

ARIZONA MEDICAL MARIJUANA ACT CHAPTER 28.1

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36-2801. DEFINITIONS

(Caution: 1998 Prop. 105 applies)

In this chapter, unless the context otherwise requires:

1. "Allowable amount of marijuana"

(a) With respect to a qualifying patient, the "allowable amount of marijuana" means:

(i) Two-and-one-half ounces of usable marijuana; and

(ii) If the qualifying patient's registry identification card states that the qualifying patient is authorized to cultivate marijuana, twelve marijuana plants contained in an enclosed, locked facility except that the plants are not required to be in an enclosed, locked facility if the plants are being transported because the qualifying patient is moving.

(b) With respect to a designated caregiver, the "allowable amount of marijuana" for each patient assisted by the designated caregiver under this chapter means:

(i) Two-and-one-half ounces of usable marijuana; and

(ii) If the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana, twelve marijuana plants contained in an enclosed, locked facility except that the plants are not required to be in an enclosed, locked facility if the plants are being transported because the designated caregiver is moving.

(c) Marijuana that is incidental to medical use, but is not usable marijuana as defined in this chapter, shall not be counted toward a qualifying patient's or designated caregiver's allowable amount of marijuana.

2. "Cardholder" means a qualifying patient, a designated caregiver or a nonprofit medical marijuana dispensary agent who has been issued and possesses a valid registry identification card.

3. "Debilitating medical condition" means one or more of the following:

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(a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, crohn's disease, agitation of Alzheimer's disease or the treatment of these conditions.

(b) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including those characteristic of epilepsy; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis.

(c) Any other medical condition or its treatment added by the department pursuant to section 36-2801.01.

4. "Department" means the Arizona department of health services or its successor agency.

5. "Designated caregiver" means a person who:

(a) Is at least twenty-one years of age.

(b) Has agreed to assist with a patient's medical use of marijuana.

(c) Has not been convicted of an excluded felony offense.

(d) Assists no more than five qualifying patients with the medical use of marijuana.

(e) May receive reimbursement for actual costs incurred in assisting a registered qualifying patient's medical use of marijuana if the registered designated caregiver is connected to the registered qualifying patient through the department's registration process. The designated caregiver may not be paid any fee or compensation for his service as a caregiver. Payment for costs under this subdivision shall not constitute an offense under title 13, chapter 34 or under title 36, chapter 27, article 4.

6. "Enclosed, locked facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

7. "Excluded felony offense" means:

(a) A violent crime as defined in section 13-901.03, subsection B, that was classified as a felony in the jurisdiction where the person was convicted.

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(b) A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted but does not include:

(i) An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten or more years earlier.

(ii) An offense involving conduct that would be immune from arrest, prosecution or penalty under section 36-2811 except that the conduct occurred before the effective date of this chapter or was prosecuted by an authority other than the state of Arizona.

8. "Marijuana" means all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant.

9. "Medical use" means the acquisition, possession, cultivation, manufacture, use, administration, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

10. "Nonprofit medical marijuana dispensary agent" means a principal officer, board member, employee or volunteer of a nonprofit medical marijuana dispensary who is at least twenty-one years of age and has not been convicted of an excluded felony offense.

11. "Nonprofit medical marijuana dispensary" means a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation.

12. "Physician" means a doctor of medicine who holds a valid and existing license to practice medicine pursuant to title 32, chapter 13 or its successor, a doctor of osteopathic medicine who holds a valid and existing license to practice osteopathic medicine pursuant to title 32, chapter 17 or its successor, a naturopathic physician who holds a valid and existing license to practice naturopathic medicine pursuant to title 32, chapter 14 or its successor or a homeopathic physician who holds a valid and existing license to practice homeopathic medicine pursuant to title 32, chapter 29 or its successor.

13. "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

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14. "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver or a registered nonprofit medical marijuana dispensary agent.

15. "Usable marijuana" means the dried flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.

16. "Verification system" means a secure, password-protected, web-based system established and maintained by the department that is available to law enforcement personnel and nonprofit medical marijuana dispensary agents on a twenty-four hour basis for verification of registry identification cards.

17. "Visiting qualifying patient" means a person:

(a) Who is not a resident of Arizona or who has been a resident of Arizona less than thirty days.

(b) Who has been diagnosed with a debilitating medical condition by a person who is licensed with authority to prescribe drugs to humans in the state of the person's residence or, in the case of a person who has been a resident of Arizona less than thirty days, the state of the person's former residence.

18. "Written certification" means a document dated and signed by a physician, stating that in the physician's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. The physician must:

(a) Specify the qualifying patient's debilitating medical condition in the written certification.

(b) Sign and date the written certification only in the course of a physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history.

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36-2801.01. ADDITION OF DEBILITATING MEDICAL CONDITIONS

(Caution: 1998 Prop. 105 applies)

The public may petition the department to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 36-2801, paragraph 3. The department shall consider petitions in the manner required by department rule, including public notice and hearing. The department shall approve or deny a petition within one-hundred-eighty days of its submission. The approval or denial of a petition is a final decision of the department subject to judicial review pursuant to title 12, chapter 7, article 6. Jurisdiction and venue are vested in the superior court.

36-2802. ARIZONA MEDICAL MARIJUANA ACT; LIMITATIONS

(Caution: 1998 Prop. 105 applies)

This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal or other penalties for engaging in, the following conduct:

A. Undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice.

B. Possessing or engaging in the medical use of marijuana:

1. On a school bus.
2. On the grounds of any preschool or primary or secondary school.
3. In any correctional facility.

C. Smoking marijuana:

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1. On any form of public transportation.

2. In any public place.

D. Operating, navigating or being in actual physical control of any motor vehicle, aircraft or motorboat while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

E. Using marijuana except as authorized under this chapter.

36-2803. RULEMAKING

(Caution: 1998 Prop. 105 applies)

A. Not later than one hundred twenty days after the effective date of this chapter, the department shall adopt rules:

1. Governing the manner in which the department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 36-2801, paragraph 3, including public notice of, and an opportunity to comment in a public hearing upon, petitions.

2. Establishing the form and content of registration and renewal applications submitted under this chapter.

3. Governing the manner in which it shall consider applications for and renewals of registry identification cards.

4. Governing nonprofit medical marijuana dispensaries, for the purpose of protecting against diversion and theft without imposing an undue burden on nonprofit medical marijuana dispensaries or compromising the confidentiality of cardholders, including:

(a) The manner in which the department shall consider applications for and renewals of registration certificates.

(b) Minimum oversight requirements for nonprofit medical marijuana dispensaries.

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(c) Minimum recordkeeping requirements for nonprofit medical marijuana dispensaries.

(d) Minimum security requirements for nonprofit medical marijuana dispensaries, including requirements for protection of each registered nonprofit medical marijuana dispensary location by a fully operational security alarm system.

(e) Procedures for suspending or revoking the registration certificate of nonprofit medical marijuana dispensaries that violate the provisions of this chapter or the rules adopted pursuant to this section.

5. Establishing application and renewal fees for registry identification cards and nonprofit medical marijuana dispensary registration certificates, according to the following:

(a) The total amount of all fees shall generate revenues sufficient to implement and administer this chapter except that fee revenue may be offset or supplemented by private donations.

(b) Nonprofit medical marijuana dispensary application fees may not exceed \$5,000.

(c) Nonprofit medical marijuana dispensary renewal fees may not exceed \$1,000.

(d) The total amount of revenue from nonprofit medical marijuana dispensary application and renewal fees and registry identification card fees for nonprofit medical marijuana dispensary agents shall be sufficient to implement and administer the nonprofit medical marijuana dispensary provisions of this chapter, including the verification system, except that the fee revenue may be offset or supplemented by private donations.

(e) The department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income.

(f) The department may consider private donations under section 36-2817 to reduce application and renewal fees.

B. The department is authorized to adopt the rules set forth in subsection A and shall adopt those rules pursuant to title 41, chapter 6.

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36-2804. REGISTRATION AND CERTIFICATION OF NONPROFIT MEDICAL MARIJUANA DISPENSARIES

(Caution: 1998 Prop. 105 applies)

A. Nonprofit medical marijuana dispensaries shall register with the department.

B. Not later than ninety days after receiving an application for a nonprofit medical marijuana dispensary, the department shall register the nonprofit medical marijuana dispensary and issue a registration certificate and a random 20-digit alphanumeric identification number if:

1. The prospective nonprofit medical marijuana dispensary has submitted the following:

(a) The application fee.

(b) An application, including:

(i) The legal name of the nonprofit medical marijuana dispensary.

(ii) The physical address of the nonprofit medical marijuana dispensary and the physical address of one additional location, if any, where marijuana will be cultivated, neither of which may be within five hundred feet of a public or private school existing before the date of the nonprofit medical marijuana dispensary application.

(iii) The name, address and date of birth of each principal officer and board member of the nonprofit medical marijuana dispensary.

(iv) The name, address and date of birth of each nonprofit medical marijuana dispensary agent.

(c) Operating procedures consistent with department rules for oversight of the nonprofit medical marijuana dispensary, including procedures to ensure accurate record-keeping and adequate security measures.

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(d) If the city, town or county in which the nonprofit medical marijuana dispensary would be located has enacted zoning restrictions, a sworn statement certifying that the registered nonprofit medical marijuana dispensary is in compliance with the restrictions.

2. None of the principal officers or board members has been convicted of an excluded felony offense.

3. None of the principal officers or board members has served as a principal officer or board member for a registered nonprofit medical marijuana dispensary that has had its registration certificate revoked.

4. None of the principal officers or board members is under twenty-one years of age.

C. The department may not issue more than one nonprofit medical marijuana dispensary registration certificate for every ten pharmacies that have registered under section 32-1929, have obtained a pharmacy permit from the Arizona board of pharmacy and operate within the state except that the department may issue nonprofit medical marijuana dispensary registration certificates in excess of this limit if necessary to ensure that the department issues at least one nonprofit medical marijuana dispensary registration certificate in each county in which an application has been approved.

D. The department may conduct a criminal records check in order to carry out this section.

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36-2804.01. REGISTRATION OF NONPROFIT MEDICAL MARIJUANA DISPENSARY AGENTS; NOTICES; CIVIL PENALTY; CLASSIFICATION

(Caution: 1998 Prop. 105 applies)

- A. A nonprofit medical marijuana dispensary agent shall be registered with the department before volunteering or working at a medical marijuana dispensary.
- B. A nonprofit medical marijuana dispensary may apply to the department for a registry identification card for a nonprofit medical marijuana dispensary agent by submitting:
1. The name, address and date of birth of the nonprofit medical marijuana dispensary agent.
 2. A nonprofit medical marijuana dispensary agent application.
 3. A statement signed by the prospective nonprofit medical marijuana dispensary agent pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.
 4. The application fee.
- C. A registered nonprofit medical marijuana dispensary shall notify the department within ten days after a nonprofit medical marijuana dispensary agent ceases to be employed by or volunteer at the registered nonprofit medical marijuana dispensary.
- D. No person who has been convicted of an excluded felony offense may be a nonprofit medical marijuana dispensary agent.
- E. The department may conduct a criminal records check in order to carry out this section.

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36-2804.02. REGISTRATION OF QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

(Caution: 1998 Prop. 105 applies)

A. A qualifying patient may apply to the department for a registry identification card by submitting:

1. Written certification issued by a physician within the ninety days immediately preceding the date of application.

2. The application fee.

3. An application, including:

(a) Name, mailing address, residence address and date of birth of the qualifying patient except that if the applicant is homeless no address is required.

(b) Name, address and telephone number of the qualifying patient's physician.

(c) Name, address and date of birth of the qualifying patient's designated caregiver, if any.

(d) A statement signed by the qualifying patient pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.

(e) A signed statement from the designated caregiver, if any, agreeing to be the patient's designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.

(f) A designation as to who will be allowed to cultivate marijuana plants for the qualifying patient's medical use if a registered nonprofit medical marijuana dispensary is not operating within twenty-five miles of the qualifying patient's home.

B. The application for a qualifying patient's registry identification card shall ask whether the patient would like the department to notify him of any clinical studies needing human

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subjects for research on the medical use of marijuana. The department shall notify interested patients if it is notified of studies that will be conducted in the United States.

36-2804.03. ISSUANCE OF REGISTRY IDENTIFICATION CARDS

(Caution: 1998 Prop. 105 applies)

A. Except as provided in subsection B and in section 36-2804.05, the department shall:

1. Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within ten days of receiving a completed application or renewal.

2. Issue a registry identification card to a qualifying patient and his designated caregiver, if any, within five days of approving the application or renewal. A designated caregiver must have a registry identification card for each of his qualifying patients.

3. Issue each nonprofit medical marijuana dispensary agent a registry identification card and log-in information for the verification system within five days of approving the application or renewal.

B. The department may not issue a registry identification card to a qualifying patient who is under the age of eighteen unless:

1. The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian responsible for health care decisions for the qualifying patient.

2. A custodial parent or legal guardian responsible for health care decisions for the qualifying patient submits a written certification from two physicians.

3. The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:

(a) Allow the qualifying patient's medical use of marijuana.

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(b) Serve as the qualifying patient's designated caregiver.

(c) Control the acquisition of the marijuana, the dosage and the frequency of the medical use of marijuana by the qualifying patient.

C. A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States that allows a visiting qualifying patient to possess or use marijuana for medical purposes in the jurisdiction of issuance has the same force and effect when held by a visiting qualifying patient as a registry identification card issued by the department, except that a visiting qualifying patient is not authorized to obtain marijuana from a nonprofit medical marijuana dispensary.

36-2804.04. REGISTRY IDENTIFICATION CARDS

(Caution: 1998 Prop. 105 applies)

A. Registry identification cards for qualifying patients and designated caregivers shall contain all of the following:

1. Name, address and date of birth of the cardholder.
2. A statement of whether the cardholder is a qualifying patient or a designated caregiver.
3. The date of issuance and expiration date of the registry identification card.
4. A random 20-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder.
5. If the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting.
6. A photograph of the cardholder.

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7. A clear indication of whether the cardholder has been authorized by this chapter to cultivate marijuana plants for the qualifying patient's medical use.

B. Registry identification cards for nonprofit medical marijuana dispensary agents shall contain the following:

1. The name, address and date of birth of the nonprofit medical marijuana dispensary agent.

2. A statement that the cardholder is a nonprofit medical marijuana dispensary agent.

3. The legal name of the registered nonprofit medical marijuana dispensary with which the nonprofit medical marijuana dispensary agent is affiliated.

4. A random 20-digit alphanumeric identification number that is unique to the cardholder.

5. The date of issuance and expiration date of the registry identification card.

6. A photograph, if the department decides to require one.

C. If the registry identification card of either a qualifying patient or the patient's designated caregiver does not state that the cardholder is authorized to cultivate marijuana plants, then the department must give written notice to the registered qualifying patient, when the qualifying patient's registry identification card is issued, of the name and address of all registered nonprofit medical marijuana dispensaries.

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36-2804.05. DENIAL OF REGISTRY IDENTIFICATION CARD

(Caution: 1998 Prop. 105 applies)

A. The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

1. Does not meet the requirements of section 36-2801, paragraph 13.
2. Does not provide the information required.
3. Previously had a registry identification card revoked for violating this chapter.
4. Provides false information.

B. The department may deny an application or renewal of a designated caregiver's registry identification card if the applicant:

1. Does not meet the requirements of section 36-2801, paragraph 5.
2. Does not provide the information required.
3. Previously had a registry identification card revoked for violating this chapter.
4. Provides false information.

C. The department may deny a registry identification card to a nonprofit medical marijuana dispensary agent if:

1. The agent applicant does not meet the requirements of section 36-2801(10).
2. The applicant or dispensary did not provide the required information.
3. Previously had a registry identification card revoked for violating this chapter.
4. The applicant or dispensary provides false information.

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D. The department may conduct a criminal records check of each designated caregiver or nonprofit medical marijuana dispensary agent applicant to carry out this section.

E. The department shall give written notice to the registered nonprofit medical marijuana dispensary of the reason for denying a registry identification card to a nonprofit medical marijuana dispensary agent.

F. The department shall give written notice to the qualifying patient of the reason for denying a registry identification card to the qualifying patient's designated caregiver.

G. Denial of an application or renewal is considered a final decision of the department subject to judicial review pursuant to title 12, chapter 7, article 6. Jurisdiction and venue for judicial review are vested in the superior court.

36-2804.06. EXPIRATION AND RENEWAL OF REGISTRY IDENTIFICATION CARDS AND REGISTRATION CERTIFICATES; REPLACEMENT

(Caution: 1998 Prop. 105 applies)

A. All registry identification cards and registration certificates expire one year after date of issue.

B. A registry identification card of a nonprofit medical marijuana dispensary agent shall be cancelled and his access to the verification system shall be deactivated upon notification to the department by a registered nonprofit medical marijuana dispensary that the nonprofit medical marijuana dispensary agent is no longer employed by or no longer volunteers at the registered nonprofit medical marijuana dispensary.

C. A renewal nonprofit medical marijuana dispensary registration certificate shall be issued within ten days of receipt of the prescribed renewal application and renewal fee from a registered nonprofit medical marijuana dispensary if its registration certificate is not under suspension and has not been revoked.

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D. If a cardholder loses his registry identification card, he shall promptly notify the department. Within five days of the notification, and upon payment of a ten dollar fee, the department shall issue a new registry identification card with a new random identification number to the cardholder and, if the cardholder is a registered qualifying patient, to the registered qualifying patient's registered designated caregiver, if any.

36-2805. FACILITY RESTRICTIONS

(Caution: 1998 Prop. 105 applies)

A. Any nursing care institution, hospice, assisted living center, assisted living facility, assisted living home, residential care institution, adult day health care facility or adult foster care home licensed under title 36, chapter 4, may adopt reasonable restrictions on the use of marijuana by their residents or persons receiving inpatient services, including:

1. That the facility will not store or maintain the patient's supply of marijuana.
2. That the facility, caregivers or hospice agencies serving the facility's residents are not responsible for providing the marijuana for qualifying patients.
3. That marijuana be consumed by a method other than smoking.
4. That marijuana be consumed only in a place specified by the facility.

B. Nothing in this section requires a facility listed in subsection A to adopt restrictions on the medical use of marijuana.

C. A facility listed in subsection A may not unreasonably limit a registered qualifying patient's access to or use of marijuana authorized under this chapter unless failing to do so would cause facility to lose a monetary or licensing-related benefit under federal law or regulations.

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36-2806. REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES; REQUIREMENTS

(Caution: 1998 Prop. 105 applies)

A. A registered nonprofit medical marijuana dispensary shall be operated on a not-for-profit basis. The bylaws of a registered nonprofit medical marijuana dispensary shall contain such provisions relative to the disposition of revenues and receipts to establish and maintain its nonprofit character. A registered nonprofit medical marijuana dispensary need not be recognized as tax-exempt by the internal revenue service and is not required to incorporate pursuant to title 10, chapter 19, article 1.

B. The operating documents of a registered nonprofit medical marijuana dispensary shall include procedures for the oversight of the registered nonprofit medical marijuana dispensary and procedures to ensure accurate recordkeeping.

C. A registered nonprofit medical marijuana dispensary shall have a single secure entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

D. A registered nonprofit medical marijuana dispensary is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' designated caregivers.

E. All cultivation of marijuana must take place in an enclosed, locked facility at a physical address provided to the department during the registration process, which can only be accessed by registered nonprofit medical marijuana dispensary agents associated in the registry with the nonprofit medical marijuana dispensary.

F. A registered nonprofit medical marijuana dispensary may acquire usable marijuana or marijuana plants from a registered qualifying patient or a registered designated caregiver only if the registered qualifying patient or registered designated caregiver receives no compensation for the marijuana.

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G. A nonprofit medical marijuana dispensary shall not permit any person to consume marijuana on the property of a nonprofit medical marijuana dispensary.

H. Registered nonprofit medical marijuana dispensaries are subject to reasonable inspection by the department. The department shall give reasonable notice of an inspection under this subsection.

36-2806.01. DISPENSARY LOCATIONS

(Caution: 1998 Prop. 105 applies)

Cities, towns and counties may enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries to specified areas in the manner provided in title 9, chapter 4, article 6.1, and title 11, chapter 6, article 2.

36-2806.02. DISPENSING MARIJUANA FOR MEDICAL USE

(Caution: 1998 Prop. 105 applies)

A. Before marijuana may be dispensed to a registered designated caregiver or a registered qualifying patient, a nonprofit medical marijuana dispensary agent must access the verification system and determine for the registered qualifying patient for whom the marijuana is intended and any registered designated caregiver transporting the marijuana to the patient, that:

1. The registry identification card presented to the registered nonprofit medical marijuana dispensary is valid.
2. Each person presenting a registry identification card is the person identified on the registry identification card presented to the nonprofit medical marijuana dispensary agent.

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3. The amount to be dispensed would not cause the registered qualifying patient to exceed the limit on obtaining no more than two-and-one-half ounces of marijuana during any fourteen-day period.

B. After making the determinations required in subsection A, but before dispensing marijuana to a registered qualifying patient or a registered designated caregiver on a registered qualifying patient's behalf, a nonprofit medical marijuana dispensary agent must enter the following information in the verification system:

1. How much marijuana is being dispensed to the registered qualifying patient.
2. Whether it was dispensed directly to the registered qualifying patient or to the registered qualifying patient's registered designated caregiver.
3. The date and time the marijuana was dispensed.
4. The registry identification card number of the nonprofit medical marijuana dispensary and of the nonprofit medical marijuana dispensary agent who dispensed the marijuana.

36-2807. VERIFICATION SYSTEM

(Caution: 1998 Prop. 105 applies)

A. Within one hundred twenty days of the effective date of this chapter, the department shall establish a secure, password-protected, web-based verification system for use on a twenty-four hour basis by law enforcement personnel, nonprofit medical marijuana dispensary agents and employers to verify registry identification cards. An employer may use the verification system only to verify a registry identification card that is provided to the employer by a current employee or by an applicant who has received a conditional offer of employment.

B. The verification system must allow law enforcement personnel and nonprofit medical marijuana dispensary agents to enter a registry identification number and verify whether the number corresponds with a current, valid identification card.

C. The system shall disclose:

1. The name of the cardholder, but must not disclose the cardholder's address.

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2. The amount of marijuana that each registered qualifying patient received from nonprofit medical marijuana dispensaries during the past sixty days.

D. The verification system must include the following data security features:

1. Any time an authorized user enters five invalid registry identification numbers within five minutes, that user cannot log in to the system again for ten minutes.

2. A users log-in information shall be deactivated after five incorrect login attempts until the authorized user contacts the department and verifies the user's identity.

3. The server must reject any log-in request that is not over an encrypted connection.

36-2808. NOTIFICATIONS TO DEPARTMENT; CIVIL PENALTY

(Caution: 1998 Prop. 105 applies)

A. A registered qualifying patient shall notify the department within ten days of any change in the registered qualifying patient's name, address, designated caregiver or preference regarding who may cultivate marijuana for the registered qualifying patient or if the registered qualifying patient ceases to have his debilitating medical condition.

B. A registered designated caregiver or nonprofit medical marijuana dispensary agent shall notify the department within ten days of any change in his name or address.

C. When a cardholder notifies the department of any changes listed in subsection A but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with new random 20-digit alphanumeric identification numbers within ten days of receiving the updated information and a ten-dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue his registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.

D. If the registered qualifying patient's certifying physician notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the physician no longer believes the patient would

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receive therapeutic or palliative benefit from the medical use of marijuana, the card is void upon notification by the department to the qualifying patient.

E. When a registered qualifying patient ceases to be a registered qualifying patient or changes registered designated caregiver, the department shall promptly notify the former designated caregiver that his duties and rights under this chapter as to that qualifying patient expire fifteen days after notification by the department is sent.

F. A registered qualifying patient, designated caregiver or nonprofit medical marijuana dispensary agent who fails to comply with subsection A or B is subject to a civil penalty of not more than one hundred fifty dollars.

36-2809. ANNUAL REPORT

(Caution: 1998 Prop. 105 applies)

The department shall submit to the legislature an annual report that does not disclose any identifying information about cardholders, nonprofit medical marijuana dispensaries or physicians but contains at least all of the following information:

1. The number of registry identification card applications and renewals.
2. The number of qualifying patients and designated caregivers approved in each county.
3. The nature of the debilitating medical conditions of the qualifying patients.
4. The number of registry identification cards revoked.
5. The number of physicians providing written certifications for qualifying patients.
6. The number of registered nonprofit medical marijuana dispensaries.
7. The number of nonprofit medical marijuana dispensary agents in each county.

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36-2810. CONFIDENTIALITY

(Caution: 1998 Prop 105 applies)

A. The following information received and records kept by the department for purposes of administering this chapter are confidential, exempt from title 39, chapter 1, article 2, exempt from section 36-105 and not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the department to perform official duties of the department pursuant to this chapter:

1. Applications or renewals, their contents and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and physicians.

2. Applications or renewals, their contents and supporting information submitted by or on behalf of nonprofit medical marijuana dispensaries in compliance with this chapter, including the physical addresses of nonprofit medical marijuana dispensaries.

3. The individual names and other information identifying persons to whom the department has issued registry identification cards.

B. Any dispensing information required to be kept under section 36-2806.02, subsection B or department regulation shall identify cardholders by their registry identification numbers and not contain names or other personally identifying information.

C. Any department hard drives or other data recording media that are no longer in use and that contain cardholder information must be destroyed. The department shall retain a signed statement from a department employee confirming the destruction.

D. Data subject to this section shall not be combined or linked in any manner with any other list or database and shall not be used for any purpose not provided for in this chapter.

E. This section does not preclude the following notifications:

1. Department employees may notify law enforcement about falsified or fraudulent information submitted to the department if the employee who suspects that falsified or fraudulent information has been submitted has conferred with the employee's supervisor and both agree that the circumstances warrant reporting.

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2. The department may notify state or local law enforcement about apparent criminal violations of this chapter if the employee who suspects the offense has conferred with the employee's supervisor and both agree that the circumstances warrant reporting.

3. Nonprofit medical marijuana dispensary agents may notify the department of a suspected violation or attempted violation of this chapter or department rules.

4. The department may notify the Arizona medical board, the Arizona board of osteopathic examiners in medicine and surgery, the naturopathic physicians medical board and the board of homeopathic and integrated medicine examiners if the department believes a physician has committed an act of unprofessional conduct as prescribed by the appropriate board's statutes because of the licensee's failure to comply with the requirements of this chapter or rules adopted pursuant to this chapter.

F. This section does not preclude submission of the section 36-2809 report to the legislature. The annual report submitted to the legislature is subject to title 39, chapter 1, article 2.

36-2811. PRESUMPTION OF MEDICAL USE OF MARIJUANA; PROTECTIONS; CIVIL PENALTY

(Caution: 1998 Prop. 105 applies)

A. There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana pursuant to this chapter.

1. The presumption exists if the qualifying patient or designated caregiver:

(a) Is in possession of a registry identification card.

(b) Is in possession of an amount of marijuana that does not exceed the allowable amount of marijuana.

2. The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical

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condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to this chapter.

B. A registered qualifying patient or registered designated caregiver is not subject to arrest, prosecution or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau:

1. For the registered qualifying patient's medical use of marijuana pursuant to this chapter, if the registered qualifying patient does not possess more than the allowable amount of marijuana.
2. For the registered designated caregiver assisting a registered qualifying patient to whom he is connected through the department's registration process with the registered qualifying patient's medical use of marijuana pursuant to this chapter if the registered designated caregiver does not possess more than the allowable amount of marijuana.
3. For offering or providing marijuana to a registered qualifying patient or a registered designated caregiver for the registered qualifying patient's medical use or to a registered nonprofit medical marijuana dispensary if nothing of value is transferred in return and the person giving the marijuana does not knowingly cause the recipient to possess more than the allowable amount of marijuana.

C. A physician shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Arizona board of medical examiners or by any other business, occupational or professional licensing board or bureau, based solely on providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition, but nothing in this chapter prevents a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

D. No person may be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

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1. Providing a registered qualifying patient, a registered designated caregiver or a registered nonprofit medical marijuana dispensary with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana.

2. Being in the presence or vicinity of the medical use of marijuana authorized under this chapter.

3. Assisting a registered qualifying patient with administering marijuana as authorized by this chapter.

E. A registered nonprofit medical marijuana dispensary is not subject to prosecution; search or inspection, except by the department pursuant to section 36-2806, subsection H; seizure or penalty in any manner and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and department regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell or dispense marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients or to other registered nonprofit medical marijuana dispensaries.

F. A registered nonprofit medical marijuana dispensary agent is not subject to arrest, prosecution, search, seizure or penalty in any manner and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or occupational or professional licensing board or entity, for working or volunteering for a registered nonprofit medical marijuana dispensary pursuant to this chapter and department regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell or dispense marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients or to other registered nonprofit medical marijuana dispensaries.

G. Property, including all interests in the property, otherwise subject to forfeiture under title 13, chapter 39, that is possessed, owned or used in connection with the medical use of marijuana authorized under this chapter or acts incidental to the medical use of marijuana authorized under this chapter, is not subject to seizure or forfeiture. This subsection does not prevent civil forfeiture if the basis for the forfeiture is unrelated to the medical use of marijuana.

H. Mere possession of, or application for, a registry identification card may not constitute probable cause or reasonable suspicion, nor may it be used to support the search of the person or property of the person possessing or applying for the registry

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identification card. The possession of, or application for, a registry identification card does not preclude the existence of probable cause if probable cause exists on other grounds.

I. No school, landlord or employer may be penalized or denied any benefit under state law for enrolling, leasing to or employing a registered qualifying patient or a registered designated caregiver.

36-2813. DISCRIMINATION PROHIBITED

(Caution: 1998 Prop. 105 applies)

A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a cardholder, unless failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

B. Unless a failure to do so would cause an employer to lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:

1. The person's status as a cardholder.

2. A registered qualifying patient's positive drug test for marijuana components or metabolites, unless the patient used, possessed or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

C. For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

D. No person may be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence

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36-2814. ACTS NOT REQUIRED; ACTS NOT PROHIBITED

(Caution: 1998 Prop. 105 applies)

A. Nothing in this chapter requires:

1. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana.
2. Any person or establishment in lawful possession of property to allow a guest, client, customer or other visitor to use marijuana on or in that property.
3. An employer to allow the ingestion of marijuana in any workplace or any employee to work while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

B. Nothing in this chapter prohibits an employer from disciplining an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

36-2815. REVOCATION

(Caution: 1998 Prop. 105 applies)

A. The department shall immediately revoke the registry identification card of a nonprofit medical marijuana dispensary agent who violates section 36-2804.01, subsection D, or section 36-2816, subsection B. The department shall suspend or revoke the registry identification card of a nonprofit medical marijuana dispensary agent for other violations of this chapter.

B. The department shall immediately revoke the registration certificate of a registered nonprofit medical marijuana dispensary that violates section 2816, subsections B or C,

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and its board members and principal officers may not serve as the board members or principal officers for any other registered nonprofit medical marijuana dispensary.

C. Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter shall have his registry identification card revoked, and shall be subject to other penalties for the unauthorized sale of marijuana and other applicable offenses.

D. The department may revoke the registry identification card of any cardholder who knowingly violates this chapter, and the cardholder shall be subject to other penalties for the applicable offense.

E. Revocation is a final decision of the department subject to judicial review pursuant to title 12, chapter 7, article 6. Jurisdiction and venue are vested in the superior court.

36-2816. VIOLATIONS; CIVIL PENALTY; CLASSIFICATION

(Caution: 1998 Prop. 105 applies)

A. A registered qualifying patient may not directly, or through his designated caregiver, obtain more than two-and-one-half ounces of marijuana from registered nonprofit medical marijuana dispensaries in any fourteen-day period.

B. A registered nonprofit medical marijuana dispensary or agent may not dispense, deliver or otherwise transfer marijuana to a person other than another registered nonprofit medical marijuana dispensary, a registered qualifying patient or a registered qualifying patient's registered designated caregiver.

C. A registered nonprofit medical marijuana dispensary may not acquire usable marijuana or mature marijuana plants from any person other than another registered nonprofit medical marijuana dispensary, a registered qualifying patient or a registered designated caregiver. A knowing violation of this subsection is a class 2 felony.

D. It is a class 1 misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter.

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E. Making false statements to a law enforcement official about any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is subject to a civil penalty of not more than five hundred dollars, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this chapter.

36-2817. MEDICAL MARIJUANA FUND; PRIVATE DONATIONS

(Caution: 1998 Prop. 105 applies)

A. The medical marijuana fund is established consisting of fees collected, civil penalties imposed and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.

B. The director of the department may accept and spend private grants, gifts, donations, contributions and devises to assist in carrying out the provisions of this chapter.

C. Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.

36-2818. ENFORCEMENT OF THIS ACT; MANDAMUS

(Caution: 1998 Prop. 105 applies)

A. If the department fails to adopt regulations to implement this chapter within one hundred twenty days of the effective date of this chapter, any citizen may commence a mandamus action in superior court to compel the department to perform the actions mandated under this chapter.

B. If the department fails to issue a registry identification card within forty-five days of the submission of a valid application or renewal, the registry identification card shall be

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deemed issued, and a copy of the registry identification card application or renewal is deemed a valid registry identification card.

C. If at any time after the one hundred forty days following the effective date of this chapter the department is not accepting applications or has not promulgated rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application pursuant to section 36-2804.02, subsection A, paragraph 3, together with a written certification issued by a physician within the ninety days immediately preceding the notarized statement, shall be deemed a valid registry identification card.

36-2819. FINGERPRINTING REQUIREMENTS

(Caution: 1998 Prop. 105 applies)

Each person applying as a designated caregiver, a principal officer, agent or employee of a nonprofit medical marijuana dispensary or a medical marijuana dispensary agent shall submit a full set of fingerprints to the department for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and public law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation without disclosing that the records check is related to the medical marijuana act and acts permitted by it. The department shall destroy each set of fingerprints after the criminal records check is completed.

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