

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 Health and Environmental Information and Statistics Division

3 **MEDICAL USE OF MARIJUANA**

4 5 CCR 1006-2

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6 **Regulation 1: Establishment and confidentiality of the registry for the medical use of marijuana**

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8 A. The Colorado Department of Public Health and Environment ("the department") shall create and  
9 maintain a confidential registry ("the registry") of patients who have applied for and are entitled to  
10 receive a registry identification card.

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12 1. All personal medical records and personal identifying information held by the department  
13 in compliance with these regulations shall be confidential information.

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15 2. No person shall be permitted to gain access to any information about patients in this  
16 registry, or any information otherwise maintained in the registry by the department about  
17 physicians and primary care-givers of patients in the registry, except for authorized employees of  
18 the department in the course of their official duties and authorized employees of state and local  
19 law enforcement agencies which have stopped or arrested a person who claims to be engaged in  
20 the medical use of marijuana and in possession of a registry identification card issued pursuant to  
21 regulations two and three, OR THE FUNCTIONAL EQUIVALENT OF THE REGISTRY  
22 IDENTIFICATION CARD.

23  
24 a. DEPARTMENT EMPLOYEES MAY, UPON RECEIPT OF AN INQUIRY FROM A  
25 STATE OR LOCAL LAW ENFORCEMENT AGENCY, CONFIRM THAT A REGISTRY  
26 IDENTIFICATION CARD HAS BEEN SUSPENDED WHEN A PATIENT IS NO LONGER  
27 DIAGNOSED AS HAVING A DEBILITATING MEDICAL CONDITION.

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29 b. AUTHORIZED DEPARTMENT EMPLOYEES MAY RESPOND TO AN INQUIRY  
30 FROM STATE OR LOCAL LAW ENFORCEMENT REGARDING THE REGISTRY  
31 STATUS OF A PATIENT OR PRIMARY CARE-GIVER BY CONFIRMING THAT THE  
32 PERSON IS OR IS NOT REGISTERED. THE INFORMATION RELEASED TO STATE  
33 AND LOCAL LAW ENFORCEMENT MUST BE THE MINIMUM NECESSARY TO  
34 CONFIRM REGISTRY STATUS.

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36 c. AUTHORIZED STATE AND LOCAL LAW ENFORCEMENT EMPLOYEES  
37 SHALL VALIDATE THEIR INQUIRY OF A PATIENT OR PRIMARY CARE-GIVER BY  
38 PRODUCING THE REGISTRY IDENTIFICATION CARD NUMBER OF A PATIENT, OR  
39 NAME AND DATE OF BIRTH OF THE INDIVIDUAL UNDER INQUIRY IF THE PERSON  
40 DOES NOT HAVE A REGISTRY IDENTIFICATION CARD.

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42 d. AUTHORIZED DEPARTMENT EMPLOYEES MAY CONFIRM A WAIVER FOR  
43 HOMEBOUND OR MINOR PATIENTS' TRANSPORTATION OF MEDICAL MARIJUANA  
44 FROM A MEDICAL MARIJUANA CENTER OR A WAIVER FOR A PRIMARY CARE-  
45 GIVER SERVING MORE THAN FIVE PATIENTS, UPON STATE OR LOCAL LAW  
46 ENFORCEMENT INQUIRY. THE MINIMUM NECESSARY INFORMATION SHALL BE  
47 COMMUNICATED TO CONFIRM OR DENY A WAIVER.

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49 3. The department may release information concerning a specific patient to that patient with  
50 the written authorization of such patient.  
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1           4.       PRIMARY CARE-GIVERS AND POTENTIAL PRIMARY CARE-GIVERS MAY  
2 AUTHORIZE THE INCLUSION OF THEIR CONTACT INFORMATION IN THE VOLUNTARY  
3 CAREGIVER REGISTRY MAINTAINED BY THE DEPARTMENT TO ALLOW AUTHORIZED  
4 DEPARTMENT STAFF TO RELEASE THEIR CONTACT INFORMATION TO NEW REGISTRY  
5 PATIENTS ONLY IN ACCORDANCE WITH REGULATION 9(C) BELOW.  
6

7       B.       Any officer or employee or agent of the department who violates this regulation by releasing or  
8 making public confidential information in the registry shall be subject to any existing statutory penalties for  
9 a breach of confidentiality of the registry.

10 **Regulation 2:   Application for a registry identification card**

11       B.       In order to be placed in the registry and to receive a registry identification card, an adult applicant  
12 must reside in Colorado and ~~submit~~ COMPLETE an application form supplied by the department,  
13 ~~completed~~ and HAVE SUCH APPLICATION notarized AND SIGNED AND INCLUDE THE FEE  
14 PAYMENT. The adult applicant must provide the following information with the application:

15           1.       The applicant's name, address, date of birth, and social security number;

16           2.       The name and address of the applicant's primary care-giver OR MEDICAL MARIJUANA  
17 CENTER, if EITHER one is designated at the time of application. ONLY A HOMEBOUND OR  
18 MINOR PATIENT MAY HAVE BOTH A PRIMARY CARE-GIVER AND A MEDICAL MARIJUANA  
19 CENTER DESIGNATED;

20           3.       Written documentation from the applicant's physician that the applicant has been  
21 diagnosed with a debilitating medical condition as defined in regulation six and the physician's  
22 conclusion that the applicant might benefit from the medical use of marijuana; and

23           4.       A STATEMENT FROM THE PHYSICIAN IF THE PATIENT IS HOMEBOUND, IF  
24 APPLICABLE;

25           5.       The name, address, and telephone number of the physician who has concluded the  
26 applicant might benefit from the medical use of marijuana; and

27           6.       A copy of a secure and verifiable identity document, in compliance with the Secure and  
28 Verifiable Document Act, C.R.S. §24-72.1-101 *et seq.*, for the patient and primary care-giver, if  
29 any is designated.

30       C.       In order for a minor applicant to be placed in the registry and to receive a registry identification  
31 card, the minor applicant must reside in Colorado and a parent residing in Colorado must consent in  
32 writing to serve as the minor applicant's primary care-giver. Such parent must ~~submit~~ COMPLETE an  
33 application form supplied by the department, AND HAVE SUCH APPLICATION NOTARIZED, SIGNED  
34 AND INCLUDE FEE PAYMENT. The parent of the minor applicant must provide the following information  
35 with the application:

36           1.       The applicant's name, address, date of birth, and social security number;

37           2.       Written documentation from two of the applicant's physicians that the applicant has been  
38 diagnosed with a debilitating medical condition as defined in regulation six and each  
39 physician's conclusion that the applicant might benefit from the medical use of marijuana;

40           3.       The name, address, and telephone number of the two physicians who have concluded the  
41 applicant might benefit from the medical use of marijuana;

4. Consent from each of the applicant's parents residing in Colorado that the applicant may engage in the medical use of marijuana; ~~and~~
5. Documentation that one of the physicians referred to in (iii) has explained the possible risks and benefits of medical use of marijuana to the applicant and each of the applicant's parents residing in Colorado; AND
6. THE NAME AND ADDRESS OF THE APPLICANT'S MEDICAL MARIJUANA CENTER, IF ONE IS DESIGNATED AT THE TIME OF APPLICATION.

D. To maintain an effective registry identification card, a patient must annually resubmit to the department, at least thirty days prior to the expiration date, BUT NO SOONER THAN SIXTY DAYS PRIOR TO THE EXPIRATION DATE, updated written documentation of the information required in paragraphs B and C of this regulation. In addition, the patient must provide the name and address of the primary care-giver, ~~if any is designated at such time,~~ OR THE NAME AND ADDRESS OF A MEDICAL MARIJUANA CENTER, IF EITHER IS DESIGNATED AT SUCH TIME.

E. A PATIENT MAY CHANGE HIS OR HER PRIMARY CARE-GIVER OR MEDICAL MARIJUANA CENTER NO MORE THAN ONCE PER MONTH. A PATIENT MAY CHANGE HIS OR HER PRIMARY CARE-GIVER OR MEDICAL MARIJUANA CENTER BY SUBMITTING SUCH INFORMATION ON THE FORM AND IN THE MANNER AS DIRECTED BY THE DEPARTMENT WITHIN TEN DAYS OF THE CHANGE OCCURRING.

F. REJECTED APPLICATIONS. THE DEPARTMENT MAY REJECT AS INCOMPLETE ANY PATIENT APPLICATION FOR ANY OF THE FOLLOWING REASONS:

1. IF INFORMATION CONTAINED IN THE APPLICATION IS ILLEGIBLE OR MISSING;
2. IF THE APPLICATION IS NOT NOTARIZED; OR
3. THE PHYSICIAN(S) IS/ARE NOT ELIGIBLE TO RECOMMEND THE USE OF MARIJUANA.
4. AN APPLICANT SHALL HAVE (30) DAYS FROM THE DATE THE DEPARTMENT RETURNS THE REJECTED APPLICATION TO MAKE CORRECTIONS AND RESUBMIT THE APPLICATION.

G. DENIED APPLICATIONS. THE DEPARTMENT MAY DENY AN APPLICATION FOR ANY OF THE FOLLOWING REASONS:

1. THE PHYSICIAN RECOMMENDATION IS FALSIFIED;
2. ANY INFORMATION ON THE APPLICATION IS FALSIFIED;
3. THE ID THAT IS PRESENTED WITH THE APPLICATION IS NOT THE PATIENT'S ID CARD;
4. THE APPLICANT IS NOT A COLORADO RESIDENT;
5. IF THE DEPARTMENT HAS TWICE REJECTED THE PATIENT'S APPLICATION.

IF THE DEPARTMENT DENIES AN APPLICATION, THEN THE APPLICANT MAY NOT SUBMIT A NEW APPLICATION UNTIL SIX MONTHS FOLLOWING THE DATE OF DENIAL AND MAY NOT USE THE APPLICATION AS A REGISTRY CARD. IF THE BASIS FOR DENIAL IS FALSIFICATION, LAW ENFORCEMENT SHALL BE NOTIFIED OF ANY FRAUD ISSUES.

H. THE DEPARTMENT MAY REVOKE A REGISTRY IDENTIFICATION CARD FOR ONE YEAR IF THE PATIENT HAS BEEN FOUND TO HAVE WILLFULLY VIOLATED THE PROVISIONS OF ARTICLE XVIII, SECTION 14 OR C.R.S. § 25-1.5-106.

I. A PATIENT WHO HAS BEEN CONVICTED OF A CRIMINAL OFFENSE UNDER ARTICLE 18 OF TITLE 18, C.R.S., SENTENCED OR ORDERED BY A COURT TO DRUG OR SUBSTANCE ABUSE TREATMENT, OR SENTENCED TO THE DIVISION OF YOUTH CORRECTIONS SHALL BE SUBJECT TO IMMEDIATE RENEWAL OF HIS/HER REGISTRY IDENTIFICATION CARD. SUCH PATIENT MAY ONLY REAPPLY WITH A NEW PHYSICIAN RECOMMENDATION FROM A PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE RELATIONSHIP.

1. THE PATIENT SHALL REMIT THE REGISTRY CARD TO THE DEPARTMENT WITHIN 24 HOURS OF THE CONVICTION/SENTENCE/COURT ORDER.

2. THE PATIENT MAY COMPLETE AND SUBMIT A RENEWAL APPLICATION FOR A REGISTRY CARD INCLUDING A NEW RECOMMENDATION FROM A PHYSICIAN WITH A BONA FIDE RELATIONSHIP.

J. APPEALS. IF THE DEPARTMENT DENIES AN APPLICATION OR, SUSPENDS OR REVOKES A REGISTRY IDENTIFICATION CARD, THE DEPARTMENT SHALL PROVIDE THE APPLICANT/PATIENT WITH NOTICE OF THE GROUNDS FOR THE DENIAL, SUSPENSION OR REVOCATION, AND SHALL INFORM THE PATIENT OF THE PATIENT'S RIGHT TO REQUEST A HEARING.

1. A REQUEST FOR HEARING SHALL BE SUBMITTED TO THE DEPARTMENT IN WRITING WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE POSTMARK ON THE DENIAL NOTICE.

a. IF A HEARING IS REQUESTED, THE PATIENT SHALL FILE AN ANSWER WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE POSTMARK ON THE NOTICE.

b. IF A REQUEST FOR A HEARING IS MADE, THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURES ACT, § 24-4-101 *ET SEQ.*, C.R.S.

c. IF THE PATIENT DOES NOT REQUEST A HEARING IN WRITING WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE NOTICE, THE PATIENT IS DEEMED TO HAVE WAIVED THE OPPORTUNITY FOR A HEARING.

#### **REGULATION 12: PATIENT RESPONSIBILITIES.**

A. PATIENT SHALL MAKE A COPY OF HIS/HER APPLICATION ALONG WITH PROOF OF THE DATE OF SUBMISSION AVAILABLE TO HIS/HER DESIGNATED PRIMARY CARE-GIVER WHEN IT HAS BEEN MORE THAN THIRTY-FIVE DAYS SINCE THE DATE THE PATIENT FILED HIS OR HER MEDICAL MARIJUANA APPLICATION AND THE DEPARTMENT HAS NEITHER ISSUED A REGISTRY IDENTIFICATION CARD NOR DENIED THE APPLICATION. A COPY OF THE PATIENT'S APPLICATION SHALL BE IN THE PRIMARY CARE-GIVER'S POSSESSION AT ALL TIMES THAT THE PRIMARY CARE-GIVER IS IN POSSESSION OF MARIJUANA. THE PATIENT MAY OBLITERATE OR REDACT THE MAILING ADDRESS AND SOCIAL SECURITY NUMBER ON THE COPY OF THE APPLICATION GIVEN TO THE PRIMARY CARE-GIVER.

B. WHEN A PATIENT CHANGES HIS OR HER PRIMARY CARE-GIVER OR MEDICAL MARIJUANA CENTER, THE PATIENT SHALL SUBMIT NOTICE OF THE CHANGE ON THE FORM AND IN THE MANNER AS DIRECTED BY THE DEPARTMENT.

1 C. A PATIENT SHALL NOT:

2 1. ENGAGE IN THE MEDICAL USE OF MARIJUANA IN A WAY THAT ENDANGERS THE  
3 HEALTH AND WELL-BEING OF A PERSON;

4 2. ENGAGE IN THE MEDICAL USE OF MARIJUANA IN PLAIN VIEW OF OR IN A PLACE  
5 OPEN TO THE GENERAL PUBLIC;

6 3. UNDERTAKE ANY TASK WHILE UNDER THE INFLUENCE OF MEDICAL MARIJUANA,  
7 WHEN DOING SO WOULD CONSTITUTE NEGLIGENCE OR PROFESSIONAL  
8 MALPRACTICE;

9 4. POSSESS MEDICAL MARIJUANA OR OTHERWISE ENGAGE IN THE USE OF  
10 MEDICAL MARIJUANA IN OR ON THE GROUNDS OF A SCHOOL OR IN A SCHOOL BUS;

11 5. ENGAGE IN THE USE OF MEDICAL MARIJUANA WHILE:

12 a. IN A CORRECTIONAL FACILITY OR A COMMUNITY CORRECTIONS  
13 FACILITY;

14 b. SUBJECT TO A SENTENCE TO INCARCERATION;

15 c. IN A VEHICLE, AIRCRAFT, OR MOTORBOAT; OR

16 d. AS OTHERWISE ORDERED BY THE COURT

17 6. OPERATE, NAVIGATE, OR BE IN ACTUAL PHYSICAL CONTROL OF ANY VEHICLE,  
18 AIRCRAFT, OR MOTORBOAT WHILE UNDER THE INFLUENCE OF MEDICAL MARIJUANA; OR

19 7. USE MEDICAL MARIJUANA IF THE PATIENT DOES NOT HAVE A DEBILITATING  
20 MEDICAL CONDITION AS DIAGNOSED BY THE PERSON'S PHYSICIAN IN THE COURSE OF  
21 A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP AND FOR WHICH THE PHYSICIAN HAS  
22 RECOMMENDED THE USE OF MEDICAL MARIJUANA.

23 D. A PATIENT WHO NO LONGER HAS A DEBILITATING MEDICAL CONDITION SHALL RETURN  
24 HIS OR HER REGISTRY IDENTIFICATION CARD TO THE DEPARTMENT WITHIN TWENTY-FOUR  
25 HOURS OF RECEIVING SUCH DIAGNOSIS BY HIS OR HER PHYSICIAN.

26 E. A PATIENT SHALL NOTIFY THE DEPARTMENT IF CONVICTED OF A CRIMINAL OFFENSE  
27 UNDER ARTICLE 18 OF TITLE 18, C.R.S., SENTENCED OR ORDERED BY A COURT TO DRUG OR  
28 SUBSTANCE ABUSE TREATMENT, OR SENTENCED TO THE DIVISION OF YOUTH CORRECTIONS.  
29 THE PATIENT SHALL BE SUBJECT TO IMMEDIATE RENEWAL OF HIS/HER REGISTRY  
30 IDENTIFICATION CARD. SUCH PATIENT MAY ONLY REAPPLY WITH A NEW PHYSICIAN  
31 RECOMMENDATION FROM A PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE  
32 RELATIONSHIP.

33 1. THE PATIENT SHALL REMIT THE REGISTRY CARD TO THE DEPARTMENT WITHIN  
34 24 HOURS OF THE CONVICTION/SENTENCE/COURT ORDER.

35 2. THE PATIENT MAY COMPLETE AND SUBMIT A NEW APPLICATION FOR A  
36 REGISTRY CARD INCLUDING A NEW RECOMMENDATION FROM A PHYSICIAN WITH A  
37 BONA FIDE RELATIONSHIP.

1 F. A PATIENT SHALL NOT ESTABLISH A BUSINESS TO PERMIT OTHER PATIENTS TO  
2 CONGREGATE AND SMOKE OR OTHERWISE CONSUME MEDICAL MARIJUANA.

3 **REGULATION 13: SUBPOENAS FOR REGISTRY INFORMATION**

4 A. THE DEPARTMENT SHALL REQUIRE THAT A FEE BE PAID TO THE DEPARTMENT FOR  
5 ANY SUBPOENA SERVED. THE FEE SHALL BE PAID AT THE TIME OF SERVICE OF ANY  
6 SUBPOENA UPON THE DEPARTMENT PLUS A FEE FOR MEALS AND MILEAGE AT THE RATE  
7 PRESCRIBED FOR STATE OFFICERS AND EMPLOYEES IN SECTION 24-9-104, C.R.S. FOR EACH  
8 MILE ACTUALLY AND NECESSARILY TRAVELED IN GOING TO AND RETURNING FROM THE PLACE  
9 NAMED IN THE SUBPOENA. IF THE PERSON NAMED IN THE SUBPOENA IS REQUIRED TO  
10 ATTEND THE PLACE NAMED IN THE SUBPOENA FOR MORE THAN ONE DAY, THERE SHALL BE  
11 PAID, IN ADVANCE, A SUM TO BE ESTABLISHED BY THE DEPARTMENT FOR EACH DAY OF  
12 ATTENDANCE TO COVER THE EXPENSES OF THE PERSON NAMED IN THE SUBPOENA.

13 B. THE SUBPOENA FEE IS \$200 FOR THE FIRST (4) HOURS OF APPEARANCE OR ON-CALL  
14 OR TRAVEL TIME TO COURT, EXCLUDING MILEAGE, MEALS AND LODGING WHICH SHALL BE  
15 PAID AT STATE EMPLOYEE PER DIEM RATES. BEYOND THE FIRST (4) HOURS, THE SUBPOENA  
16 FEE SHALL BE THE ACTUAL HOURLY RATE OF THE WITNESS EMPLOYEE.

17 C. THE SUBPOENA FEE SHALL NOT BE APPLICABLE TO ANY FEDERAL, STATE OR LOCAL  
18 GOVERNMENTAL AGENCY.