



Colorado Department
of Public Health
and Environment

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
Health and Environmental Information and Statistics Division

MEDICAL USE OF MARIJUANA

5 CCR 1006-2
(PROMULGATED BY THE STATE BOARD OF HEALTH)
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[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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

- A. The Colorado Department of Public Health and Environment (“the department”) shall create and maintain a confidential registry (“the registry”) of patients who have applied for and are entitled to receive a registry identification card. All personal medical records and personal identifying information held by the department in compliance with these regulations shall be confidential information. No person shall be permitted to gain access to any information about patients in this registry, or any information otherwise maintained in the registry by the department about physicians and primary care-givers of patients in the registry, except for authorized employees of the department in the course of their official duties and authorized employees of state and local law enforcement agencies which have stopped or arrested a person who claims to be engaged in the medical use of marijuana and in possession of a registry identification card issued pursuant to regulations two and three. The department may release information concerning a specific patient to that patient with the written authorization of such patient.
- B. Any officer or employee or agent of the department who violates this regulation by releasing or making public confidential information in the registry shall be subject to any existing statutory penalties for a breach of confidentiality of the registry.

Regulation 2: Application for a registry identification card

A. DEFINITIONS

- i) An “adult applicant” is defined as a patient eighteen years of age or older. A “minor applicant” is defined as a patient less than eighteen years of age.
- ii) “Primarycare-giver” means a person other than the patient and the patient’s physician, who is eighteen years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.
- iii) “Significant responsibility for managing the well-being of a patient” means assisting a patient with daily activities, including but not limited to transportation or housekeeping or meal preparation or shopping or making any necessary arrangement for access to medical care or services or provision of medical marijuana.
- B. In order to be placed in the registry and to receive a registry identification card, an adult applicant must reside in Colorado and submit an application form supplied by the department, completed and notarized. The adult applicant must provide the following information with the application:
- i) The applicant’s name, address, date of birth, and social security number;
- ii) The name and address of the applicant’s primary care-giver, if one is designated at the time of application;

- iii) Written documentation from the applicant's physician that the applicant has been diagnosed with a debilitating medical condition as defined in regulation six and the physician's conclusion that the applicant might benefit from the medical use of marijuana; and
 - iv) The name, address, and telephone number of the physician who has concluded the applicant might benefit from the medical use of marijuana; and
 - v) A copy of a secure and verifiable identity document, in compliance with the Secure and Verifiable Document Act, C.R.S. §24-72.1-101 et seq., for the patient and primary care-giver, if any is designated.
- C. In order for a minor applicant to be placed in the registry and to receive a registry identification card, the minor applicant must reside in Colorado and a parent residing in Colorado must consent in writing to serve as the minor applicant's primary care-giver. Such parent must submit an application form supplied by the department. The parent of the minor applicant must provide the following information with the application:
- i) The applicant's name, address, date of birth, and social security number,
 - ii) Written documentation from two of the applicant's physicians that the applicant has been diagnosed with a debilitating medical condition as defined in regulation six and each physician's conclusion that the applicant might benefit from the medical use of marijuana;
 - iii) The name, address, and telephone number of the two physicians who have concluded the applicant might benefit from the medical use of marijuana;
 - iv) Consent from each of the applicant's parents residing in Colorado that the applicant may engage in the medical use of marijuana; and
 - v) 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.
- 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, 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.

Regulation 3: Verification of medical information; issuance, denial, revocation, and form of registry identification cards

- A. The department shall verify medical information contained in the patient's application within thirty days of receiving the application. Verification of medical information shall consist of determining that there is documentation stating the applicant has a current diagnosis with a debilitating medical condition as defined in regulation six by a physician who has a current license to practice medicine issued by the State of Colorado.
- B. No more than five days after verifying medical information of the applicant, the department shall issue a serially numbered registry identification card to the patient. The card shall state the following:
 - i) The patient's name, address, date of birth, and social security number;

- ii) That the patient's name has been certified to the department as a person with a debilitating medical condition, whereby the person may address such condition with the medical use of marijuana;
 - iii) The date of issuance of such card and the date of expiration, which shall be one year from the date of issuance;
 - iv) The name and address of the patient's primary care-giver, if any is designated at the time of application;
 - v) How to notify the department of any change in name, address, medical status, physician, or primary care-giver.
- C. Except for minor applicants, where the department fails within thirty-five days of receipt of application to issue a registry identification card or fails to issue verbal or written notice of denial of such application, the patient's application for such card will be deemed to have been approved. "Receipt" shall be deemed to have occurred upon delivery to the department or deposit in the United States mail. No application shall be deemed received prior to June 1, 2001.
- D. The department shall deny the application if it determines that information has been falsified or it cannot verify the medical information as provided in paragraph A of this regulation. A patient whose application has been denied by the department may not reapply during the six months following the date of denial. The denial of a registry identification card shall be considered a final agency action.
- E. In addition to any other penalties provided by law, the department shall revoke for a period of one year the registry identification card of any patient found to have willfully violated the provisions of Section 14 of Amendment 20 of the Colorado Constitution or the implementing legislation of Section 14.

Regulation 4: Change in applicant information

- A. When there has been a change in the name, address, physician or primary care-giver of a patient who has been issued a registry identification card, that patient must notify the department within ten days by submitting a completed and notarized Change of Address or Care-giver form as prescribed by the Department. A patient who has not designated a primary care-giver at the time of application to the department may do so in writing at any time during the effective period of the registry identification card, and the primary care-giver may act in this capacity after such designation. The Department shall not issue a new registry identification card to the patient on the sole basis of a new or change of primary care-giver.
- B. A patient who no longer has a debilitating medical condition as defined in regulation six shall return his registry identification card to the department within twenty-four hours of receiving such information by his or her physician.

Regulation 5: Communications with law enforcement officials about patients in the registry

- A. Authorized employees of state or local law enforcement agencies shall be granted access to the information contained within the department's registry only for the purpose of verifying that an individual who has presented a registry identification card to a state or local law enforcement official is lawfully in possession of such card. The department shall report to authorized state or local law enforcement officials whether a patient's registry identification card has been suspended because the patient no longer has a debilitating medical condition.

- B. Authorized employees of state or local law enforcement agencies shall immediately notify the department when any person in possession of a registry identification card has been determined by a court of law to have willfully violated the provisions of this section 14 of the Colorado constitution or its implementing legislation, or has pled guilty to such offense.

Regulation 6: Debilitating medical conditions and the process for adding new debilitating medical conditions

- A. Debilitating medical conditions are defined as cancer, glaucoma, and infection with or positive status for human immunodeficiency virus. Patients undergoing treatment for such conditions are defined as having a debilitating medical condition.
- B. Debilitating medical condition also includes a chronic or debilitating disease or medical condition other than HIV infection, cancer or glaucoma; or treatment for such conditions, which produces for a specific patient one or more of the following, and for which, in the professional opinion of the patient's physician, such condition or conditions may reasonably be alleviated by the medical use of marijuana: cachexia; severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis.
- C. Patients who have had a diagnosis of a debilitating medical condition in the past but do not have active disease and are not undergoing treatment for such condition are not suffering from a debilitating medical condition for which the medical use of marijuana is authorized.
- D. Beginning June 1, 2001, the department shall accept physician or patient petitions to add debilitating medical conditions to the list provided in paragraphs A and B of this regulation. The department shall determine if a public rulemaking hearing to modify this regulation is appropriate, and if so, shall petition the Board of Health to set a date for such hearing within one hundred twenty days of receipt of the patient or physician petition. If the department determines that a public rulemaking hearing is not appropriate, it shall notify the petitioner of its action within one hundred eighty days of receipt of submission of the petition. In making its determination, the department will consider whether there is information that the proposed condition is chronic, debilitating, and may be specifically diagnosed, and whether there is scientific evidence that treatment with marijuana may have a beneficial effect.

Regulation 7: Determination of fees to pay for administrative costs of the medical use of marijuana program

- A. Application fee. The department shall collect ninety dollars from each applicant at the time of application to pay for the direct and indirect costs to administer the medical use of marijuana program, unless the applicant meets the criteria set forth in section (b) of this Regulation (7) establishing indigency. Such fee shall not be refundable to the applicant if the application is denied or revoked or if the patient no longer has a debilitating medical condition. The amount of the fee shall be evaluated annually by the department, and the department shall propose modifications to the board, as appropriate. If the patient provides updated information at any time during the effective period of the registry identification card, the department shall not charge a fee to modify the registry information concerning the patient.
- B. Indigency fee waiver. Any individual submitting an application for the registry may request an indigency fee waiver if he or she is eligible for and receives any of the following federal and/or state benefits at the time of application:
 - 1. Supplemental Security Income (SSI) benefits; or
 - 2. Food Assistance.

- C. Procedures to request an indigency fee waiver. An applicant who meets the criteria for an indigency fee waiver may request on the application an indigency fee waiver and submit the registry application to the department without an application fee. Applicants must provide proof of current receipt of the federal or state benefits listed in paragraph b. Of this regulation as determined by the department.
- D. Notification of indigent status. Individuals who meet the indigency standard after they have been approved for the medical marijuana registry may complete a form, to be determined by the department, notifying the department of their status and supplying proof of eligibility as determined by the department. Upon receipt and confirmation of the information, the department shall issue a new medical marijuana registry card for the remaining term of the current card noting said indigent status for tax exemption purposes.
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Editor's Notes

History

Regulation 7 eff. 07/30/2007.

Entire Rule eff. 08/30/2009.

Regulation 2.A(iii) repealed as emer. rule eff. 11/03/2009; expired 02/03/2010.

Regulation 7 eff. 11/30/2010.

Annotations

A Denver district court (Case No: 2007 CV 6089, LaGoy v. Ritter, et al) has enjoined the enforcement of the emergency rule repealing Regulation 2.A.iii eff. 11/03/2009. Per agency request, prior Regulation 2.A.iii, eff. 08/30/2010, has been restored to its place in 5 CCR 1006-2, in order to effectuate the intent of the Court and the parties that the prior regulation be reinstated.