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## **The Fifteen States and One Federal District With Effective Medical Marijuana Laws**

Fifteen U.S. states and the District of Columbia have enacted laws that remove criminal sanctions for the medical use of marijuana and define eligibility for such use. In each case, a doctor's recommendation or certification is required for a patient to qualify. In all of those laws, except California's, the physician must certify that the patient has a serious medical condition or symptom that is listed in the law. All of the 16 laws include cancer, AIDS, seizures, and multiple sclerosis as qualifying conditions, and all but New Jersey and the District of Columbia include severe pain and severe nausea. The laws also protect physicians who make the recommendations and designated caregivers who may assist their patients. In all of the jurisdictions except Washington state, the patient can send an application, a fee, and the physician's certification in to a state health or public safety department and receive an ID card. The cards typically have to be renewed each year, though some states allow them to be renewed every two years.

Most of the laws specify that they do not allow marijuana to be smoked in public or possessed in correctional facilities. The laws generally specify that employers do not have to allow on-site marijuana use or employees working while impaired, and several specify that they do not protect conduct that would be considered negligent. They all provide that insurance is not required to cover the costs of medical marijuana.

Fourteen of the laws allow patients to cultivate a modest amount of marijuana at their homes. In one of those states, Arizona, patient cultivation is only allowed if the patient lives at least 25 miles away from a dispensary. Eight states and D.C. allow either for dispensaries or for caregivers who can cultivate marijuana for an unlimited number of patients. Those states are Arizona, California, Colorado, New Mexico, Maine, Montana, Rhode Island, and New Jersey. Of those nine laws, two — California and Montana — do not provide state regulation of dispensaries or large scale caregivers. The other seven provide for state regulation and inspections of dispensaries.

This paper provides a brief overview of key provisions of each of the 16 effective medical marijuana laws.

**California** — Proposition 215, a ballot initiative, passed with 56% of the vote in 1996, and the legislature added protections by passing S.B. 420 in 2003. In California, the legislature cannot amend a voter-initiative, so S.B. 420 is only supplementary. The laws are codified at Cal. Health and Safety Code §11362.5 and 11362.7 et seq.

**Qualifying for the Program:** California's law is the only one to allow doctors to recommend medical marijuana for any condition. Medical marijuana can be recommended for "cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief." Patients may get a registry identification card, but cards are not mandatory and the vast majority of patients rely on a written recommendation from a physician.

**Protections:** A patient is protected from "criminal prosecution or sanction" if he or she has a physician's recommendation for medical marijuana. To qualify as a primary caregiver in California, one must be designated by a patient and must have "consistently assumed

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responsibility for the housing, health, or safety of [the] patient.” Primary caregivers may cultivate marijuana for any number of patients. The California Supreme Court ruled in *Ross v. Ragingwire* that the law does not provide protection from being fired for testing positive for marijuana metabolites, even if the patient is never impaired at work.

**Possession Limits and Access:** California’s law allows a patient with a physician’s recommendation to possess at least 8 ounces of processed marijuana and cultivate six mature plants or 12 immature plants. Counties may set a higher threshold. Patients may also assert a defense in court for greater amounts.

S.B. 420 also provides that patients and caregivers “who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions ...” It also specifies that it does not “authorize any individual or group to cultivate or distribute marijuana for profit.” Based on this collective language, dispensaries are operating in many parts of California. While Attorney General Jerry Brown has issued guidelines on medical marijuana, state law provides no regulation or registration of them. Instead, many localities have moved to regulate them. Other localities have enacted bans, some of which are being challenged in court.

**Washington** — Measure 692, a ballot initiative, passed with 59% of the vote in 1998, and was modified by S.B. 6032 in 2007 and SB 5798 in 2010. It is codified at RCWA § 69.51A.010 et seq.

**Qualifying under the Law:** Washington is the only medical marijuana state without a registry identification card program. To qualify for protection under the law, a patient must have a signed statement on tamper-resistant paper from a Washington-licensed physician, physician assistant, naturopath, or advanced registered nurse practitioner who advised the patient of marijuana’s risks and benefits and advised the patient that he or she “may benefit from the medical use of marijuana.” Qualifying conditions include cancer, HIV, multiple sclerosis, epilepsy, seizure and spasm disorders, intractable pain, glaucoma, Crohn’s disease, Hepatitis C, and diseases causing nausea, vomiting, or appetite loss. Some of those conditions only qualify if they have been unrelieved by standard medical treatments. The health department may also add additional conditions and has done so.

**Protections, Access, and Possession Limits:** Washington’s law allows a patient with valid documentation and his or her designated provider to collectively possess a 60-day supply. The department of health presumptively defined a 60-day supply as 24 ounces of processed marijuana and 15 plants, but a patient could show in court that more marijuana is needed. A patient may designate a provider in writing. Providers must be 18 or older. In Washington, the possession, acquisition, and cultivation of marijuana on behalf of a minor patient is the parent or legal guardian’s responsibility. Washington’s law also does not provide protection from arrest. Instead, a patient can raise an affirmative defense in court. The law also provides that, “Any person meeting the requirements appropriate to his or her status under this chapter shall be considered to have engaged in activities permitted by this chapter and shall not be penalized in any manner, or denied any right or privilege, for such actions.” Washington law does not allow dispensaries and a person may only serve as a designated provider to one patient at a time.

**Alaska** — Measure 8, a ballot initiative, passed with 58% of the vote in 1998, and was modified by S.B. 94 in 1999. The law’s citation is AS § 17.37.010.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from an Alaska-licensed physician who has personally examined the patient stating that “the physician has considered other approved ... treatments that might provide relief ... and that the physician has concluded that the patient might benefit from the

medical use of marijuana.” A minor patient only qualifies with the consent of his or her parent or guardian and if the adult controls the dosage, acquisition, and frequency of use of the marijuana. The qualifying conditions in Alaska are cancer, HIV/AIDS, glaucoma, and conditions causing one or more of the following: cachexia, severe pain, severe nausea, seizures, or persistent muscle spasms, including those that are characteristic of multiple sclerosis. The health department can approve additional medical conditions.

**Protections, Access, and Possession Limits:** Alaska’s law allows a patient with a registry identification card to possess 1 ounce of processed marijuana and cultivate six plants, only three of which can be mature plants. Each patient may have one primary caregiver and one alternate caregiver. Caregivers must be 21 years of age or older and can only serve one patient, unless the caregiver is a relative of more than one patient. They cannot be on parole or probation and cannot have certain drug felonies. Alaska’s law does not include any protections for unregistered patients.

**Oregon** — Measure 67, a ballot initiative, passed with 55% of the vote in 1998, and was modified in 1999, 2005, and in 2008. It is codified at O.R.S. § 475.300 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from a physician who has primary responsibility for treating the patient that marijuana may mitigate their symptoms. A minor patient only qualifies with the consent of his or her parent or guardian and if the adult controls the dosage, acquisition, and frequency of use of the marijuana. The qualifying conditions in Oregon are cancer, HIV/AIDS, glaucoma, agitation related to Alzheimer’s disease, and conditions causing one or more of the following: cachexia, severe pain, severe nausea, seizures, or persistent muscle spasms, including those that are characteristic of multiple sclerosis. The health department can approve additional medical conditions.

**Protections:** Registered patients and caregivers are exempted from the state’s criminal laws for acting in accordance with the medical marijuana law. Patients may also assert an affirmative defense if they have a qualifying condition and a physician has recommended medical marijuana even with if they do not have a registry identification card. In April 2010, the Oregon Supreme Court ruled in *Emerald Steel v. BOLI* that patients are not protected from being penalized by their employers.

**Possession Limits and Access:** Patients can have one designated caregiver, who must have “significant responsibility for managing the well-being” of the patient. Patients can reimburse caregivers for the actual cost of supplies and utilities, but not for their labor. Oregon’s law allows a patient with a registry identification card or a primary caregiver to possess 24 ounces of processed marijuana and cultivate six mature plants and 18 immature plants for each patient the caregiver cultivates for. The grow site must be registered with the health department. Oregon’s law does not permit dispensaries: No one can produce marijuana for more than four cardholders at a time. The law includes an advisory committee made of patients and advocates to advise the department.

**Maine** — Question 2, a ballot initiative, passed with 61% of the vote in 1999, and was modified in 2002 by S.B. 611 and again in 2009 by Question 5, an initiative which passed with 59% of the vote. It was then amended by L.D. 1811 in 2010. Its citation is 22 MRSA § 2421 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from a physician that the patient has a bona fide relationship with that doctor and that the patient is "likely to receive therapeutic or palliative benefit" from the medical use of marijuana. A minor patient only qualifies with the consent of his or her parent or guardian and if the adult controls the dosage, acquisition, and frequency of use of the marijuana. The qualifying conditions in Maine are cancer, HIV/AIDS, hepatitis C, amyotrophic

lateral sclerosis, Crohn's diseases, nail patella, glaucoma, agitation related to Alzheimer's disease, and conditions causing one or more of the following: intractable pain, cachexia or wasting, severe nausea, seizures, or persistent muscle spasms. A health department-created advisory panel can approve additional medical conditions and make recommendations about what an adequate supply of marijuana would be. The department of health also administers the ID card program.

**Protections:** Maine's law allows a patient or caregiver with a registry identification card to possess 2.5 ounces of processed marijuana. It provides that those abiding by the act "may not be denied any right or privilege or be subjected to any penalty or disciplinary action" for doing so. It also prevents landlords and schools from discriminating based on a person's status as a caregiver or patient, though it allows landlords to prevent cultivation or smoking in their rental properties. It provides some protection for child custody and visitation rights. Maine honors visiting patients' out-of-state registry identification cards for up to 30 days, but they are not valid for obtaining marijuana. The law has an affirmative defense for unregistered patients with doctors' recommendations, but it expires on January 1, 2011.

**Possession Limits and Access:** A patient can choose to cultivate up to six plants in an enclosed, locked area, or can designate either a caregiver or a dispensary to do so for the patient. Adult patients can have a single caregiver and a caregiver can assist no more than five patients. Caregivers can receive reasonable monetary compensation. The health department inspects caregivers cultivating for three or more patients. Maine's law provides for state-regulated not-for-profit dispensaries. The department charges \$15,000 for each registration. Each dispensary employee must register with the department. The department developed rules for dispensaries' oversight, record keeping, and security. Dispensaries must be at least 500 feet from schools, they must have on-site parking, sufficient lighting, and electronic monitoring. Dispensaries must cultivate their own marijuana, either at the retail site or a second enclosed, locked cultivation location that must be registered with the department. Dispensaries can dispense no more than 2.5 ounces of marijuana to a patient every 15 days. The department may determine the number and location of dispensaries. In the first year, the number cannot exceed eight. As of November 19, 2010, eight have been licensed.

**Hawaii** — S.B. 862 was passed by the Hawaii Legislature in 2000. It was the first medical marijuana to be passed legislatively. Its citation is HRS § 329-121 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from a Hawaii physician that the "potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient." Although most states house their medical marijuana programs in their health departments, Hawaii's is administered by the state Department of Public Safety. The qualifying conditions in Hawaii are cancer, HIV/AIDS, glaucoma, and conditions causing one or more of the following: severe pain, cachexia or wasting, severe nausea, seizures, or severe and persistent muscle spasms. The health department can approve additional conditions. A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana.

**Protections, Access, and Possession Limits:** Hawaii's law allows a patient with a registry identification card and his or her caregiver to collectively possess 3 ounces of processed marijuana and cultivate three mature plants and four immature plants. Hawaii's law does not provide for dispensaries and a primary caregiver can only assist one patient at a time. There is also a "choice of evils" defense patients can raise.

**Colorado** — Amendment 20, a constitutional amendment ballot initiative, passed with 54% of the vote in 2000. On June 7, 2010 Gov. Ritter signed two bills amending the medical marijuana law, H.B. 1284 and S.B. 109. The citations of the statutes are CRS § 18-18-406.3 and 25-1.5-106

et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must reside in Colorado and submit a fee and written documentation from a physician in good standing in Colorado certifying that the patient "might benefit from the medical use of marijuana" in connection with a specified qualifying medical condition. The physician must have a treatment or consulting relationship with the patient and must have done a physical exam and be available for follow-up care. The qualifying conditions in Colorado are cancer, HIV/AIDS, glaucoma, and conditions causing one or more of the following: severe pain, cachexia, severe nausea, seizures, or persistent muscle spasms. The health department administers the ID card program and can approve additional qualifying conditions. A minor patient only qualifies with two physicians' authorizations, parental consent, and if the adult controls the dosage, frequency of use, and if they acquire the medical marijuana.

**Protections:** Colorado's law created an exception from the state's criminal laws for any patient or caregiver in possession of an ID card and a permissible amount of marijuana. The department is required to issue an ID card to a qualified applicant within 35 days of receiving an application. However, if the department fails to do so, 35 days after the submission of the application the patient's applications materials and proof of mailing will serve as an ID card. A patient and his or her caregiver may raise an affirmative defense for more than the specified amount only if the patient's physician specified that that patient needs a specific greater amount. It seems the defense can also be raised whether or not a patient has a registry ID card. The law also says that "the use of medical marijuana is allowed under state law" to the extent it is carried out in accordance with the state constitution, statutes, and regulations.

**Possession Limits and Access:** Each patient can possess up to 2 ounces of marijuana and can cultivate up to six plants, three of which may be mature. Patients can designate a single caregiver or a medical marijuana center to cultivate for them. A caregiver can assist no more than five patients, unless the department of health determines exceptional circumstances exist. A caregiver must have "significant responsibility for managing the well-being of a patient." Under a law that passed in June 2010, medical marijuana centers and entities that make marijuana-infused products must be licensed by their locality and a state licensing authority under the department of revenue. There are several regulations spelled out in the law including for medical marijuana centers' security, proximity to schools, and hours of operation. On-site marijuana use is forbidden. Caregivers must have a waiver from the department to be allowed to pick up marijuana for homebound patients. In addition, the licensing authority is developing additional regulations and set fees, and will have the authority to impose penalties, including suspending and revoking licenses. The state's medical marijuana center fees range from \$7,500 to \$18,000. The infused products and cultivation fees are each \$1,200. Medical marijuana centers must cultivate at least 70% of the marijuana they dispense, and the rest can only be purchased from other medical marijuana centers. Although there is an exception, a center generally can possess no more than six plants and 2 ounces per patient who designates it. Medical marijuana is subject to sales tax, except for individual patients who the department finds are indigent. Up to \$2 million per year in medical marijuana sales tax revenue will be appropriated to services related to substance abuse. The medical marijuana center licensing provisions sunset on July 1, 2015. In July 2010, 717 medical marijuana centers paid licensing fees, as did 217 infused products producers and 1,071 growers.

**Other:** The state licensing authority is directed to petition the federal DEA to reschedule marijuana.

**Nevada** — Question 9, a constitutional amendment ballot initiative, passed first in 1998 and then with 65% of the vote in 2000. It was implemented by A.B. 453 in 2001, which was revised by A.B. 519 in 2005. Question nine is Article 4, section 38 of the Nevada Constitution. The statutory provisions are codified at NRS § 453A.010 et seq.

**Qualifying for the Program:** To qualify for an ID card in Nevada, a patient must have a qualifying condition and a statement from a Nevada physician who has responsibility for caring for or treating the patient that marijuana "may mitigate the symptoms or effects" of their condition. A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana. The qualifying conditions in Nevada are cancer, HIV/AIDS, glaucoma, and conditions causing one or more of the following: severe pain, cachexia, severe nausea, seizures, or persistent muscle spasms. The department can approve additional conditions.

**Protections, Access, and Possession Limits:** Nevada's law allows a patient with a registry identification card and his or her caregiver to collectively possess 1 ounce of processed marijuana and cultivate three mature plants and four immature plants. It does not provide for dispensaries. Caregivers must have significant responsibility for managing a qualifying patient's wellbeing. Nevada's law does not allow anyone to deliver marijuana for compensation, including to qualified patients. Patients with qualifying conditions may assert an affirmative defense if they have been advised by a physician that marijuana may mitigate their condition, even if they do not have an ID card. This defense may also be raised by people assisting patients and for greater amounts of marijuana if the amounts are "medically necessary as determined by the person's attending physician."

**Other:** The law also requires the University of Nevada School of Medicine to seek federal approval for a research program for the distribution of medical marijuana and for the federal government to set up a seed bank for qualified patients.

**Vermont** — S. 76 was passed by the Vermont legislature in 2004 and modified by S. 7 in 2007. The law's citation is 18 VSA § 4472–4474.

**Qualifying for the Program:** Vermont is one of two states where the department issuing ID cards is the department of public safety. To qualify for an ID card, a patient must have a statement from a Vermont, Massachusetts, New York, or New Hampshire-licensed physician who has treated the patient for at least six months that the patient has a qualifying medical condition. Those conditions are cancer, multiple sclerosis, or HIV/AIDS if the disease results in severe and intractable symptoms, or a chronic, debilitating condition causing one or more of the following, which can not have responded to reasonable medical efforts over a reasonable period of time: severe pain, cachexia, severe nausea, or seizures. A minor patient only qualifies if his or her parent or guardian also signs the application.

**Protections, Access, and Possession Limits:** Vermont's law allows a patient with a registry identification card and his or her caregiver to collectively possess 2 ounces of processed marijuana and cultivate two mature plants and seven immature plants. Cultivation must occur in a locked indoor location. The law does not provide for dispensaries. Caregivers must be 21 and have no drug-related convictions. They can only assist one patient. Vermont's law does not include any protections for unregistered patients.

**Montana** — I-148, a ballot initiative, passed with 62% of the vote in 2004. It was amended by S.B. 325 in 2009. It was codified at MCA § 50-46-101 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from a physician that the patient has a bona fide relationship with that physician and that "the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient." A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana. In May 2010, the state Board of Medical Examiners listed requirements for physicians to abide by the required standard of care, including taking a medical history,

performing an exam, reviewing test results, monitoring the response to treatment, and maintaining patient records. The qualifying conditions in Montana are cancer, HIV/AIDS, glaucoma, and conditions causing one or more of the following: severe or chronic pain, cachexia or wasting, severe nausea, seizures, or severe or persistent muscle spasms. The health department is responsible for issuing ID cards and may approve additional medical conditions.

**Protections:** Montana's law provides that those abiding by the act "may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry" for the medical use of marijuana in accordance with the act. Montana honors visiting patients' out-of-state registry identification cards. In addition to the ID card's protections, the law has an affirmative defense that is available to people with a physician's recommendation and an amount of marijuana "that is reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of the medical condition" and to a person who provides marijuana to a person with a recommendation.

**Possession Limits and Access:** Montana's law allows a registered patient and his or her registered caregiver to possess 1 ounce of marijuana and up to six plants. Although the law does not mention dispensaries, it also does not limit the number of patients a caregiver can serve. Caregivers can receive reasonable compensation. Cities and counties are starting to enact regulations on dispensaries, and state legislation is expected in 2011 to impose additional regulations on large-scale providers.

**Rhode Island** — S. 710 was passed by the Rhode Island legislature in 2006 and amended by S. 791 in 2007, H. 5359 in 2009, and S 2834 in 2010. It is codified at RIGL § 21-28.6-3 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from a prescriber who is licensed in Rhode Island or a physician licensed in Massachusetts or Connecticut that the patient has a bona fide relationship with that physician and that the "potential benefits of the medical use of marijuana would likely outweigh the health risks" for the patient. A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana. The qualifying conditions in Rhode Island are cancer, HIV/AIDS, hepatitis C, glaucoma, agitation related to Alzheimer's disease, and conditions causing one or more of the following: severe, debilitating pain; cachexia or wasting syndrome; severe nausea; seizures; or persistent muscle spasms. The health department administers the ID card program and may approve additional qualifying conditions.

**Protections:** Rhode Island's law provides that cardholders abiding by the act "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 a business or occupational or professional licensing board or bureau, for the medical use of marijuana." It also explicitly prevents landlords, employers, and schools from discriminating based on a person's status as a caregiver or patient. The law also provides that medical marijuana shall be considered a treatment, not an illicit substance, for the purposes of medical care, such as qualification for an organ transplant. Rhode Island honors visiting patients' out-of-state registry identification cards. The law has an affirmative defense for patients with doctors' recommendations and permissible amounts of marijuana.

**Possession Limits and Access:** Each patient can possess up to 2.5 ounces of marijuana and can cultivate up to 12 plants and 12 seedlings in an enclosed, locked area. Patients can also designate up to two caregivers or compassion centers to cultivate for them. A caregiver can assist no more than five patients. Caregivers can possess 2.5 ounces per patient they assist and

12 plants per patient, but their total cap is 24 plants and 5 ounces. Caregivers can receive reimbursement for their costs associated with assisting a patient. Rhode Island's law provides for up to three state-regulated not-for-profit compassion centers. The department will charge \$5,000 annually for each registration and \$250 for applications. Each compassion center employee must register with the department. The department has developed rules for dispensaries' oversight, record keeping, and security as well as a competitive application scoring process. Compassion centers must cultivate their own marijuana, either at the retail site or a second cultivation location that must be registered with the department. They can cultivate up to 12 plants and possess up to 2.5 ounces per patient who designates the dispensary. Dispensaries can dispense no more than 2.5 ounces of marijuana to a patient every 15 days.

**New Mexico** — S.B. 523 was passed by the New Mexico legislature in 2007. Its citation is N.M.S.A. § 26-2B-1 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from a person licensed to prescribe drugs in New Mexico that "the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient." The qualifying conditions in New Mexico are severe chronic pain, painful peripheral neuropathy, intractable nausea/vomiting, severe anorexia/cachexia, hepatitis C receiving antiviral treatment, Crohn's disease, post-traumatic stress disorder, amyotrophic lateral sclerosis, cancer, glaucoma, multiple sclerosis, spinal cord damage with intractable spasticity, epilepsy, and HIV/AIDS. Hospice patients also qualify. "Severe chronic pain" only qualifies if the person's primary care physician and a specialist certify all standard treatments have been tried and failed to provide adequate relief. The health department administers the ID card program and it approved adding several of the qualifying conditions. A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana.

The law required the health department set up an advisory board with medical practitioners to make recommendations on whether to add qualifying conditions and to recommend how much marijuana should be allowed so that patients can possess an adequate supply.

**Protections:** New Mexico's law provides that qualified patients "shall not be subject to arrest, prosecution, or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed an adequate supply."

**Possession Limits and Access:** Patients may possess up to 6 ounces of marijuana, and caregivers can possess this amount for each patient who has designated the caregiver. Patients may also request a larger supply. Though the law itself was silent on home cultivation, by rule, the department has allowed patients to apply for a separate personal cultivation license. If granted, they can cultivate up to four mature plants and 12 seedlings. Caregivers cannot produce for patients and patients can only produce marijuana for themselves.

The law granted the health department broad discretion to develop rules to regulate licensed nonprofit producers of medical marijuana. The health department developed rules and, as of November 19, 2010, has licensed 17 producers. It determines the number of producers based on factors that include supply of marijuana to patients statewide and the safety of the public. The department conducts an on-site visit. They also consider the applicants' plans for purity and consistency of dose as well as testing, their skills and knowledge, and the board members' experience. Applicants to be producers must submit a great deal of information, including security plans, those with authority over the facility's policies, and a description of packaging that will be used. Each producer's board members must include at least one physician and at least three registered patients. Producers may produce 95 total plants and supply marijuana to their patients. Producers cannot be located within 300 feet of schools, churches, or daycare centers. Once a patient registers, the health department provides patients with information on

how to contact licensed producers.

**Michigan** — Proposition 1, a ballot initiative, passed with 63% of the vote in 2008. It is codified at M.C.L.A. § 333.26421 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a statement from a physician that the patient has a bona fide relationship with that physician and that the patient is "likely to receive therapeutic or palliative benefit" from the medical use of marijuana. The qualifying conditions in Michigan are cancer, HIV/AIDS, hepatitis C, amyotrophic lateral sclerosis, Crohn's diseases, nail patella, glaucoma, agitation related to Alzheimer's disease, and conditions causing one or more of the following: severe and chronic pain, cachexia or wasting, severe nausea, seizures, or severe and persistent muscle spasms. The health department processes ID card applications and can approve additional medical conditions. A minor patient only qualifies with two physician recommendations, parental consent, and if the adult controls the dosage, frequency of use, and acquisition of marijuana.

**Protections:** Michigan's law allows a patient or caregiver with a registry identification card to possess 2.5 ounces of processed marijuana. It provides that those abiding by the act cannot 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 a business or occupational or professional licensing board or bureau" for actions allowed by the law. Michigan honors visiting patients' out-of-state registry identification cards. If a patient applies for an ID card but has not received a response within 20 days, their doctor's certification and application materials function as an ID card. The law has an affirmative defense available to patients and their caregivers whose physicians believe the patients are "likely to receive therapeutic or palliative benefit" from medical marijuana if they possess "a quantity of marihuana that was not more than was reasonably necessary to ensure the uninterrupted availability" of medical marijuana.

**Possession Limits and Access:** A patient can choose to cultivate up to six plants in an enclosed, locked area, or can designate a caregiver to do so for the patient. Patients can have a single caregiver and caregivers can assist no more than five patients. Caregivers can receive reasonable compensation.

**New Jersey** — S.B. 119 was passed by the New Jersey legislature in 2010. Its effective date was delayed by S. 2105, which was also enacted in 2010. It is codified at N.J.S.A. § 24:6I-1 et seq. As of November 19, 2010, regulations have not yet been finalized.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and a physician's certification authorizing the patient to apply to use medical marijuana. The physician must be licensed in New Jersey and must be the patient's primary care or hospice physician, or the physician responsible for treatment for the patient's debilitating medical condition. The qualifying conditions in New Jersey are: amyotrophic lateral sclerosis, multiple sclerosis, muscular dystrophy, or inflammatory bowel disease; terminal illness; if the condition is resistant to conventional treatments, seizure disorders; intractable skeletal muscular spasticity; glaucoma; or, if they are accompanied by severe pain, severe nausea, vomiting, or cachexia, HIV/AIDS or cancer. The department of health and senior services administers the ID card program and can approve additional qualifying conditions. A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana.

**Protections:** New Jersey's law provides that patients, caregivers, and others acting in accordance with the law "shall not be subject to any civil or administrative penalty, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a professional licensing board, related to the medical use of marijuana." It also provides that the

medical marijuana authorization is an "exemption from criminal liability" and that it shall also be an affirmative defense.

**Possession Limits and Access:** New Jersey's law does not allow for home cultivation but it does provide for "alternative treatment centers" that are registered with the state to produce and dispense medical marijuana to qualified patients and their caregivers. The department will decide how many centers to authorize, and is required to allow at least six in the state. At least six of the dispensaries will have to be nonprofit. The department will also set a fee for applications and adopt regulations to monitor and oversee the dispensaries and to ensure security and adequate record keeping for dispensing. Every two years, the department will evaluate whether there are enough dispensaries in the state and whether the amount of marijuana allowed is sufficient.

No more than 2 ounces can be dispensed to a patient in thirty days. Physicians must provide written instructions, which can be for up to a 90-day supply, each time marijuana is dispensed. The dispensing must happen within a month of the written instruction. Physicians also are required to furnish information to the division of consumer affairs about their written instructions.

Primary caregivers can serve a single patient. Caregivers and dispensary employees cannot have a drug conviction unless they demonstrate rehabilitation as is provided for in the act or if the conviction is a federal conviction for medical marijuana.

**District of Columbia** — On November 3, 1998, 69% of D.C. voters approved Initiative 59. Congress blocked the implementation of the law until Spring 2010. The D.C. Council then put the law on hold temporarily and enacted amendments to it, B18-622. The revised law went into effect in late July 2010, and the District is developing regulations. The law is codified at D.C. Code § 7-1671.01 et seq.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition and physician's recommendation that medical marijuana is necessary for the patient's treatment. The physician must be licensed in D.C., have a bona fide relationship with the patient, and have responsibility for ongoing treatment of the patient. The physician must review other approved treatments before making the recommendations. The board of medicine may audit physician recommendations and must audit recommendations for any physician who provides more than 250 recommendations in a 12-month period. A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana.

The qualifying conditions in D.C. are cancer, HIV/AIDS, glaucoma, and conditions with severe and persistent muscle spasms, such as multiple sclerosis. In addition, conditions treated with chemotherapy, azidothymidine or protease inhibitors, and radiotherapy qualify. The health department administers the ID card program and can approve additional qualifying conditions for which marijuana would be beneficial if the conditions are chronic or long lasting, debilitating, and either cannot be treated by ordinary measures or marijuana would be significantly less addictive than the ordinary treatment. It can also approve medical marijuana for treatments whose side effects require medical marijuana treatment. A minor patient only qualifies with parental consent and if the adult controls the dosage, frequency of use, and acquisition of marijuana.

**Protections:** Registered qualifying patients may possess and administer medical marijuana, and caregivers can do so for the purpose of assisting a patient. The marijuana and paraphernalia must be obtained from a registered dispensary. Medical marijuana can only be administered in a patient's residence or a medical facility that permits its administration. Marijuana cannot be used where its exposure would negatively affect a minor. Marijuana can only be transported in

a container that is labeled pursuant to rules.

The ordinance also provides an affirmative defense for an adult who assists a patient in administering medical marijuana in their home or a permitted medical facility where the caregiver was not reasonably available to assist.

**Possession Limits and Access:** A patient or caregiver can possess no more than 2 ounces in a 30-day period, which must be obtained from a dispensary. However, the mayor may increase the amount to up to 4 ounces. The law provides for regulated cultivation facilities and dispensaries. The facilities and their staff are required to register with the mayor. Cultivation facilities will be allowed to produce up to 95 marijuana plants and to sell the marijuana to dispensaries. The ordinance allows for between five and eight dispensaries, and allows the mayor to determine the number. The mayor will develop the standards for deciding who will be licensed, and it must consider the security plan, staffing plan, product safety and labeling plan, the suitability of the proposed facility, and input from neighborhood commissions. No employee with access to marijuana at a cultivation facility or dispensary can have a misdemeanor for a drug-related offense or any felony conviction. Dispensaries and cultivation centers cannot locate in residential districts or within 300 feet of schools or recreation centers. The ordinance requires records to be kept on each transaction, the quantity of medical marijuana stored, and how marijuana is disposed of. Police must be notified immediately of loss, theft, or destruction. The mayor is also required to develop materials on drug interactions and to revoke or suspend a license if the law is violated and to conduct inspections. He also is required to develop rules to ensure adequate labeling, appropriate signage, security, and lighting, a limitation on hours of operation, to determine fees, and to determine how many cultivation centers to operate.

It also establishes an advisory committee to monitor other states' best practices, scientific research, and the effectiveness of D.C.'s medical marijuana program. It also provides for the committee to make recommendations to the Council, including whether home cultivation should be allowed and, if so, how to implement it.

**Arizona** — Proposition 203, a ballot initiative, passed with 50.1% of the vote on November 2, 2010. It goes into effect when the election results are certified on November 29, 2010. The Department of Health Services expects to have regulations developed by April 2011.

**Qualifying for the Program:** To qualify for an ID card, a patient must have a qualifying condition, must be "likely to receive therapeutic or palliative benefit" from the medical use of marijuana, and must obtain a statement from a physician with whom the patient has a bona fide relationship. A minor patient only qualifies with two physician certifications and the consent of his or her parent or guardian. Moreover, an adult must control the dosage, acquisition, and frequency of use of the marijuana. The qualifying conditions in Arizona are cancer, HIV/AIDS, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, glaucoma, agitation related to Alzheimer's disease, and conditions causing one or more of the following: severe and chronic pain, cachexia or wasting, severe nausea, seizures, or persistent muscle spasms. The department of health services can approve additional medical conditions. The department also administers the ID card program.

**Protections:** Arizona's law allows a patient with a registry identification card to possess 2.5 ounces of processed marijuana. Registered caregivers may possess up to 2.5 ounces for each patient they assist. The law provides that registered patients and caregivers abiding by the act are "not subject to arrest, prosecution or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action ..." for doing so. It also prevents landlords, employers, and schools from discriminating based on a person's status as a caregiver or patient, unless they would otherwise lose a federal monetary or licensing benefit. Employers generally cannot penalize staff for testing positive for marijuana unless they ingest marijuana at

work or are impaired at work. It provides some protection for child custody and visitation rights and some protections for residents of nursing homes and other assisted living facilities. Arizona honors visiting patients' out-of-state registry identification cards for up to 30 days, but the out-of-state cards are not valid for obtaining marijuana. The law has an affirmative defense for unregistered patients with doctors' recommendations and their caregivers.

**Possession Limits and Access:** If a patient lives more than 25 miles away from a dispensary, the patient can cultivate up to 12 plants in an enclosed, locked location, or he or she can designate a caregiver to do so. Patients can have a single caregiver and a caregiver can assist no more than five patients. Caregivers can receive reimbursement for their actual expenses, but cannot receive any compensation for their services. Arizona's law provides for state-regulated nonprofit dispensaries. The department charges up to \$5,000 for each dispensary application and up to \$1,000 for each renewal. Each dispensary employee must register with the department. The department will develop rules for dispensaries' oversight, record keeping, and security. Dispensaries must be at least 500 feet from schools. Dispensaries must cultivate their own marijuana, either at the retail site or a second enclosed, locked cultivation location that must be registered with the department. Dispensaries can dispense no more than 2.5 ounces of marijuana to a patient every 14 days. The total number of dispensaries cannot exceed one for every 10 pharmacies, which would total no more than 124 dispensaries.