

Department of Health Medical Marijuana Registry Program

Friday, January 13, 2017

Registry: Historic Overview

- ▶ 2000 - Act 228 legalizes medical marijuana in the State of Hawaii
- ▶ The program was initially administered by the Department of Public Safety - Narcotics Enforcement Division
- ▶ 2013 - Act 177 transfers the administration of the program from PSD/NED to DOH and Act 178 amends §329
- ▶ January 1, 2015 - DOH officially assumes administration of the Medical Marijuana Registry Program

Medical Marijuana REGISTRATION Program

1. **Patients**
 - a) Must have a debilitating medical condition AND
 - b) Be certified by
 - ▶ A **Physician** with a valid Hawaii medical license and a valid Hawaii controlled substance license OR
 - ▶ An Advanced Practice Registered Nurse (**APRN**) with prescriptive authority
2. **Physician/APRN** - maintains a bona fide relationship, certifies the patient has a qualifying condition AND that the benefits outweigh the risks, and submits application to DOH
3. **DOH** issues a 329 Card
4. **BOTH Patients and Physician's/APRNs must Comply** with program Requirements

Registered (& in compliance) = PROTECTED

DOH is required to provide law enforcement 24/7 subject verification (online, anytime).

Qualifying Debilitating Medical Conditions

1. Cancer,
2. Glaucoma,
3. HIV/AIDS,
4. Post Traumatic Stress Disorder (PTSD), or
5. A chronic or debilitating disease or condition that produces one or more of the following:
 - ▶ Cachexia or wasting syndrome;
 - ▶ Severe Pain;
 - ▶ Severe Nausea;
 - ▶ Seizures (i.e., epilepsy);
 - ▶ Severe and persistent muscle spasms (i.e., multiple sclerosis or Crohn's disease).

Patient Requirements

PATIENTS may

▶ Register a Grow Site

- ▶ Applicants must attest that they "*own or control*" the grow site
- ▶ The grow site must be stated on the 329 registration card (if it is not on the card, it is not registered)
- ▶ One grow site per 329 registered patient
- ▶ *HOWEVER, One grow site may be registered to multiple patients - this has historically been and continues to be problematic*

▶ Designate a Caregiver

- ▶ One to One ratio

PATIENTS must

▶ Tag Plants with registration # and expiration date

▶ Have Valid ID

- ▶ Registered 329 participant must produce Valid ID with Valid 329 Card to law enforcement, upon request

Physician/APRN Requirements

PHYSICIANS/APRNS

- ▶ Diagnose the patient as having a debilitating medical condition
- ▶ Explain the potential risks and benefits
- ▶ Maintain a Bona fide physician/APRN - patient relationship - The written certification (which is part of the application) must be based on the physicians/APRNs professional opinion after having completed a "full assessment of the patient's medical history and current medical condition made in the course of a *bona fide physician/APRN-patient relationship*"
- ▶ Comply with the registration requirements of section 329-123

Bona Fide Relationship

Physicians/APRNs MUST maintain a BONA FIDE RELATIONSHIP

Ongoing relationship in which the physician/APRN has responsibility for the assessment, care and treatment of the patients debilitating medical condition and the physician/APRN has:

- ▶ Completed a full assessment ... that includes “an in-person physical examination”,
- ▶ Provides follow up care, and
- ▶ Maintains records of the patients treatment and condition

DOH Requirements

1. Issuance of 329 Registration Cards that include the following:
 - ▶ Registration Number
 - ▶ Expiration Date
 - ▶ Patient Name
 - ▶ Caregiver Name, if any
 - ▶ Grow site location, if any
 - ▶ Physician’s signature (may be electronic)
2. Provide law enforcement the ability to verify registered individuals, 24/7

Law Enforcement (24/7 Subject) Verification

Patient Data is CONFIDENTIAL, however,

1. Law enforcement has access to data for law enforcement purposes
 - ▶ 24/7 subject verification access via an online process
 - ▶ Reasonable access to additional data (i.e. grow site location)
 - ▶ Additional information may be release via subpoena, court order, or other legal means
2. All law enforcement searches are logged and tracked
3. Dispensaries will have similar, limited access, to verification information to ensure medical marijuana is only sold to registered program participants

Patient and Caregiver Protections

§329-125 Patients and Caregivers

(a) "... may assert the medical **use** of marijuana as an affirmative defense to any prosecution involving marijuana under this [part] or part 712 ..."

(b) any patient or caregiver "not complying with the permitted scope of the medical **use** of marijuana shall not be afforded the protections against searches and seizures pertaining to the misapplication of the medical **use** of marijuana."

Medical Use

§329-121 Definitions - "Medical Use" means

- acquisition,
- possession,
- cultivation,
- use,
- distribution, or
- transportation

Patient and Caregiver Protections

Act 242 - effective July 1, 2015 amends various laws and adds non-discriminatory language to:

- § 329-125.5 - disallowing discrimination based solely on a persons status as a patient or caregiver for
 - a) School Enrollment or Housing...
 - a) provided strict program compliance by the patient/caregiver,
 - b) that patient or caregiver "shall present a medical marijuana registry card ... and photo identification" to ensure they are validly registered, and
 - c) Unless failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law
 - b) Medical Care ... and "shall not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care", and
 - c) Custody Provided that the patients or caregivers conduct did not create "a danger to the safety of the minor ...".

Patient and Caregiver Protections

Act 242 - effective July 1, 2015 amends various laws and adds non-discriminatory language to:

- §421J: Planned Community Associations;
- §514A: Condominium Property Regimes &
- §514B: Condominiums
 - regarding discriminatory language against valid 329 card holders for any of the discriminatory practices listed in paragraphs (1) to (7) of section 515-3: Discrimination in Real Property Transactions, "unless the documents prohibit the smoking of tobacco and the medical marijuana is used by means of smoking"

Conditions of Use

Transportation

§329-122 (d) - "transport" means ... "the transportation of marijuana, usable marijuana, or any manufactured marijuana product between"

- Patient and caregiver, or
- Production center and retail location
- Production center/retail location and labs for testing

Limitations

§329-122 (c)(2)(E) - Use in any public place including the work place and in any moving vehicle - is not allowed, however transportation in public may be allowed IF marijuana is:

- In a sealed container;
- Not visible to the public; and
- Not "*removed from its sealed container or consumed or used in any way while it is in the public place*".

§329-122 (c)(1) Use that endangers the health or well-being of another person is NOT allowed

All Smoke Free Laws Applicable

1. §328J- Smoke-free workplaces and public places law
 - ▶ Defines "Smoke" or "smoking" ... means inhaling, exhaling, burning, or carrying any lighted or heated tobacco product **or plant product** intended for inhalation in any manner or in any form. "Smoking" includes the use of an electronic smoking device.
 - ▶ covers common areas of multi-unit housing
 - ▶ "20 foot rule"
 - ▶ legally allows managers to expand the smoking prohibitions to the entire property

What's Coming Up

§329D-7 (18)

- Reciprocity - process will begin no sooner than 12/1/2018, that is, DOH will begin to review a registration process for individuals registered in other states

§329-130 (a)(2)

- Phase Out Caregiver Grow Sites - by 12/31/2018 except for all islands that do not have dispensaries (i.e., Molokai, Lanai) "no primary caregiver shall be authorized to cultivate marijuana"

Medical Marijuana Registry Statistics

- ▶ DOH receives about 1,400 - 329 card applications per month
- ▶ DOH approves about 1,200 - 329 card applications per month
- ▶ Current Turnaround time is 6 business days (average is 10 business days)
- ▶ Average increase in volume of registered patients is 2% per month.
- ▶ Since DOH inception, registered patients have increased by *over 30%*.
- ▶ On December 31, 2016:
 - 15,334 registered patients certified by 102 different physicians and 7 different APRNs, statewide
 - 8% of all registered patients have caregivers
 - *Majority of registered patients are 46+ (60%), followed by 26 - 45 (34%) and a minority under age 26 (6%)*
 - Minors make up less than 1% (.19%) of all patients
 - The male to female ratio is about 2:1 with approximately 66% male and 34% female registered patients
 - 89% of all registered patients indicate Pain (*may be in combination with another condition*)