



COLORADO'S MEDICAL MARIJUANA LAW

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The regulation of medical marijuana has been the subject of a great deal of public policy debate in recent years, both at the state and local levels. Colorado is one of 14 states that have enacted laws to legalize the use of marijuana for medical purposes. This issue brief examines medical marijuana law in Colorado and summarizes two measures enacted by the General Assembly in the 2010 legislative session addressing the state medical marijuana program.

Medical Marijuana Use in Colorado

In 2000, Colorado voters approved a constitutional amendment to legalize the use of marijuana for medical purposes. Amendment 20 required the Department of Public Health and Environment (DPHE) to implement and administer the medical marijuana program. In March 2001, the State Board of Health approved rules and regulations pertaining to the program, and in June 2001, the registry began accepting applications for registry identification cards for eligible patients.

Since the amendment was approved in 2000, the number of people in the Colorado who are legally allowed to use medical marijuana has steadily increased. According to the DPHE, in 2008, 4,720 people had medical marijuana registry identification cards compared to 1,955 in 2007. As of July 2010, there are approximately 32,000 people on the registry. According to the DPHE, about 600 requests for medical marijuana cards are submitted on an average day. In addition, the relatively recent growth in the establishment of medical marijuana storefronts, referred to as dispensaries, has increased public interest in the medical marijuana program.

Colorado Medical Marijuana Program

The passage of Senate Bill 10-109 and House Bill 10-1248 set forth new requirements for the state medical marijuana program, related to governance, state and local licensing programs, dispensaries, and the role of physicians and caregivers.

Governance. Senate Bill 10-109 provides that the DPHE is responsible for maintaining the medical marijuana registry. The department is required to:

- develop a form for use as "written documentation" that a patient may be certified for the use of medical marijuana;
- issue registry identification cards to patients and primary caregivers;
- ensure that an individual receives a registry card only if he or she has a bona fide relationship with a physician;
- develop procedures that allow indigent patients to have the registry fee waived; and
- develop enforcement procedures.

Medical marijuana licensing authority. Under House Bill 10-1284, the state medical marijuana licensing authority is established within the Department of Revenue (DOR) and local licensing authorities throughout the state. In order to operate a dispensary, an owner must obtain approval from a local licensing authority and then seek state licensing from the DOR. Dispensaries, manufacturers, and employees are required to pay a fee to cover the costs for operating the state and local licensing authorities.

As of July 1, 2010, any person who is operating an established, locally approved medical marijuana dispensary, or any person who has applied to a local government to operate a dispensary, may continue to operate the dispensary in accordance with the following state and local requirements:

- on or before August 1, 2010, the owner is required to complete forms required by the DOR and pay a fee to cover direct and indirect costs of the state licensing authority in order to continue operating the dispensary;
- any owner who is issued a local license after August 1, 2010, is required to complete the form and pay the fee within 30 days of the issuance of the local license; and
- on or before September 1, 2010, a dispensary is required to certify that it is cultivating at least 70 percent of the marijuana necessary for its operation.

Prior to July 1, 2011, a local government may adopt a resolution or ordinance to license, regulate, or prohibit the cultivation and sale of medical marijuana within the government's jurisdiction. The local licensing authority may restrict the number and location of dispensaries and premises cultivation licenses issued in the locality; however, if a locality does not adopt such ordinances, the locality will be required to adhere to the licensing requirements as set forth in House Bill 10-1248. On or after July 1, 2011, all medical marijuana dispensaries will be subject to regulations and requirements under the bill.

Regulation of dispensaries. House Bill 10-1284 sets forth requirements for medical marijuana dispensaries, and their owners and employees. The bill:

- restricts where a dispensary may be located, including within 1,000 feet of a school;
- limits the hours that a dispensary may operate from 8:00 a.m. to 7:00 p.m. Monday through Sunday;
- provides that a dispensary may not possess more than six medical marijuana plants and two ounces of marijuana for each patient who is registered with the center;

- requires that a dispensary grow at least 70 percent of the marijuana sold;
- prohibits certain individuals from operating a dispensary, including physicians, individuals under age 21, and members of law enforcement;
- prohibits certain individuals from obtaining a medical marijuana license, including individuals who have been convicted of a felony regarding the possession, distribution, or use of a controlled substance;
- provides that licenses are issued for up to two years; and
- provides that certain violations of the medical marijuana code are a class 2 misdemeanor.

Regulation of physicians. Senate Bill 10-109 regulates the role of physicians in certifying that an individual may benefit from medical marijuana. A physician:

- is required to have a "bona fide" relationship with a patient before a physician may certify that the patient would benefit from medical marijuana;
- is required to maintain a record-keeping system for all patients certified by the registry;
- is prohibited from having an economic interest in any marijuana dispensary; and
- is required to hold a doctor of medicine or doctor of osteopathic medicine from an accredited medical school, and meet certain educational and professional requirements.

Regulation of caregivers. House Bill 10-1284 amends existing law concerning caregivers for medical marijuana patients. The bill requires:

- a caregiver to register with the DPHE for each patient for whom he or she is a caregiver with a limit of five patients at any time, except in exceptional circumstances;
- a patient to have only one caregiver at a time;
- the department to create a confidential registry of caregivers; and
- patients and caregivers to have their registry cards in their possession at any time that they possess medical marijuana.