

# **Maryland Medical Marijuana Laws** **2016-2017**

House Bill 881

Approved: Apr. 8, 2014 by House, 125-11 and by Senate, 44-2

Signed by Gov. Martin O'Malley on Apr. 14, 2014

Effective: June 1, 2014

**The Natalie M. LaPrade Medical Marijuana Commission** and the **Maryland Department of Health and Mental Hygiene** are tasked with developing regulations for patient registry and identification cards, dispensary licensing, setting fees and possession limits, and more.

The Commission will issue yearly request for applications from academic medical centers to operate medical marijuana compassionate use programs.

**Approved Conditions:** Cachexia, anorexia, or wasting syndrome, severe or chronic pain, severe nausea, seizures, severe or persistent muscle spasms, or other conditions approved by the Commission.

## **Possession/Cultivation:**

Patients are allowed to possess a 30-day supply (amount to be determined by the Commission). "Beginning June 1, 2016, the Commission may issue the number of

[dispensary] licenses necessary to meet the demand for medical marijuana by qualifying patients and caregivers issued identification cards."

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Natalie M. LaPrade Medical Marijuana Commission

A Maryland patient can only obtain legal medical cannabis from Maryland-licensed dispensaries.

The dispensaries can only obtain their cannabis from Maryland-licensed growers, and their extracts from Maryland-licensed processors.

**Patient Registry Fee:**

To be determined by the Commission during the rulemaking process

**Accepts other states' registry ID cards?**

No

**Registration:**

Mandatory

## **FAQs – Dispensaries**

### **What is the Stage 1 Application fee for a dispensary application?**

The Stage 1 Application fee is \$1,000.

### **How will dispensaries be licensed?**

Prospective dispensary operators will submit an application for a license in each Senatorial district in which the applicant is seeking a license.

All applications will be reviewed and ranked by the Commission and its review team. Applications will be ranked on the evaluation of their merit. The weights for the criteria for issuing licenses to operate a dispensary will be in the regulations, which will be posted on the website.

“A party applying for a grower/processor/dispensary license shall have an interest in only one grower/processor/ dispensary license application.” What does “party” mean?

For this regulation, a party is an investor. An investor may have an interest in only one application.

### **Will the application process be online?**

Once the regulations are final, the process will be explained on the website.

### **Where will dispensaries be located?**

The regulations state that there be no more than two

dispensaries located in each of the 47 legislative districts in the state, not including the dispensary of a licensed grower who may hold a dispensary license.

**What services will a dispensary be able to provide?**

Dispensaries may distribute medical cannabis in processed form or dried flower. Dispensaries will also be permitted to supply devices to administer medical cannabis.

Dispensaries may offer delivery services to patients.

**Will dispensaries be subject to state inspection?**

Yes, all dispensaries located in Maryland will be subject to state inspection.

**Can a dispensary lose its license?**

Yes. The Commission is authorized to inspect dispensaries on an ongoing basis. In the case of a major deficiency, or a failed inspection, the Commission may take action, including revoking a license to dispense medical cannabis.

**What would a Maryland medical cannabis dispensary look like in my community?**

A medical cannabis dispensary in Maryland is not going to look very different from other businesses or medical facilities currently located in your community. The Commission's regulations and application process are designed so that the successful applicants for medical

cannabis dispensary licenses will operate facilities that will not deviate from the character of the streetscape where they are located, and not offend or disrupt the character of the local community.

### **Do I need to go to a special clinic to get a medical cannabis card?**

No. Any licensed physician in good standing in Maryland can register with the Medical Cannabis Commission to issue certifications to qualify patients to obtain and use medical cannabis. Ask your primary care physician if she or he is registered, and discuss whether medical cannabis would benefit your medical condition.

There is no need to pay any person or organization any fee other than the fee your physician charges for the doctor visit.

### **Where can I obtain medical cannabis?**

A Maryland patient can only obtain legal medical cannabis from Maryland-licensed dispensaries. The dispensaries can only obtain their cannabis from Maryland-licensed growers, and their extracts from Maryland-licensed processors.

### **How do I become a legal patient?**

On the Commission's website, a patient will register by providing name, address, date of birth, and uploading an image of a government ID.

Once registered, a patient will go to a doctor who has registered with the Commission to obtain a “written certification.”

### **How do I get a “written certification”?**

A patient needs an in-person visit with a registered physician with whom the patient has a “bona fide physician-patient relationship.” If the patient meets the physician’s criteria for treatment with medical cannabis, the physician will issue a written certification. The physician records the written certification on the Commission’s website.

### **What is a “bona fide physician-patient relationship”?**

It means the physician has examined the patient, reviewed medical records, assessed the patient’s medical history, maintains records on the patient, and will provide follow-up care to the patient as needed.

### **What do I do after I get the “written certification”?**

The patient can go to any dispensary to pick up medical cannabis. Some dispensaries will deliver medical cannabis to the patient’s home. The dispensary must check the Commission website to confirm that the patient has a “written certification” and confirm the patient’s identity. The dispensary will record how much medical cannabis has been dispensed to the patient.

### **How long will it take to obtain a written certification?**

After the doctor has examined the patient and the patient’s

records, the physician may issue the patient a written certification.

**For what conditions or diseases can my physician write a written certification?**

Any condition that is severe, for which other medical treatments have been ineffective, and if the symptoms “reasonably can be expected to be relieved” by the medical use of Cannabis.

In addition, if the patient has a chronic or debilitating disease or medical condition that causes severe loss of appetite, wasting, severe or chronic pain, severe nausea, seizures or severe or persistent muscle spasms, or glaucoma or Post Traumatic Stress Disorder (PTSD).

**Do I need a patient ID card?**

No.

**I am traveling and I want an ID card. Can I obtain one?**

Yes. A patient ID card is optional. A patient ID card will cost \$50.

**How do I apply for a patient ID card?**

You can request an ID card when you receive your written certification or apply for one later.

**I lost my patient ID card, or it was stolen or damaged  
Will there will be a process to apply for a replacement card?**

A replacement card will cost \$100.

**How much medical cannabis (dried flower) can a qualifying patient possess at one time?**

No more than 120 grams — or approximately four ounces, unless a physician makes a special determination that a patient needs more.

**Is there a maximum amount of THC in an extract that a patient can get in a month?**

Yes, 36 grams of THC.

**Will cannabis oil be considered a type of medical cannabis?**

Yes, if the cannabis oil is produced by a Maryland-licensed processor.

**How will patient confidentiality be assured?**

Federal law (HIPAA) requires that we — along with physicians and dispensaries — protect patient privacy and confidentiality. Our database will meet HIPAA standards and protect patient confidentiality.

**I want to become a caregiver. How can I become one?**

Caregivers are only appointed by patients. If a patient selects you to be a caregiver, you must submit an application through the Commission's website. Caregivers cannot care for more than five qualifying patients.

**Can patients cultivate their own cannabis? Can a**

### **caregiver cultivate cannabis for patients?**

No, Maryland law will not allow this.

### **Where can I legally travel with medical cannabis?**

A legal patient may travel to any location in the state of Maryland. Maryland cannot authorize you to travel to other states or countries. Possession of cannabis is against federal law. Most states do not recognize legal medical cannabis. Many medical cannabis states will not recognize the validity of out-of-state medical cannabis authorizations.

### **My child needs medical cannabis. Can he or she get it legally?**

Children who meet their physician's criteria for treatment can become legal patients in Maryland. However, children must have a parent or guardian serve as a caregiver.

### **Can veterans get medical cannabis?**

Veterans can obtain medical cannabis in the same way as other patients, but not from the Veterans Affairs health system. Veterans need to make sure that using medical cannabis will not disqualify them from Veterans Affairs health system procedures they might need.

### **Is there financial relief for patients who can't afford medical cannabis?**

Providing any financial relief for patients will be a decision made by individual dispensaries.

### **What if a qualifying patient changes their mailing address?**

The patient who changes their address should notify the Commission within 3 days.

### **What if I want to obtain medical cannabis from a different dispensary?**

A patient may obtain medical cannabis from a dispensary of their choice. The patient's written certification will be recorded in the Commission's database and can be confirmed by any licensed dispensary.

### **What happens if I am stopped by law enforcement?**

Patients do not have to disclose that they possess medical cannabis and do not have to consent to a search. However, if a search is conducted and medical cannabis is found, the patient should present their patient ID card or direct law enforcement to our database.

### **I don't want to smoke cannabis. Will edible medical cannabis products be available in Maryland?**

Medical cannabis will be available in forms which can be vaporized which is not smoking, or as extracts, lotions, ointments, tinctures, etc.

Some extracts can be added to foods at home.

Edible cannabis products will not be available from dispensaries in Maryland.

### **Will health insurers cover the cost of medical**

## **cannabis?**

Health insurers are not required to cover the cost of medical cannabis. Private health insurers are free under Maryland law to develop policies that will cover medical cannabis.

## **What fees do patients have to pay the Commission to get medical cannabis?**

Patients do not have to pay the Commission to register. Dispensaries do not have to pay the Commission to check that a patient has been issued a written certification.

There are no fees, unless a qualifying patient desires an ID card.

## **Are there special reduced fees for seniors?**

There are no reduced fees for seniors.

## **Is there a residency requirement to participate in the medical cannabis program?**

Any person who lives in Maryland can participate in the program. A person from out-of-state who is in the state for the purpose of receiving medical care can be issued a written certification and obtain medical cannabis.

## **Will Maryland dispensaries recognize other state medical cannabis ID cards?**

Not at this time.

**My employer tests for drug use including cannabis.**

**Can they test me if I am a medical cannabis patient?  
Can they fire me if I use medical cannabis?**

Maryland law does not prevent an employer from testing for use of cannabis (for any reason) or taking action against an employee who tests positive for use of cannabis (for any reason).

**Are there drugs that are known to interact with medical cannabis for which my physician would exclude my qualification in the program?**

This is a question for your physician.

**My primary care physician does not think that medical cannabis is a good idea, but I think it has benefited my condition. What can I do?**

Patients often seek a second opinion from another physician. Patients may have a complex medical condition that is not responding well to conventional treatment or find the side effects and risks of a treatment are unacceptable.

A patient may establish a bona fide physician patient relationship with any licensed Maryland physician who is in good standing, who is or plans to register with the Medical Cannabis Commission in order to be evaluated to determine if the patient will benefit from the use of medical cannabis.

The Commission will not be posting a list of such physicians, but physicians who specialize in the treatment of certain conditions or the use of certain specialized techniques or interventions often advertise.

### **Are the Physician registry and Patient registry linked?**

Yes, the MMCC database system does link the physician and patient registries through the written certifications. Each patient may only have one written certification and one certifying physician at a time. After 30 days, a patient may seek renewal of the written certification; the renewal certification supersedes the previous written certification. A certifying physician may terminate a written certification.

Physicians, patients and caregivers registered with MMCC may view information on the written certifications pertaining to them on the MMCC database system. Agents of dispensaries licensed by MMCC can also view information on written certifications. The information on the MMCC database system will contain unique 25-digit IDs for qualifying patients and written certifications to prevent unauthorized access to the data.

### **Does the physician have to be registered as a certifying physician before the patient visit in order to provide a written certification for the patient?**

A physician must be registered as a certifying physician before providing a qualifying patient with a written

certification. The process for a physician registering with MMCC as a certifying physician can be accomplished on-line in a matter of minutes. The physician will be asked to complete an on-line application with basic information, including name, social security number, business address, e-mail address, telephone number, Maryland Board of Physician (MBP) license number, and controlled dangerous substance (CDS) permit number. The MMCC database system will immediately verify the information submitted and, if the application is complete and the data matches the MBP and CDS records, an e-mail will be sent to the physician. Once the physician responds to the e-mail the registration process is complete and they can immediately provide a qualifying patient with a written certification.

**Does the patient need to be registered before the patient visit in order to obtain a written certification for the patient?**

Yes, the patient must submit an application to MMCC in order to register before a physician can provide a written certification for the patient. The application process to register with MMCC can be completed on-line. The patient must provide basic information, including name, address, date of birth, an image of a government ID, and a recent picture for ID purposes. MMCC staff will review the application and notify the patient of their unique 25-digit ID registration number.

## **Does a patient need an ID card from MMCC?**

No, a patient does not need an ID card from MMCC to participate in the program. The patient must be registered with MMCC in order for a physician to provide a written certification for the patient. The patient will need a government-issued ID card (e.g., driver's license or passport) for proof of identity when purchasing the medical cannabis at a licensed dispensary. A patient can have a copy of the written certification when purchasing medical cannabis at a licensed dispensary. The written certification will also be submitted electronically by the certifying physician by logging onto the website of the commission.

## **Why do persons who want to volunteer to work at a licensed medical cannabis grower facility or licensed medical cannabis dispensary have to submit to a criminal background check? Who is a "volunteer?"**

The General Assembly described all the persons who work or are affiliated with a licensed medical cannabis grower in the definition of "medical cannabis grower agent" to include "an owner, an employee, a volunteer, an officer, or a director." Similarly, the General Assembly defined "dispensary agent" to mean "an owner, a member, an employee, a volunteer, an officer, or a director." The General Assembly also required that all grower agents and dispensary agents have a criminal background check.

## **How many caregivers can one patient have?**

A patient may designate up to two persons as caregivers.

**What is the minimum age for a caregiver?**

Caregivers must be 21 years old or older.

**Can a caregiver be a family member?**

Yes, a caregiver may be a family member.

**How much medical cannabis and medical cannabis-infused product can a patient obtain in 30 days?**

The General Assembly directed the Commission to determine the amount of medical cannabis that would constitute a 30-day supply. Medical cannabis and medical cannabis-infused products will vary in their cannabinoid profile and potencies. The Commission wanted to ensure that patients would be able to obtain sufficient medical cannabis each month to provide relief of their symptoms, and established 120 grams of usable cannabis (primarily dried flower) as a 30-day supply.

The Commission also recognized that medical cannabis-infused products could not be measured in the same way as usable cannabis, and set a limit of 36 grams of THC as a 30-day supply. Each batch of usable cannabis will state the THC quantity (expressed as a percentage). The dispensary will calculate the weight of the THC in each transaction of usable cannabis, and will not dispense medical cannabis-infused products in a 30 day period that exceeds the 36 gram limit.

## **FAQs – Growers**

### **What is the Stage 1 Application fee for a grower application?**

The Stage 1 Application fee is \$2,000. For further information about application and license fees refer to the Fee Schedule in COMAR 10.62.35.

### **How will growers be licensed?**

After applications are submitted, an independent review team will review and rank applications based on criteria set forth in the regulations. The team will send a report on the review and ranking to the Commission. The Commission will vote on pre-approvals for licenses. Once applications are pre-approved, prospective licensees will need to finalize a location for their facility, obtain local zoning and planning approvals, begin construction and hire and train staff. (Stage 1)

Then facilities will be inspected to confirm that the facility and the proposed production process meet the requirements of the regulations and the terms of the approved application. Once these inspections are completed, final licenses will be granted and licensees can begin cultivating and producing medical cannabis. (Stage 2)

### **Will the application process be online?**

Once the regulations are final, the process will be explained on the website.

### **When will the application for grower licenses be available?**

The Commission anticipates soliciting Stage 1 applications from prospective growers already happened back in September 2015.

### **When will grower licenses be awarded?**

Due to the large volume of applications the Commission received as of the 11/06/15 deadline, the Commission will be revising the timeline.

### **How will criteria be weighted during the review process?**

The applicants' business plans, site plans, security plans, grow plans, and quality control plans will be given the most weight during the review process as provided by the draft regulations.

### **Once I submit an application, can I amend it?**

No, except to provide updated information about owners, managers, etc., as stipulated in the regulations.

### **Where will grow facilities be located?**

Growers can choose any location in Maryland as long as the activity and location are permitted by local zoning ordinances.

### **How will growers interact with independent testing labs?**

Growers will contract with one or more independent testing laboratories for the laboratory to test every batch of medical cannabis to assure that every batch meets approved specifications.

**Will growers be subject to state inspection?**

Yes; all growers in Maryland will be subject to inspection.

**Regarding zoning and planning approvals, when do I need to provide them to the Commission as part of my license application?**

Evidence that the licensed premises comply with all zoning planning requirements does not need to be finalized until stage 2 of the application process.

**For my growing facility, I have located potential property that is zoned for agricultural production. Is that satisfactory to the commission?**

The Commission will rely upon the zoning and planning approval issued by the local jurisdiction. The local jurisdiction will determine whether a zoning designation that permits agricultural production included production of medical cannabis. The applicant should take steps to assure that the local jurisdiction has interpreted its zoning code to mean that an agricultural production zoning designation includes production of medical cannabis.

**If our organization obtains a license to be a grower**

**and a license to be a processor, may we locate both of those operations at a single location?**

Yes. In so far as the premises comply with local zoning and planning codes, and are constructed and organized to maintain security, cleanliness, safety and the required inventory controls, a grower facility and a processor facility may be located on the same property.

**Some states provide that there is a maximum or minimum number of plants that can be grown by a licensed grower. What is the number for Maryland?**

The Maryland regulations do not specify a minimum or maximum number of plants that a licensed grower must or may cultivate.

**The application for a grower, processor and dispensary license requires “a record of tax payments in all jurisdictions in which an applicant has operated as a business for the 5 years before the filing of the application.” Does this mean that only applicants that have been in business for five years can apply for a grower, processor or dispensary license?**

No. If an applicant is a newly created corporation, then the applicant would not have any record of taxes paid, and the application is satisfied by noting that fact. If the applicant has been in business for two years, then it should have a record of having paid taxes for the prior two years. If the

applicant has been in business for 15 years, then it need only provide the record of payments for the past 5 years.

**The Applications for a grower, processor or dispensary license require a “preliminary site plan,” a “security plan,” a “plan for quality control,” a “plan for inventorying, safekeeping and tracking,” and a “disposal plan.” This seems to suggest that the “security plan” would involve an architectural drawing. But if the actual premises won’t be leased until after the issuance of a pre-approval for a license, would those drawings need to be drawn twice? Is this correct?**

No. To be consistent, the regulation requires “a plan for security.” The Commission is not looking for a formal drawing, but instead is looking for a narrative of the plan for security that will spell out how the applicant will comply with the regulations governing safety, security, lighting, surveillance, training, etc.

**Can a licensed grower also become a processor and a dispenser, (i.e., a vertically-integrated) medical cannabis operation?**

Yes, parties or entities who wish to operate a growing and processing facility, as well as a dispensary, must submit separate license applications for each facility. The Commission may award separate licenses for each operation.

**Does a “secure transportation company” require a separate license from the State of Maryland?**

No; the licensee must provide required agent ID cards to anyone transporting cannabis.

**May a transportation agent have a non-Maryland driver’s license?**

A transportation agent is not required to hold a Maryland driver’s license.

**Can a person with a particular skill be employed part-time by more than one grower, processor, or dispensary?**

Yes; however, the agent would need to register multiple registrations at a charge of \$200 per registration.

**Can a person be an agent for a grower, processor and a dispensary?**

Yes. A person can be an owner in an entity that obtains a license for each class of activity, and therefore would be an agent for each licensee.

**What is a “resident”?**

A resident is one who lives in Maryland. A person may demonstrate Maryland residency by providing one or more of the following: 1) Most recent Maryland tax return; 2) Most recent Maryland property tax bill; 3) Local gas and electric bill that is no more than 4 months old; 5) Valid Maryland Driver’s license; or 6) Another record that corroborates the Maryland residency.

A business may be registered to conduct business in the

State of Maryland. They may be either an out-of-state company which is establishing its Maryland existence, and its principal place of business may or may not be Maryland. Alternatively, the business entity could be a “grass roots” company, meaning a business that was founded in Maryland and maintains its principal place of business in Maryland. In either eventuality, a business entity may demonstrate its ability to conduct business in the State of Maryland by providing the following: 1) Articles of Incorporation or Articles of Organization; 2) Certificate of Status (also referred to as a Certificate of Good Standing); and 3) Identification of the Resident Agent.

**Will it be necessary to conduct background checks for employees who do not handle cannabis, such as janitorial staff?**

While any subcontractor may be registered with the MMCC, the subcontractor is not required to register with the MMCC. However, should the subcontractor not be registered with the MMCC, then, they are considered a visitor to a non-public area, and the Grower, Processor, or Dispensary will be required to 1) log the visitor in and out of the premises; 2) retain a photocopy of the visitor’s government-issued identification; 3) continually visually supervise the visitor while on the premises; 4) ensure that the visitor does not touch any plant or medical cannabis; and 5) maintain a log of all visitors to non-public areas for two years.

**Will security (or any) subcontractors of the growers be**

## **required to be registered with MMCC?**

While a security subcontractor, or any subcontractor may be registered with the MMCC, the subcontractor is not required to register with the MMCC. However, should the subcontractor not be registered with the MMCC, then, they are considered a visitor to a non-public area, and the Grower will be required to 1) log the visitor in and out of the premises; 2) retain a photocopy of the visitor's government issued identification; 3) continuously visually supervise the visitor while on the premises; 4) ensure that the visitor does not touch any plant or medical cannabis; and 5) maintain a log of all visitors to non-public areas for two years.