A Guide to Understanding the

MICHIGAN MEDICAL MARIJUANA ACT

VOLUME II

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PLAYING BY THE RULES

By Heidi Parikh

In 2008 Michigan was the 13th state to pass Medical Marijuana Legislation. Today there are a total of 28 states that have adapted medical cannabis laws and Alaska, California, Colorado, Oregon, Massachusetts, Nevada and Washington State now allow cannabis for recreational use. Over the past nine years, Michigan has grown to be one of the most influential states in the medical cannabis marketplace with over 200,000 state approved cardholders.

With the new laws that took effect December 20, 2016 not only will patients and caregivers feel the impact but whole communities will be impacted as well. As a 501(c)(3) charitable nonprofit founded by patients, My Compassion understands the importance of understanding the laws and abiding by them. With the passing of the Michigan Medical Marijuana Act, we witnessed law-abiding citizens facing charges for cannabis violations, resulting from not understanding the laws, new regulations and court rulings.

Through our countless interactions with the public, we found that people do not commonly read laws, at least not thoroughly and the "gray areas" of the MMMA so many drew upon, complicated things more. As a solution in 2013, My Compassion compiled the necessary information and published Vol I of *The Guide to Understanding the Michigan Medical Marijuana Act.*

For the past, several years there has been pressure placed on the Michigan House and Senate by local cannabis businesses to pass legislation allowing for commercial dispensing and cultivation. In 2016 their influence paid off when House Bill 4209 passed and became law. At the same time, House Bill 4210 which allows for the use of extracts, also passed and if you're not paying attention to the details, it could cost you!

With the onslaught of new legislation registered Patients and Caregivers are once again scrambling for answers. Vol II is an excellent compilation of the newest laws, court rulings, legal opinions and important articles intended to increase awareness and understanding. Education is the Key to any successful medical marijuana program and in Michigan, we are fortunate to have the Michigan Medical Marijuana Act. So, be informed, play by the rules and stay safe!

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AN INITIATION of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act. AN INITIATION of Legislation to allow under state law the medical use of marihuana; to provide protections for the medical use of marihuana; to provide for a system of registry identification cards for qualifying patients and primary caregivers; to impose a fee for registry application and renewal; to make an appropriation; to provide for the promulgation of rules; to provide for the administration of this act; to provide for enforcement of this act; to provide for affirmative defenses; and to provide for penalties for violations of this act.

History: 2008, Initiated Law 1, Eff. Dec. 4, 2008;Am. 2016, Act 283, Eff. Dec. 20, 2016.

The People of the State of Michigan enact:

333.26421 Short title.

1. Short Title.

Sec. 1. This act shall be known and may be cited as the Michigan Medical Marihuana Act.

333.26422 Findings, declaration.

2. Findings.

Sec. 2. The people of the State of Michigan find and declare that:

(a) Modern medical research, including as found by the National Academy of Sciences' Institute of Medicine in a March 1999 report, has discovered beneficial uses for marihuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions.

(b) Data from the Federal Bureau of Investigation Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marihuana arrests in the United States are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marihuana.

(c) Although federal law currently prohibits any use of marihuana except under very limited circumstances, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. The laws of Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, New Mexico, Oregon, Vermont, Rhode Island, and Washington do not penalize the medical use and cultivation of marihuana. Michigan joins in this effort for the health and welfare of its citizens.

AMENDED COPY OF THE MICHIGAN MEDICAL MARIJUANA ACT

333.26423.amended Definitions.

3. Definitions.

Sec. 3. As used in this act:

(a) "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient in which all of the following are present:

(1) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.

(2) The physician has created and maintained records of the patient's condition in accord with medically accepted standards.

(3) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marihuana as a treatment of the patient's debilitating medical condition.

(4) If the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the medical use of marihuana to treat that condition.

(b) "Debilitating medical condition" means 1 or more of the following:

(1) 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, nail patella, or the treatment of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.

(3) Any other medical condition or its treatment approved by the department, as provided for in section6(k).

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Enclosed, locked facility" means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the departmental registration process as the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

(1) The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retain those plants at the second location.

(2) An individual is not inside the vehicle unless he or she is either the

registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.

(e) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL333.7106.

(f) "Marihuana-infused product" means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(g) "Marihuana plant" means any plant of the species Cannabis sativa L.

(h) "Medical use of marihuana" means the acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

(i) "Physician" means an individual licensed as a physician under part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(j) "Plant" means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

(k) "Primary caregiver" or "caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(l) "Qualifying patient" or "patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(m) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.

(n) "Usable marihuana" means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant.

(o) "Usable marihuana equivalent" means the amount of usable marihuana in a marihuana-infused product that is calculated as provided in section 4(c).

(p) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days.

(q) "Written certification" means a document signed by a physician, stating all of the following:

(1) The patient's debilitating medical condition.

(2) The physician has completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation.

(3) In the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

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333.26424.amended Qualifying patient or primary caregiver; arrest, prosecution, or penalty prohibited; conditions; privilege from arrests; presumption; compensation; physician subject to arrest, prosecution, or penalty prohibited; marihuana paraphernalia; person in presence or vicinity of medical use of marihuana; registry identification card issued outside of department; sale of marihuana as felony; penalty; marihuana-infused product.

4. Protections for the Medical Use of Marihuana.

Sec. 4. (a) A qualifying patient who has been issued and possesses a registry identification card is not 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 marihuana in accordance with this act, provided that the qualifying patient possesses an amount of marihuana that does not exceed a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

(b) A primary caregiver who has been issued and possesses a registry identification card is not 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 assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. This subsection applies only if the primary caregiver possesses marihuana in forms and amounts that do not exceed any of the following:

(1) For each qualifying patient to whom he or she is connected through the department's registration process, a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents.

(2) For each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility.

(3) Any incidental amount of seeds, stalks, and unusable roots.

(c) For purposes of determining usable marihuana equivalency, the following shall be considered equivalent to 1 ounce of usable marihuana:

(1) 16 ounces of marihuana-infused product if in a solid form.

(2) 7 grams of marihuana-infused product if in a gaseous form.

(3) 36 fluid ounces of marihuana-infused product if in a liquid form.

(d) A person shall not be denied custody or visitation of a minor for acting

in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(e) There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver complies with both of the following:

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

(2) Is in possession of an amount of marihuana that does not exceed the amount allowed under this act. The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(f) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation does not constitute the sale of controlled substances.

(g) 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 Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for providing written certifications, in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, 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 marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing shall prevent 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.

(h) A person 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 providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purposes of a qualifying patient's medical use of marihuana.

(i) Any marihuana, marihuana paraphernalia, or licit property that is possessed, owned, or used in connection with the medical use of marihuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.

(j) A person 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, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana.

(k) 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 the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall have the same force and effect as a registry identification card issued by the department.

(l) Any registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed the medical use of marihuana under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both, in addition to any other penalties for the distribution of marihuana.

(m) A person 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 manufacturing a marihuana-infused product if the person is any of the following:

(1) A registered qualifying patient, manufacturing for his or her own personal use.

(2) A registered primary caregiver, manufacturing for the use of a patient to whom he or she is connected through the department's registration process.

(n) A qualifying patient shall not transfer a marihuana-infused product or marihuana to any individual.

(o) A primary caregiver shall not transfer a marihuana-infused product to any individual who is not a qualifying patient to whom he or she is connected through the department's registration process.

333.26424a.added Registered qualifying patient or registered primary caregiver; arrest, prosecution, or penalty, or denial of right or privilege prohibited; conditions.

Sec. 4a. (1) This section does not apply unless the medical marihuana facilities licensing act is enacted.

(2) A registered qualifying patient or registered primary caregiver 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 any of the following:

(a) Transferring or purchasing marihuana in an amount authorized by this act from a provisioning center licensed under the medical marihuana facilities licensing act.

(b) Transferring or selling marihuana seeds or seedlings to a grower licensed under the medical marihuana facilities licensing act.

(c) Transferring marihuana for testing to and from a safety compliance facility licensed under the medical marihuana facilities licensing act.

333.26424b.added Transporting or possessing marihuana-infused product; violation; fine.

Sec. 4b. (1) Except as provided in subsections (2) to (4), a qualifying patient or primary caregiver shall not transport or possess a marihuana-infused product in or upon a motor vehicle.

(2) This section does not prohibit a qualifying patient from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the

weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the person from whom the marihuana-infused product was received, and date of receipt.

(3) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle if the marihuana-infused product is accompanied by an accurate marihuana transportation manifest and enclosed in a case carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is enclosed in a case and carried so as not to be readily accessible from the interior of the vehicle. The manifest form must state the weight of each marihuana-infused product in ounces, name and address of the manufacturer, date of manufacture, destination name and address, date and time of departure, estimated date and time of arrival, and, if applicable, name and address of the person from whom the product was received and date of receipt.

(4) This section does not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle for the use of his or her child, spouse, or parent who is a qualifying patient if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the qualifying patient, and, if applicable, name of the person from whom the marihuana-infused product was received and date of receipt.

(5) For purposes of determining compliance with quantity limitations under section 4, there is a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate.

(6) A qualifying patient or primary caregiver who violates this section is responsible for a civil fine of not more than $250.00.

333.26425 Rules.

5. Department to Promulgate Rules.

Sec. 5. (a) Not later than 120 days after the effective date of this act, the department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which the department shall consider the addition of medical conditions or treatments to the list of debilitating medical conditions set forth in section 3(a) of this act. In promulgating rules, the department shall allow for petition by the public to include additional medical conditions and treatments. In considering such petitions, the department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The department shall, after hearing, approve or deny such petitions within 180 days of the submission of the petition. The approval or denial of such a petition shall be considered a final department action, subject to judicial review pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

(b) Not later than 120 days after the effective date of this act, the department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern the manner in which

it shall consider applications for and renewals of registry identification cards for qualifying patients and primary caregivers. The department's rules shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this act. The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income. The department may accept gifts, grants, and other donations from private sources in order to reduce the application and renewal fees.

333.26426.amended Administration and enforcement of rules by department.

6. Administering the Department's Rules.

Sec. 6. (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's rules:

(1) A written certification;

(2) Application or renewal fee;

(3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) Name, address, and telephone number of the qualifying patient's physician;

(5) Name, address, and date of birth of the qualifying patient's primary caregiver, if any;

(6) Proof of Michigan residency. For the purposes of this subdivision, a person shall be considered to have proved legal residency in this state if any of the following apply:

(i) The person provides a copy of a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(ii) The person provides a copy of a valid Michigan voter registration.

(7) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under state law to possess marihuana plants for the qualifying patient's medical use.

(b) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian;

(2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians; and

(3) The qualifying patient's parent or legal guardian consents in writing to:

(A) Allow the qualifying patient's medical use of marihuana;

(B) Serve as the qualifying patient's primary caregiver; and

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

(c) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 business days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the department determines that

the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

(d) The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application; provided that each qualifying patient can have no more than 1 primary caregiver, and a primary caregiver may assist no more than 5 qualifying patients with their medical use of marihuana.

(e) The department shall issue registry identification cards within 5 business days of approving an application or renewal, which shall expire 2 years after the date of issuance. Registry identification cards shall contain all of the following:

(1) Name, address, and date of birth of the qualifying patient.

(2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.

(3) The date of issuance and expiration date of the registry identification card.

(4) A random identification number.

(5) A photograph, if the department requires one by rule.

(6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under state law to possess the marihuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference.

(f) If a registered qualifying patient's certifying physician notifies the department in writing that the patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the department to the patient.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county or state governmental agency.

(h) The following confidentiality rules shall apply:

(1) Subject to subdivisions (3) and (4), applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

(2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Except as provided in subdivisions (3) and (4), individual names and other identifying information on the list are confidential and are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The department shall verify to law enforcement personnel and to the necessary database created in the marihuana tracking act as established by the medical marihuana facilities licensing act whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including an employee, contractor, or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than $1,000.00, or both. Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.

(i) The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

(1) The number of applications filed for registry identification cards.

(2) The number of qualifying patients and primary 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.

(j) The department may enter into a contract with a private contractor to assist the department in performing its duties under this section. The contract may provide for assistance in processing and issuing registry identification cards, but the department shall retain the authority to make the final determination as to issuing the registry identification card. Any contract shall include a provision requiring the contractor to preserve the confidentiality of information in conformity with subsection (h).

(k) Not later than 6 months after the effective date of the amendatory act that added this subsection, the department shall appoint a panel to review petitions to approve medical conditions or treatments for addition to the list of debilitating medical conditions under the administrative rules. The panel shall meet at least twice each year and shall review and make a recommendation to the department concerning any petitions that have been submitted that are completed and include any documentation required by administrative rule.

(1) A majority of the panel members shall be licensed physicians, and the panel shall provide recommendations to the department regarding whether the petitions should be approved or denied.

(2) All meetings of the panel are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(l) The marihuana registry fund is created within the state treasury. All fees collected under this act shall be deposited into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes. The department shall expend money from the fund, upon appropriation, for the operation and oversight of the Michigan medical marihuana program. For the fiscal year ending September 30, 2016, $8,500,000.00 is appropriated from the marihuana registry fund to the department for its initial costs of implementing the medical marihuana facilities licensing act and the marihuana tracking act.

333.26427.amended Scope of act; limitations.

7. Scope of Act.

Sec. 7. (a) The medical use of marihuana is allowed under state law to the extent that it is carried out in accordance with the provisions of this act.

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(b) This act does not permit any person to do any of the following:
(1) Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice.
(2) Possess marihuana, or otherwise engage in the medical use of marihuana at any of the following locations:
(A) In a school bus.
(B) On the grounds of any preschool or primary or secondary school.
(C) In any correctional facility.
(3) Smoke marihuana at any of the following locations:
(A) On any form of public transportation.
(B) In any public place.
(4) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana.
(5) Use marihuana if that person does not have a serious or debilitating medical condition.
(6) Separate plant resin from a marihuana plant by butane extraction in any public place or motor vehicle, or inside or within the curtilage of any residential structure.
(7) Separate plant resin from a marihuana plant by butane extraction in a manner that demonstrates a failure to exercise reasonable care or reckless disregard for the safety of others.
(c) Nothing in this act shall be construed to require any of the following:
(1) A government medical assistance program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marihuana.
(2) An employer to accommodate the ingestion of marihuana in any workplace or any employee working while under the influence of marihuana.
(d) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution is punishable by a fine of $500.00, which is in addition to any other penalties that may apply for making a false statement or for the use of marihuana other than use undertaken pursuant to this act.
(e) All other acts and parts of acts inconsistent with this act do not apply to the medical use of marihuana as provided for by this act.

333.26428 Defenses.
8. Affirmative Defense and Dismissal for Medical Marihuana.
Sec. 8. (a) Except as provided in section 7(b), a patient and a patient's primary caregiver, if any, may assert the medical purpose for using marihuana as a defense to any prosecution involving marihuana, and this defense shall be presumed valid where the evidence shows that:
(1) A physician has stated that, in the physician's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition;
(2) The patient and the patient's primary caregiver, if any, were collectively in possession of a quantity of marihuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marihuana for the purpose of treating or alleviating the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition; and
(3) The patient and the patient's primary caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marihuana or paraphernalia relating to the use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms of the patient's serious or debilitating medical condition.
(b) A person may assert the medical purpose for using marihuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in subsection (a).
(c) If a patient or a patient's primary caregiver demonstrates the patient's medical purpose for using marihuana pursuant to this section, the patient and the patient's primary caregiver shall not be subject to the following for the patient's medical use of marihuana:
(1) disciplinary action by a business or occupational or professional licensing board or bureau; or
(2) forfeiture of any interest in or right to property.

333.26429 Failure of department to adopt rules or issue valid registry identification card.
9. Enforcement of this Act.
Sec. 9. (a) If the department fails to adopt rules to implement this act within 120 days of the effective date of this act, a qualifying patient may commence an action in the circuit court for the county of Ingham to compel the department to perform the actions mandated pursuant to the provisions of this act.
(b) If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this act within 20 days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card.
(c) If at any time after the 140 days following the effective date of this act the department is not accepting applications, including if it has not created rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application, pursuant to section 6(a)(3)-(6) together with a written certification, shall be deemed a valid registry identification card.

333.26430 Severability.
10. Severability.
Sec. 10. Any section of this act being held invalid as to any person or circumstances shall not affect the application of any other section of this act that can be given full effect without the invalid section or application.

Public Act 268 of 2016 requires the following:

Sec. 507. The department shall submit a report by January 31 to the standing committees on appropriations of the senate and house of representatives, the fiscal agencies, and the state budget director that includes all of the following information for the prior fiscal year regarding the medical marihuana program under the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430:

1. The Number of Applications Filed for Registry Identification Cards (Applications Received)

The number of initial applications received	119,125
The number of initial applications approved	114,962
The number of initial applications denied	18,857
The number of renewal applications received	29,783
The number of renewal applications approved	6,270
The number of renewal applications denied	1,580

2. The Number of Qualifying Patients and Primary Caregivers Approved in Each County.

County	Qualifying Patients	Primary Caregivers
Alcona	317	58
Alger	174	31
Allegan	2,508	521
Alpena	595	83
Antrim	782	181
Arenac	570	109
Baraga	132	18
Barry	1,169	244
Bay	2,327	372
Benzie	681	145
Berrien	2,914	660
Branch	1,076	215
Calhoun	3,164	664
Cass	977	189
Charlevoix	670	149

County	Qualifying Patients	Primary Caregivers
Cheboygan	496	98
Chippewa	629	104
Clare	931	180
Clinton	1,368	258
Crawford	392	69
Delta	975	208
Dickinson	772	164
Eaton	3,067	582
Emmet	681	103
Genesee	14,802	2,742
Gladwin	692	126
Gogebic	406	79
Grand Traverse	2,719	487
Gratiot	978	174
Hillsdale	1,374	284
Houghton	575	101
Huron	395	51
Ingham	8,303	1,578
Ionia	1,221	209
Iosco	703	109
Iron	413	78
Isabella	1,113	195
Jackson	4,221	899
Kalamazoo	4,081	758
Kalkaska	771	148
Kent	8,754	1,366
Keweenaw	59	8
Lake	420	81
Lapeer	2,488	481
Leelanau	411	71
Lenawee	3,236	641
Livingston	3,463	604
Luce	110	21
Mackinac	274	49
Macomb	19,455	3,304
Manistee	649	107

County	Qualifying Patients	Primary Caregivers
Marquette	1,357	331
Mason	733	104
Mecosta	794	128
Menominee	585	125
Midland	1,324	204
Missaukee	275	69
Monroe	3,889	644
Montcalm	1,842	412
Montmorency	414	84
Muskegon	4,322	680
Newaygo	1,286	246
Oakland	24,416	3,963
Oceana	900	171
Ogemaw	534	98
Ontonagon	177	33
Osceola	602	124
Oscoda	202	41
Otsego	730	140
Ottawa	3,341	499
Presque Isle	295	65
Roscommon	817	151
Saginaw	4,049	630
Saint Clair	3,182	552
Saint Joseph	1,136	223
Sanilac	944	170
Schoolcraft	312	75
Shiawassee	2,235	426
Tuscola	1,928	407
Van Buren	1,988	428
Washtenaw	8,709	1,256
Wayne	34,941	5,283
Wexford	844	189

3. The Nature of the Debilitating Medical Conditions of the Qualifying Patients.

Name of Debilitating Condition	% of Patients Afflicted With Debilitating Condition*
Acquired Immune Deficiency Syndrome (AIDS)	0.32%
Alzheimer's	0.03%
Amyotrophic Lateral Sclerosis	0.02%
Cachexia	0.52%
Cancer	3.81%
Crohn's disease	0.88%
Glaucoma	1.23%
Hepatitis C	1.20%
Human Immunodeficiency Virus (HIV)	0.34%
Nail Patella	0.01%
Post-Traumatic Stress Disorder (PTSD)	1.94%
Seizures – Epilepsy	1.74%
Severe and Chronic Pain	79.99%
Severe and Persistent Muscle Spasms	18.87%
Severe Nausea	7.86%
Wasting Syndrome	0.53%

4. The Number of Registry Identification Cards Revoked

Rule 25 of the General Rules states:
"A registered qualifying patient or registered primary caregiver who has been convicted of selling marihuana to someone who is not allowed to use marihuana for medical purposes under the act, shall have his or her registry identification card revoked..."

One registry card was revoked in Fiscal Year 2016.

5. The number of physicians providing written certifications for qualifying patients.

During Fiscal Year 2016, there were a total of 1,758 physicians who provided written certifications for qualifying medical marihuana patient.

Since the publication of Vol I in 2013, there have been many cannabis related Bills introduced into legislation. These are summaries of the few that made it through, including the sleeping giant, SB 660.

Senate Bill No. 72 Public Act 546 of 2016

Effective Date April 10, 2017.

The bill amends the Michigan Medical Marihuana Act (MMMA) to specify that the Act could not be construed to require a private property owner to lease residential property to a person who smoked or cultivated marihuana on the premises, if a written lease prohibited smoking or cultivating marihuana.

Section (c) Nothing in this act shall be construed to require any of the following:

(3) A private property owner to lease residential property to any person who smokes or cultivates marihuana on the premises, if the prohibition against smoking or cultivating marihuana is in the written lease.

House Bill 4209 as enacted Public Act 281 of 2016

Effective Date Dec 20, 2016.

Creates the Medical Marihuana Facilities Licensing Act to create a licensing and regulation framework for medical marihuana growers, processors, secure transporters, provisioning centers (retail sellers), and safety compliance facilities.

Significant provisions include the following:

- A state operating license, renewed annually, will be required to operate as a grower, processor, provisioning center, secure transporter, or safety compliance facility. Applicants may begin submitting applications for licensure as a grower, processor, provisioning center, secure transporter, or safety compliance facility beginning December 15, 2017, (360 days from the bill's effective date of December 20, 2016). A registered primary caregiver or qualified registered patient is not required to be licensed under the act.
- Until June 30, 2018, a two-year residency requirement is imposed on applicants.
- A municipality may enact an ordinance to authorize one or more types of marihuana facilities, and limit the number of each type of facility, within its boundaries; charge an annual local fee up to $5,000 on licensees; and enact other ordinances related to marihuana facilities such as zoning ordinances. A marihuana facility cannot operate in a municipality unless the municipality adopts an ordinance authorizing that type of facility.
- In case of conflicts with certain business organization-related statutes, provisions in the act regulating the five new licensee classifications will supersede.
- A five-member Medical Marihuana Licensing Board is created within the Department of Licensing and Regulatory Affairs (LARA). The Board has general responsibility for implementing the act and all powers necessary and proper to fully and effectively implement and administer the act as specified.
- Licensees, registered qualifying patients, and registered primary caregivers (hereinafter "patient" and "caregiver") will receive specified protection from marihuana-related criminal or civil prosecutions or sanctions if they are in compliance with the act. "A registered qualifying patient" includes a visiting qualifying patient.
- The medical purpose defense for patients and caregivers provided under Section 8 of the MMMA will be preserved for any prosecution involving marihuana.
- A tax rate of 3% will be imposed on the gross retail income of each provisioning center.
- Rather than annual renewal license fees, an annual regulatory assessment will be imposed on certain licensees to pay for medical-marihuana-related services or expenses of certain state and local agencies.
- Two new funds will be created to receive revenue from taxes, application fees, annual regulatory assessments, fines, and other charges.
- Rules must be promulgated as specified in the bill, including the establishment of maximum THC levels for medical edibles sold at provisioning centers and daily purchasing limits by patients and caregivers to ensure compliance with the Michigan Medical Marihuana Act.
- Licensees must file annual financial statements of their total operations, reviewed by a certified public accountant.
- A 17-member Marihuana Advisory Panel is created within LARA to make recommendations concerning rules and the administration of the act.

House Bill 4210 as enacted Public Act 283 of 2016

Effective Date Dec 20, 2016.

House Bill 4210 amends the existing Michigan Medical Marihuana Act to allow for the manufacture and use of marihuana-infused products (such as products known as "medibles") by qualifying patients, among other things.

The bill defines "marihuana-infused product" as a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation. A marihuana-infused product may not be considered a food for purposes of the Food Law.

Currently, "usable marihuana" means the dried leaves and flowers of the marihuana plant, and any mixture or preparation of them, but does not include the seeds, stalks, and roots of the plant. The bill defines "usable marihuana" as the dried leaves, flowers, plant resin, or extract of the marihuana plant, not including the seeds, stalks, or roots.

Currently, "medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or associated symptoms. Under the bill, this definition applies to the term "medical

LEGISLATION THAT IMPACTS PATIENTS AND CAREGIVERS

use of marihuana", and includes the extraction of marihuana, as well as its acquisition, possession, cultivation, etc. The term also applies to marihuana-infused products, in addition to marihuana and paraphernalia.

Manufacturing Marihuana-Infused Product

Under the bill, a person will not be subject to arrest, prosecution, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for manufacturing a marihuana-infused product if the person is either of the following:

- A registered qualifying patient, manufacturing for his or her own personal use.
- A registered primary caregiver, manufacturing for the use of a patient to whom the caregiver is connected through LARA's registration process.

Illegal Transfer of Marihuana-Infused Product or Marihuana

The bill prohibits a qualifying patient from transferring a marihuana-infused product or marihuana to any individual.

The bill also prohibits a primary caregiver from transferring a marihuana-infused product to any individual who is not a qualifying patient to whom the caregiver is connected through LARA's registration process.

Transportation or Possession of Marihuana-Infused Product in Motor Vehicle

Except as provided below, the bill prohibits a qualifying patient or primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle.

The prohibition will not apply to a qualifying patient if the marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the person from whom the product was received, and date of receipt.

The prohibition also will not apply to a primary caregiver if the marihuana-infused product is accompanied by an accurate marihuana transportation manifest and enclosed in a case carried in the trunk of the vehicle or, if the vehicle does not have a trunk, carried so as not to be readily accessible from the interior of the vehicle. The manifest must state the weight of the marihuana-infused product in ounces, name and address of the manufacturer, date of manufacture, destination name and address, date and time of departure, estimated date and time of arrival, and, if applicable, name and address of the person from whom the product was received and date of receipt.

In addition, the prohibition will not prohibit a primary caregiver from transporting or possessing a marihuana-infused product in or upon a motor vehicle for the use

LEGISLATION THAT IMPACTS PATIENTS AND CAREGIVERS

of his or her child, spouse, or parent who is a qualifying patient if the product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, carried so as not to be readily accessible from the interior of the vehicle. The label must state the weight of the marihuana-infused product in ounces, name of the manufacturer, date of manufacture, name of the qualifying patient, and, if applicable, name of the person from whom the product was received and date of receipt.

For purposes of determining compliance with quantity limitations under the MMMA, the bill creates a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate.

A qualifying patient or primary caregiver who violates these provisions will be responsible for a maximum civil fine of $250.

Maximum Amount of Marihuana Allowed for Possession

Under the bill, the amount that a qualifying patient or a primary caregiver may possess may not exceed "a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents".

For purposes of determining usable marihuana equivalency, the following must be considered equivalent to one ounce of usable marihuana:

- Sixteen ounces of marihuana-infused product if in a solid form.
- Seven grams of marihuana-infused product if in a gaseous form.
- Thirty-six fluid ounces of marihuana-infused product if in a liquid form.

The bill defines "usable marihuana equivalent" as the amount of usable marihuana in a marihuana-infused product calculated as provided above.

House Bill 4827 as enacted Public Act 282 of 2016

Effective Date Dec 20, 2016.

The Marihuana Tracking Act required the Department of Licensing and Regulatory Affairs to establish a statewide monitoring system for use as an integrated marihuana tracking, inventory, and verification system. "Statewide monitoring system" means an internet-based, statewide database established, implemented, and maintained directly or indirectly by LARA that is available to licensees under the Medical Marihuana Facilities Licensing Act, law enforcement agencies, and authorized State departments and agencies on a 24-hour basis for all of the following:

- Verifying registry identification cards.
- Tracking marihuana transfer and transportation by licensees, including the transferee, date, quantity, and price.
- Verifying in a commercially reasonable time that a transfer will not exceed the limit that a registered qualifying patient or registered primary caregiver is authorized by receive under the MMMA.

The system must allow for interface with third-party inventory and tracking systems, as described in the Licensing Act, to provide for access by the State, licensees, and law enforcement personnel, to the extent they need and are authorized to receive or submit the information, to comply with, enforce, or administer the Marihuana Tracking Act, the MMMA, or the Licensing Act.

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At a minimum, the system must be capable of storing and providing access to information that, in conjunction with one or more third-party inventory control and tracking systems under the Licensing Act, allows all of the following:

- Verification that a registry ID card is current and valid and has not been suspended, revoked, or denied.
- Retention of a record of the date, time, quantity, and price of each sale or transfer of marihuana to a registered qualifying patient or registered primary caregiver.
- Determination of whether a particular sale or transfer transaction will exceed the permissible limit established under the MMMA.
- Effective monitoring of marihuana seed-to-sale transfers.
- Receipt and integration of information from third-party inventory control and tracking systems under the Licensing Act.

Senate Bill 660 (as enacted) PUBLIC ACT 268 of 2013

Effective Date Dec 30, 2013, its implementation is contingent upon Federal reclassification of marihuana.

The bill amended Article 7 (Controlled Substances) of the Public Health Code to classify marihuana as a Schedule 2 controlled substance, with Federal authority; and added Article 8 (Pharmaceutical-Grade Cannabis) to provide for the licensure of facilities that manufacture, cultivate, and test pharmaceutical-grade cannabis (PGC); allow facilities to sell PGC to pharmacies; provide for PGC prescriptions; and provide for the issuance of enhanced PGC registration cards to patients. Implementation and enforcement of Article 8 may not begin sooner than 180 days after Federal authority reclassifies marihuana.

The amendments to Article 7 do the following:

- Specify that marihuana, including PGC, is a Schedule 2 controlled substance if it is manufactured, obtained, dispensed, possessed, or grown in compliance with the Code and as authorized by Federal authority.
- Include marihuana in Schedule 2 for the purpose of treating a debilitating medical condition as authorized under the Code.

Article 8 does the following with respect to the licensure of facilities:

- Prohibits a person from manufacturing, distributing, prescribing, or dispensing pharmaceutical-grade cannabis without a controlled substance license.
- Requires the Department Licensing and Regulatory Affairs (LARA) to license facilities to cultivate, manufacture, and test PGC.
- Establishes licensure criteria, and requires an applicant to submit fingerprints and personal history information.
- Requires LARA to establish a Pharmaceutical-Grade Cannabis Licensed Facility Registry.
- Establishes operating requirements for licensed facilities.
- Requires pharmaceutical-grade cannabis to meet specific standards, and requires licensed facilities to irradiate all PGC before delivery.
- Limits the liability of a licensed facility in a product liability action.
- Allows LARA to charge fees for activities provided under Article 8.
- Requires the fees to be deposited into a new “Pharmaceutical-Grade Cannabis Fund”.

LEGISLATION THAT IMPACTS PATIENTS AND CAREGIVERS

Article 8 does the following with respect to the delivery and prescription of pharmaceutical-grade cannabis:

- Requires a licensed facility to sell PGC only to a licensed pharmacy, for dispensing only to eligible patients and other licensed facilities.
- Allows a physician to recommend the issuance of an “enhanced pharmaceutical-grade cannabis registration card” to a patient; and allows LARA to issue a registration card.
- Requires the person receiving a card to be at least 18 years old, unless he or she is recommended by two physicians.
- Requires a person to surrender his or her registry ID card issued under the Michigan Medical Marihuana Act before receiving an enhanced PGC registration card.
- Requires the DCH to enter certain information into the Law Enforcement Information Network for each card issued.
- Specifies information that a prescription for PGC must include.
- Provides that a prescription may not allow an individual to obtain more than 2.5 ounces of PGC.
- Restricts access to information submitted to LARA under Article 8.

Article 8 does the following with respect to enforcement:

- Requires LARA to inspect licensed facilities. –
- Allows LARA to delegate its inspection responsibilities to local health departments, which the State must reimburse.
- Allows LARA, after an investigation and a hearing, to suspend or revoke a facility’s license.
- Allows LARA to suspend a facility’s license without a hearing, in an emergency.
- Establishes misdemeanor penalties for violations of Article 8.
- Provides that a licensed facility, or an owner, operator, officer, director, manager, or employee of a facility is not subject to arrest, prosecution, or penalty, and may not be denied any right or privilege, for the cultivation, distribution, and sale of PGC under Article 8.
- Preempts local ordinances regarding PGC facilities, except limitations on the number allowed and reasonable zoning regulations.

The bill also amended other articles of the Public Health Code to include references to Article 8 in provisions concerning disciplinary procedures; provisions regulating pharmacy practice; and a prohibition against disciplining health facility employees for reporting malpractice.

The bill repealed sections of the Code that established a marihuana controlled substances therapeutic research program and allowed the appointment of a patient qualification review board (MCL 333.7335 and 333.7336), which have not applied since November 2, 1987.

People v Maygari (January 2017) People v Magyari. Court of Appeals of Michigan. Judge could prohibit medical marijuana use by registered patient while person was on probation. By Dustin Sulak, D.O.

People v Latz (December 2016) People v Latz Court of Appeals of Michigan. Improper Transport of Medical Marijuana Statute is superseded by the Medical Marijuana Act as it places additional impermissible requirements beyond those in the MMMA.

People v Ventura (August 2016) People v Ventura Court of Appeals of Michigan. A cutting becomes a "plant" when it has a readily observable root system.

People v Carlton (April 2016) People v Carlton Court of Appeals of Michigan Smoking marijuana in a car voids immunity and no affirmative defense.

People v Koon (May 2013) People v Koon Supreme Court of Michigan Medical patients can drive with active THC

People v Hartwick & Tuttle (Jul 2015) People v Hartwick Tuttle Supreme Court of Michigan

People v Mazur (Jun 2015) People v Mazur Supreme Court of Michigan

People v Braska (Oct 2014) Braska v MESC Michigan Court of Appeals Claimants were entitled to unemployment benefits.

People v Johnson (September 2013) People v Johnson Michigan Court of Appeals

People v Carruthers (July 2013) People v Carruthers Michigan Court of Appeals

- **Cancer**
- **Glaucoma**
- **HIV - Positive status for human immunodeficiency virus**
- **AIDS - Acquired immune deficiency syndrome**
- **Hepatitis C**
- **Amyotrophic lateral sclerosis**
- **Crohn's disease**
- **Agitation of Alzheimer's disease**
- **Nail patella**
- **PTSD - Post-Traumatic Stress**

A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following:

- **Cachexia or wasting syndrome**
- **Severe and chronic pain**
- **Severe nausea**
- **Seizures, including but not limited to those characteristic of epilepsy**
- **Severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis**

Michigan citizens, under the Michigan Medical Marihuana Act, can submit a request to the Michigan Medical Marihuana Review Panel to add conditions or treatments to the list of debilitating medical conditions that qualify for the use of Medical Marihuana.

All Michigan citizens making such a request must use this petition form. Only one condition or treatment may be identified per petition form. For additional conditions or treatments, a new petition form must be submitted.

This completed petition and instructions can be found online at: http://www.michigan.gov/documents/lara/lara_BHCS_MMMP_ReviewPanelInstructions_4-1-15_485883_7.pdf

By Dr. Dustin Sulak

The Opioid Crisis

The United States is in the midst of an opioid addiction crisis. How big is this problem? Forty-four people in the United States die every day from prescription opioid overdose; the number increases to 78 every day when we include heroin. Almost 7,000 people are treated in emergency rooms in the United States every day for misuse of a prescription opioid.

Between 1999 and 2010, the sales of prescription opioids quadrupled, and so did the rate of opioid overdose deaths. Enough opioids were prescribed in 2010 to give a one-month supply of 5mg of hydrocodone every four hours to every adult in the United States. While America claims only 5 % of the world's population, we consume 80 % of the world's opioids. One in three of these prescriptions are currently being abused. The estimated cost of opioid abuse is $56 billion per year.

The Doctor's Dilemma

Prescription opioid abuse and addiction is actually a much bigger problem than heroin addiction. In 2014, for example, there were around 19,000 overdose deaths from opioid prescriptions and around 11,000 overdose deaths from heroin. Nearly 80% of heroin users in the United States reported using prescription opioids before initiating heroin use.

The opioid problem is largely starting in the doctor's office. When a doctor is face-to-face with a chronic pain patient who says, "My pain is worse, the opioids aren't working, and I need more. If I don't get them I'm not going to be able to go to work, I'm not going to be able to support my family, I'm not going to be able to function" – it's hard for that clinician to say no. It's their job to relieve suffering and they simply don't have any safer and more effective tool.

Despite their widespread use, opioid drugs have not been proven to help with chronic pain. A 2015 review from the *Annals of Internal Medicine* summarized, "Evidence is insufficient to determine the effectiveness of long-term opioid therapy for improving chronic pain in function." But the authors did find an increased risk of serious harm associated with long-term opioid use – overdose, fractures, heart attacks, sexual dysfunction, and more.

Cannabis: A Better Option

In contrast, two systematic review articles evaluating the use of cannabis and cannabinoid compounds for the treatment of non-cancer chronic pain were published in 2011 and 2015. Together, they found that 22 of 29 high quality randomized, controlled clinical trials demonstrated safe and effective treatment outcomes with cannabis.

How do cannabis and opioids work together? Opioid and cannabinoid receptors are both present in pain areas of the brain, and we know that these receptors talk to each other. Researchers have found that administering opioids and cannabis together results in a greater-than-additive anti-pain effect. Both animal and human research has demonstrated that adding cannabinoids like THC to opioids, even after the developing tolerance to the opioids, provides significant additional pain relief.

Cannabis is Safer
Beyond enhancing the pain relief, can cannabis be used to replace opioids in chronic pain patients? A 2016 study by Kevin Boehnke and colleagues surveyed 244 medical cannabis patients in Michigan; cannabis use was associated with an overall 64% decrease in opioid use, a decrease in the number and side effects of other medications, and a 45% improvement in quality of life. An Israeli study from the same year found that 44% of 176 opioid-using patients were able to discontinue opioid therapy entirely seven months after they began smoking cannabis or eating cannabis-infused cookies.

So, yes, cannabis can be used to replace opioids. But is it safe to use them together? The problem with using too many opioids is that they stimulate opioid receptors in the cardio-respiratory centers of the brain, which can cause, or result in fatal suppression of breathing and heart pumping. While the opioid and cannabinoid receptors are abundant and work together in pain areas of the brain, there are virtually no cannabinoid receptors present in the cardiorespiratory centers. This means that using cannabinoids and opioids together decreases the required dose of opioids without decreasing the lethal dose, improving the safety and therapeutic window of the opioid drugs.

How about retention of efficacy? One of the biggest problems with long-term opioid treatment is that it stops working. People build up tolerance to opioids, they come back every three to six months saying, 'I want more, I need more.' An ideal adjunct to opioids would prevent this – which cannabis does. It's been shown in mice that opioid receptors are actually up-regulated in animals that are treated with both morphine and THC. This is the opposite of what happens when they're treated with morphine alone. In my clinical practice, I've observed patients use low dose cannabis and opioids for years without ever needing a dosage increase.

Harm Reduction
While we would like to imagine that everyone who's addicted to any substance could successfully get off substances all together, we recognize that that's not practical. Abstinence just doesn't work for everyone. So instead of focusing on abstinence, patients can take a safer substance and use it to replace a more harmful substance. This is the practice of harm reduction.

What are our current harm reduction options for treating opioids? Suboxone and methadone. A 2014 review in the Cochrane Database assessed the efficacy of these approved heroin substitutions and found that only max-dose Suboxone and was more effective than placebo in suppressing illicit opioid use. Methadone maintenance was found to be superior to Suboxone in retaining people in treatment.

Sometimes these treatments can help, but they're often not enough.
Cannabis has a much better safety profile than the approved treatments. There's no lethal overdose with cannabis, unlike Suboxone and methadone. Cannabis has a lower risk of dependence than any other psychoactive substance. It also has a low risk for abuse and diversion, especially in non-smoked forms as demonstrated in the 30,000 patient-years of Sativex trial data.

CANNABIS: A SOLUTION TO THE OPIOID EPIDEMIC

In addition to replacing and reducing opioids, improving the pain relief that opioids provide, and preventing opioid dose escalation and tolerance, cannabis can also treat all the symptoms of opioid withdrawal: nausea, vomiting, diarrhea, abdominal cramping, muscle spasms, anxiety, agitation, restlessness, insomnia, runny nose and sweating.

Saving Lives
In 2014, the *Journal of the American Medical Association* published a study that looked at various interventions intended to prevent opioid overdose deaths, e.g. prescription drug monitoring program and increased state oversight of pain management clinics – neither had any significant effect. The same study found that simply passing a state medical cannabis law on average reduced opioid overdose deaths by 24.8%!

My colleagues and I often see patients in our clinic who tell us that they're using cannabis with their opioids to reduce their dose and get off their pain meds, so we conducted a survey. Of 542 patients who added cannabis to opioids, 39% were able to stop taking opioids completely, and another 39% were able to reduce their opioid dosage. 80% reported improved function and 87% reported improvement in their quality of life

In summary, the opioid problem is lethal and growing. Prescription opioid abuse is actually worse than heroin abuse; it's a bigger problem, and it starts in the doctor's office. Cannabis can replace and reduce opioid use. Adding cannabis makes opioids safer by widening the therapeutic index. Cannabis can prevent opioid tolerance-building and the need for dose escalation. Cannabis can treat the symptoms of opioid withdrawal. And cannabis is safer than the other harm reduction options. We do have a solution to this deadly epidemic – it's time for clinicians and patients to take advantage of the incredible potential of medical cannabis for treating chronic pain and opioid addiction.

Dr. Dustin Sulak is an integrative medicine physician with an emphasis in osteopathy, energy medicine, mind-body medicine, and medical cannabis.

By Neil Rockind

Preamble

This is an exciting time for those interested in potentially creating a medical marijuana business within the state of Michigan. The state passed and enacted a law that literally creates a state approved structure and system for marijuana businesses, including retail outlets, commercial growers, processors, transporters and laboratory testers. While the Act describes these distinct areas with different, more technical titles, in essence the law creates a system from "soup to nuts", i.e., for the growing and distributing of medical marijuana on a commercial level. Many people appear eager to enter into the field and with good reason: marijuana and medical marijuana is a newly developing industry and field. For many, the sense of a gold rush is at stake. To date, I have seen seminars, chat groups, Facebook posts, blog posts and articles written all with the aim of advising people on how to potentially take advantage of these new opportunities. However, as we learned after the passage of the Initiative in 2008 and the enactment of the Michigan Medical Marijuana Act in 2009, strict attention must be paid to the actual language of the statute and law. I have seen firsthand, the destruction that befell many people between 2009 and today's date from the receipt of incorrect, incomplete, foolish or misleading information about what and how to participate under the MMMA. Let's not do that again.

The Law

Under the Michigan Marijuana Facilities Act, individuals and businesses may actually obtain state-approved and state-issued licenses to engage in a commercial medical marijuana business. However, no state issued license will issue to anyone, no matter how qualified, professional, well-funded or prepared they are, without prior municipality approval. None. Zip. Zero. Zilch.

The statutory language is clear: a municipality must first approve a facility and must do so in a specific way before a facility can open and/or attempt to seek a state approved license. The Act says the following:

> A marihuana facility ***shall not*** operate in a municipality ***unless*** the municipality has adopted an ordinance that authorizes that type of facility.

In other words, municipality approval is required. As is plainly evident, this places a great deal of power and discretion in each municipality to decide whether it wants to approve any facilities within their jurisdiction.

However, the statute goes further. It authorizes the municipality to not only decide whether to permit marijuana facilities but also permits it decide which types and the number of those types of facilities that will be authorized to operate within the city or township limits. The language is pretty clear on this point as well:

> A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility.

An example may illustrate this point more clearly. A municipality may pass an ordinance that authorizes only a laboratory, i.e., a Safety Compliance Facility, and excludes all other types of facilities. Likewise, a municipality may pass an ordinance that that permits only (1) only such facility to operate. In other words, municipalities possess broad and vast powers to regulate what type of commercial medical marijuana activity will take place and how many businesses will be licensed to do so.

Further, the statute permits municipalities to pass reasonable ordinances, e.g., zoning, etc., that regulate where and how those facilities will be operated within the city limits. The law reads as follows:

> A municipality may adopt other ordinances relating to marihuana facilities within its jurisdiction, including zoning regulations, but shall not impose regulations regarding the purity or pricing of marihuana or interfering or conflicting with statutory regulations for licensing marihuana facilities.

In other words, not only may the municipality decide whether to permit facilities, limit the types of facilities and limit the number of those facilities but it may also pass rules and regulations about where those facilities may operate and even other rules that impact how those facilities are operated. For example, the municipality may pass an ordinance that limits the hours that facilities are operated, the type of security required, the type of insurance required, the number of people that may work at the facility, etc. *ad infinitum*.

Unfortunately, while the relative newness of the medical marijuana industry makes it seem like a gold rush in which people jump at the opportunity to get involved, the powers that are bestowed on cities and townships should give people pause from making inquiries of municipalities on their own. From what I have heard on the street to date, individuals are approaching municipalities on their own accord and inquiring about a license. Some have done it informally and some have attempted to do it in more formal ways. None are speaking as a representative of "medical marijuana" but instead are speaking as advocates for their business interests. There is nothing illegal about that approach but consider the likelihood of success in such an approach. One wrong approach or miscalculation with a particular municipality could lead it to make a bad decision that will impact perhaps hundreds or thousands of others. I cannot stress enough that restraint ought to be used in these situations.

However, municipalities that approve marijuana businesses can obviously benefit. Benefits range from infrastructure development, increased commercial activity, property and real estate development, use of real estate and commercial properties that were previously unused and an increased tax base. In addition, the law permits the municipality to assess an annual nonrefundable fee of no more than $5,000.00 per facility license. Consider the revenue alone from that fee: a city that allows 20 licenses at $5,000.00 each increases its revenue by $100,000.00 each year. Additionally, the law creates a state excise fund called the medical marijuana excise fund and municipalities that permit marijuana facilities will benefit from that fund as well. According to the statute,

THE RESPONSIBILITY OF MICHIGAN MUNICIPALITIES

all fees, fines and charges go into a state excise fund from which a municipality (that permits marijuana facilities) will receive "25% allocated in proportion to the number of marihuana facilities within the municipality." In other words, done correctly, a city can truly benefit financially, directly and indirectly, from permitting and authorizing marijuana facilities without negatively impacting its character or family-friendliness.

The municipality is not helpless in ensuring that any facility granted a license remain in compliance with state and local law. The Act specifically requires those granted a license to permit inspections by municipal agents should the municipality pass an ordinance or regulation that requires inspections, be they planned or random. In other words, the municipality can through regulation and ordinance provide a mechanism to monitor whether the marijuana facility is in compliance. This is important: should the municipality discover that a facility has violated a local regulation, the municipality can of course take local action against the facility but also it **is required by law** to send proof of the violation to the state licensing board. This means that the facility, if permitted and licensed, will be under the watchful eye of the municipality, police and state licensing board in order to ensure compliance and continued justification for reissuance of the license.

Conclusion

The marijuana facilities act grants significant powers and duties to municipalities. Moreover, municipalities have significant control over the "who, what, when and where" of marijuana facilities through the passage of ordinances and regulations. While some municipalities may be reticent to participate, I think that an objective, reasoned presentation of the act to municipalities can help overcome any initial hesitation. A municipality can start slowly, e.g., only permitting certain facilities in small numbers, and then see how well those facilities comply and whether they fit within the overall city plan, look and feel. Adjustments can be made. And for those municipalities that choose to participate, they may experience extraordinary financial and other benefits. Were I advising a city or township, I would caution against a blanket prohibition given the significant amount of regulatory control the municipality will have over this industry. Rather than rejecting all marijuana facilities from operating, which may be the knee-jerk reaction of some city officials when approached by interested businesses, conduct a thorough analysis of the Act and the ways that it permits the municipalities to regulate the industry. Once government officials realize how much control they exert over the industry, I can foresee more and more of them permitting the industry to operate in their limits more frequently.

Neil Rockind has been lead counsel in some of the biggest and most groundbreaking medical marijuana cases in Michigan. Rockind has lectured and presented to groups across the state including for the State Bar of Michigan, the Oakland County Bar Association and the Wayne State University Law School Marijuana Symposium and the Institute of Continuing Education to name a few. Rockind has presented to business groups and corporate law groups and has offered testimony before the House of Representatives on marijuana law reform.

By Denise Pollicella

For those wishing to operate legal profit-making businesses from the production and sale of marihuana, the Medical Marihuana Facilities Licensing Act ("MMFLA"), PA 281 of 2016 is long overdue. Like any new law, it is unfinished and imperfect, and will undergo numerous revisions and course corrections. Following is a brief summary of the law as it is today, along with some recommendations to consider as you plan your future in the industry.

Part 1 contains the General Provisions and Definitions. Notable among them are: "Applicant" which includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant. "Plant" is defined as any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material. This section also defines the five types of licenses: grower, processor, provisioning center, safety compliance facility, and secure transporter.

Part 2 are the Protections. It protects license holders, and their employees, property owners, and landlords of marihuana facilities, from criminal and civil charges for marihuana-related offenses. It protects card-holding patients and caregivers from criminal charges for purchasing medical marihuana from provisioning centers. It protects caregivers from criminal charges for testing marijuana at a safety compliance facility, and confirms that the MMFLA does not affect a Section 8 defense under the MMMA. It also requires municipalities to opt into the MMFLA program, allows them to control, zone, and cap the number of licenses in its jurisdiction, and allows them to charge a maximum of $5,000 annual, nonrefundable fee administration. This section also allows LARA and the Medical Marihuana Licensing Board to promulgate rules, administer and enforce the act, and create standards, procedures, and requirements for licensees. It requires licensees to adopt an inventory control and tracking system, and lays out the minimum requirements for this system. Finally, it allows local and state police agencies to inspect marijuana facilities.

Part 3 creates The Medical Marihuana Licensing Board, a 5-member board within LARA, appointed by the Governor. It lays out the requirements to qualify as a board member and reviews the Board's general rights and responsibilities: granting and denying applications, conducting meetings, working with LARA to promulgate rules, oversee facilities, investigate issues, take disciplinary action against licensees, etc. Most notable, the Board is prohibited from capping the number of licenses issued by the State.

Part 4 contains the Licensing details, along with the minimum application requirements, impediments and restrictions. In addition to other basic information, applicants will be required to provide: the identity of every person having an ownership interest in the applicant; The identity of any business that is directly or indirectly involved in the growing, processing, testing, transporting, or sale of marijuana, in any state, that the applicant, or the applicant's spouse, parent, or child, has any equity interest; Passport quality photograph and fingerprints for applicant, each person with ownership interested in the facility, and all officers, directors, and managerial employees of the applicant; Applicant's commercial license or certification history; Any history of complaints or notices filed against

applicant by a public body for delinquency in payment of any federal, state, or local tax; and A list of names and titles of all public officials or officers of any unit of government, and such individuals' spouses, parents, and children, that have a direct or indirect financial interest, beneficial interest, or creditor's interest with applicant. There will, of course, be comprehensive criminal background and financial due diligence checks. Applicants will be ineligible if they: were convicted of or released from incarceration for a felony or released from incarceration for a felony within the past 10 years; were convicted of a misdemeanor or found responsible for violating a local ordinance involving controlled substances, theft, dishonesty, or fraud within the past 5 years; provide knowingly false information; are a member of the Medical Marihuana Licensing Board; cannot demonstrate an ability to maintain premises liability and casualty insurance; or is an elected officer or employee of a governmental unit. Numerous applicant and employee restrictions and additional eligibility considerations are also set forth in Part 4, and could be expanded considerably on the state license applications. Part 4 also details license terms, renewal and transfers.

Part 5 sets forth the first types of licenses and some basic rights and restrictions. **A Grower License** allows for the cultivation of marihuana, and is issued in one of the following classes: Class A – 500 plants; Class B – 1,000 plants; Class C – 1,500 plants. The applicant, and each investor in the grower, must not have an interest in a secure transporter or safety compliance facility, must employ an individual with a minimum of 2 years' experience as a caregiver, and must hold a municipal permit in an industrial or agricultural zoned area, or in unzoned areas that meet local ordinance requirements. A **Processor License** allows for the creation of marihuana-infused products. A **Secure Transporter License** allows for the storage and transportation of marijuana between licensed facilities. A **Provisioning Center License** allows for the sale of marihuana and marihuana-infused products to patients and caregivers. Provisioning centers will be required to identify whether a patient or caregiver patron holds a valid, current, unexpired, and unrevoked registry identification card and that the sale will not exceed the daily purchasing limit. No sale of alcohol or tobacco will be permitted on the premises, nor will physicians be permitted to conduct medical examinations or issue medical certification documents on the premises. Finally, a **Safety Compliance Facility License** will allow for the testing of marihuana in a secure, accredited facility.

Part 6 sets forth taxes and fees for the industry, imposing a tax collected at the provisioning centers at the rate of 3% of gross retail receipts. It also creates the Medical Marihuana Excise Fund which allocates over half of the fines, fees, taxes and penalties collected back to local governments who allow licensed facilities. It also creates a regulatory assessment, collected annually from all licensees except safety compliance facilities, as well as a Marihuana Regulatory Fund, used to support the implementation, administration, and enforcement of the MMFLA.

Finally, **Part 7** creates reporting requirements to the state, and **Part 8** creates a 17-member Marihuana Advisory Panel for the purpose of advising the Board.

KEY POINTS TO UNDERSTANDING COMMERCIAL LICENSING

Applications for state licenses will not be available until December 15, 2017; however, the new amendments to the MMMA, which are laid out in PA283, went into effect on December 20, 2016, and will continue to govern the protections and responsibilities of patients and caregivers. For those seeking to secure a state medical marihuana license, it is vital to continue operating in compliance with the MMMA while planning for, and working toward, a commercial facility.

At its core, the MMFLA was created to ensure that seriously ill patients are receiving a safe medicinal product. Its structure will be influenced by the requirements of the statute, market forces, internal industry pressures and the state's established administrative and regulatory frameworks. Securing a license is only the first step. Like any new industry, the path to commercial success is understanding both its purpose and its structure.

Michigan will regulate this industry in ways that are already familiar to Michigan, accordingly to rules unique to this state, and within the Michigan administrative and regulatory structure. Therefore, it is essential to understand the State of Michigan, and particularly LARA, Licensing and Regulatory Affairs, which has the administrative and regulatory oversight of the new Marihuana Licensing Board.

Municipalities are the real power centers. All politics is local, and municipalities have the power to participate in, or ignore, the new commercial marihuana industry. Those that do opt in to the MMFLA can zone, cap and regulate any or all of the five licensed industry businesses. And while state licensing will likely involve a checklist and due diligence investigation, municipal special land use permits will require interviews in the form of public hearings, where local community leaders will make decisions based on more subjective information, and applicants can face opposition from all manner of anti-marihuana objectors.

There are no short cuts, secrets or guarantees. This law and this industry are new to everyone in Michigan, even those of us that labored in its creation. Therefore, while it is essential to seek out skilled and experienced professionals, there is no way to guarantee a license, or even that a licensee will bring commercial success, and there is no secret path. A state license and commercial success will only come with hands-on education. In other words, do your homework. Read the law yourself. Do not rely on the internet or hearsay. Attend several seminars and educational events hosted by experts and professionals and take away the best information from each. Remember: Knowledge is power.

Denise A. Pollicella, Esq., Founder & Managing Partner, Cannabis Attorneys of Michigan, A graduate of the University of Michigan, Ann Arbor and Wayne State Law, Ms. Pollicella's 20 years of private and corporate practice have focused on Business Transactions, Mergers & Acquisitions, Labor & Employment, Regulatory & Licensing, and Corporate Law. Her Firm has submitted three amicus curiae briefs in marihuana cases, and expanded to three offices in Howell, Troy and Grand Rapids. She is an inaugural member of the Michigan State Bar Marihuana Law Section, and Co-Chairs the Property & Zoning Committee.

PATIENTS

Question: Do I have to be a resident of the state of Michigan to register as a qualifying patient with the MMP?

Answer: Effective April 1, 2013, an applicant/patient must provide proof of Michigan residency with their application to be a qualifying patient. Proof of legal residency shall be considered a copy of a valid, lawfully obtained Michigan driver license, copy of a valid official Michigan personal identification card, or a copy of a valid Michigan voter registration.

Questions: How do I petition the state to add a Medical Condition?

Answer: All Michigan citizens making such a request must use the Medical Marijuana Review Panel petition form, found at michigan.gov underLARA Medical Marijuana Program. Only one condition or treatment may be identified per petition form. For additional conditions or treatments, a new petition form must be submitted. This completed petition must be sent to:

Medical Marihuana Review Panel - Attn: Cheryl Pezon
Legal Affairs Division - Bureau of Professional Licensing
Department of Licensing and Regulatory Affairs
P.O. Box 30670
Lansing, MI 48909

Question: When will my registry ID card expire?

Answer: Effective April 1, 2013, PA 514 states the registry ID cards shall expire 2 years after the date of issuance.

Question: What happens to my application and health information once it is received at the MMP?

Answer: All information received at the MMP is protected under the Michigan Medical Marihuana Act Initiated Law 1 of 2008 and Health Insurance Portability and Accountability Act of 1996 (HIPPA) and cannot be released without a court order or release from the patient and caregiver.

Question: Do I have to have a primary caregiver?

Answer: If a qualifying patient is 18 years of age or older they are not required to designate a caregiver.

Question: If I don't designate a caregiver, how much marihuana can I possess?

Answer: A qualifying patient who has been issued and possesses a registry ID card may possess an amount of marihuana that does not exceed 2.5 ounces of usable marihuana and, if the qualifying patient has not specified that a primary caregiver will be allowed to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of

PATIENT AND CAREGIVER FAQS

seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount.

Question: Can I be a qualifying patient and a primary caregiver?

Answer: Yes. A person can be a qualifying patient and be designated as a caregiver for five (5) patients, therefore; allowed to grow up to a maximum of 72 plants total (if designated by each of the patients to possess the plants).

Question: Who has access to the patient registry list?

Answer: The state maintains a confidential list of qualified patients and primary caregivers to whom the department has issued registry ID cards. Individual names and other identifying information on the list must be confidential and is not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform official duties of the department; or (b) authorized employees of state or local law enforcement agencies, only as necessary to verify that a person is a lawful possessor of a registry ID card.

Question: Is my confidentiality protected?

Answer: Yes. The MMP does not give out lists of patients or caregivers. Law enforcement personnel may contact the MMP only to verify if a patient or caregiver registration card is valid. The MMP will tell law enforcement staff if the patient or caregiver is registered. The MMP will disclose patient information to others only at the specific written request of the patient. MMP computer files are secure and paper files are kept locked when not in use.

Question: Can law enforcement search me just for having a patient registry card?

Answer: No, not under Michigan law. Possession of, or application for, a registry ID card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry ID card or otherwise subject the person or property to inspection by any governmental agency, including a law enforcement agency.

Question: Can I obtain a medical marihuana card if I have firearms?

Answer: The Michigan Medical Marihuana Act does not address ownership or possession of a firearm. There may be other state and/or Federal statutes which address this issue. Michigan citizens are required to obey all state and Federal laws. Therefore, you should contact Michigan State Police regarding firearm regulations if applying for or continuing to maintain a medical marihuana registry ID card.

Question: Will my medical insurance cover medical marihuana?

Answer: The MMMA does not require a government medical assistance

program or commercial or non-profit health insurer to reimburse a person for costs associated with the medical use of marihuana.

Question: I am a valid medical marihuana patient under another state's law. Am I protected?

Answer: Yes, under Section 4(j) of the MMMA, a registry identification card or its equivalent issued by another state government to permit the medical use of marihuana by a qualifying patient or to permit a person to assist with a qualify patient's medical use of marihuana has the same force and effect as a registry identification card issued by the department.

CAREGIVERS

Question: Do I have to be a resident in the state of Michigan?

Answer: Effective April 1, 2013, anyone registering with the MMP must provide proof of Michigan residency. Proof of legal residency shall be considered a copy of a valid, lawfully obtained Michigan driver license, copy of a valid official Michigan personal identification card, or a copy of a valid Michigan voter registration. A caregiver will provide this to the patient that is designating them on their application or change form.

Question: How much marihuana can I possess as a caregiver?

Answer: A primary caregiver who has been issued and possesses a registry ID card may possess an amount of marihuana that does not exceed 2.5 ounces of usable marihuana for each qualifying patient to whom he or she is designated by the patient; and for each registered qualifying patient who has specified that the primary caregiver will be allowed to possess his or her marihuana plants, 12 marihuana plants kept in an enclosed, locked facility; and any incidental amount of seeds, stalks, and unusable roots.

Question: How many patients can I grow/cultivate for as a caregiver?

Answer: A primary caregiver is allowed up to five (5) patients at any time with a limit of 12 plants per patient.

Question: Can I be a qualifying patient and a primary caregiver?

Answer: Yes. A person can be a qualifying patient and be designated as a caregiver for five (5) patients, therefore; allowed to grow up to a maximum of 72 plants total (if designated by each of the patients to possess the plants).

Question: Does my patient(s) have to notify me if they change to a new caregiver?

Answer: When the MMP processes a change form to remove a caregiver, the caregiver will receive a notice that their registry ID card for that patient is no longer valid. Prior to receipt of the letter (which can take up to 60 days to receive) the responsibility falls on the patient to communicate with the caregiver to notify him or her that he or she is no longer protected under the law.

REFERENCES

Some of the information contained in Vol II of the *Guide to Understanding the Michigan Medical Marijuana Act* is compiled from the following publications.

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