertical integration, as in the medical marijuana market). Beginning October 1, 2014, retail stores are able to obtain marijuana on the wholesale market from any cultivator or continue to cultivate plants themselves.

Local Regulation of Marijuana

Local governments also have a role in regulating marijuana. For medical marijuana, both local and state licensing of businesses are required, whereas for retail marijuana, local licensing is optional. In addition, cities and counties may prohibit or place limits on the medical and retail marijuana sales in their jurisdictions, including the number and location of businesses and hours of operation. Cities and counties may also establish land use restrictions concerning marijuana businesses, cultivation, and operations.

**Table 1
Comparison of Medical and Retail
Marijuana Regulation**

Requirement	Medical	Retail
Possession limit	2 ounces	1 ounces
Colorado resident	Yes	No
Local licensing	Required	Optional
Age restrictions	18 and up*	21 and up
Vertical integration	Yes	No
Permitted hours of operation	8 a.m. to 7 p.m.	8 a.m. to 12 a.m.**
Product testing	Optional	Required

* Unless recommended by two physicians

** Local Governments can reduce hours
Source: Colorado Department of Revenue