

## **Medical Marijuana Laws and Regulations for Patients, Caregivers and Physicians: California and Hawaii**



This chart is intended for educational purposes only; you should not act or rely upon the information contained herein without first seeking the advice of an attorney licensed in your jurisdiction.

The categories listed on this chart are limited so as to provide a comparative perspective of legislation from various jurisdictions. Please note that the listed provisions may have features that are not summarized in this chart. Pending bills may also seek to amend, repeal, or supersede these provisions – such information is not included in this comparison.

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|  | <b>California</b><br>CA ST §§ 11362.5, .7<br>to .9, 131051              | <b>Hawaii</b><br>HI ST §§ 329-121 to -128,<br>712-1240.1, HI ADC 23-<br>202-1 to -15 |
|--|---|--|
| <b>State Registration</b>  |   |  |
| Registry of Authorized Users, Physicians, and Primary Caregivers Maintained by the State   | X   | X  |
| Identification Cards Issued to Registered Users and Caregivers   | X   | X  |
| Requires Development of 24 Hour Verification System for Law Enforcement  | X   | See note <sup>3</sup>  |
| <b>Individuals Allowed Access to Registry</b>  |   |  |
| Authorized Employees of Administrative Department to Perform Official Duties   |   | X  |
| Authorized Employees of State or Local Law Enforcement to Verify that a Person is Lawfully in Possession of ID Card  |   | X  |
| <b>Application Information Required From Patient, Caregiver, or Physician Before Placement in Registry</b>   |   |  |
| Written Certification From a Physician Stating That The Patient Has Been Diagnosed With A Debilitating Condition and/or That The Patient May Benefit From The Medical Use of Marijuana | X   | Must explain that the benefits of medical use would outweigh the risks               |
| Name   | Patient, Physician, Caregiver   | Patient, Caregiver <sup>4</sup>  |
| Address  | Physician   | Patient, Caregiver <sup>4</sup>  |
| Date of Birth  |   | Patient, Caregiver <sup>4</sup>  |
| Copy of Photo Identification   |   | Patient, Caregiver (Guardians if application is for a minor) <sup>4</sup>            |
| Driver's License or ID Card Number   | Patient must present ID   |  |
| Telephone Number   | Physician   |  |
| Proof of Residence   | Patient must provide proof of residence within county where registering |  |
| Social Security Number/Patient ID #  |   | Patient, Caregiver <sup>4</sup>  |
| Patient Signature  |   |  |
| Duties of Primary Caregiver  | X   |  |
| Signed Consent for the Release of Medical Information Related to the Debilitating Condition  |   |  |
| Length of Time the Patient Has Been Under the Care of the Practitioner   |   |  |
| Medical License # of Physician   | X   |  |
| Written Statement Signed By Physician Verifying That The Physician Was Presented With Photo ID of Patient and Caregiver  |   |  |
| A Complete Set of Fingerprints of Patient and Caregiver  |   |  |
| A Notarized Program Waiver, Liability Release Form, and Acknowledgment Form Signed by The Patient and Caregiver  |   |  |
| Written Statement From Physician Stating That The Physician Approves of the Caregiver  |   |  |
| An Attestation That The Practitioner's Primary Place of Business is in the United States   |   |  |
| Practitioner's Signature and Date  |   |  |
| Patient's Signature and Date   |   |  |
| Signed Consent for Release of Medical Information Related to Patient's Debilitating Condition  |   |  |

|  | <b>California</b>   | <b>Hawaii</b>  |
|--|---|--|
| <b>Additional Steps/Information That Must Be Submitted Before Use Can Be Approved for Minors</b>                         |   |  |
| Two Physicians Must Diagnose the Minor With A Debilitating Condition   |   |  |
| A Statement That The Minor's Physician Has Explained the Potential Risks and Benefits to the Patient and Parent/Guardian |   | X  |
| <b>Parent/Guardian Must Consent in Writing to:</b> Allow the Medical Use of Marijuana                                    |   | X  |
| Agree to Serve As the Minor's Caregiver  |   | X  |
| Agree to Control the Acquisition of Marijuana, The Dosage, and Frequency of Use  |   | X  |
| <b>Information on ID Cards</b>   |   |  |
| Name   |   | X  |
| Address  |   | X  |
| Date of Birth  |   | X  |
| Social Security Number   |   |  |
| Photo of ID Cardholder   | X   |  |
| Driver's License or ID Card  |   |  |
| Unique User ID or Serial Number  | X   | X  |
| A Statement That The Person Is Registered With The State   |   |  |
| A Statement That The Person Has Been Certified To The State With A Debilitating Medical Condition                        |   |  |
| Date of Issuance/Expiration Date   | Expiration  | X  |
| Primary Caregiver Information Included on Patient's Card   |   | X  |
| Patient's Information Included on Primary Caregiver's Card   |   | X  |
| Address Where Marijuana Will Be Grown  |   | X  |
| Name and Address of Physician  |   | X (phone number is also included)  |
| Phone Number of Administrative Agency  | X (County Health Department Number)   |  |
| Phone Number of Real Time Verification System  | X   |  |
| Period of Time an ID Card is Valid   | Specified information must be submitted annually to prevent expiration of ID card | Written certification is good for one year   |
| Cardholder Must Return Card If They No Longer Have A Debilitating Condition  |   | Within 7 days  |
| Application is Considered To Be Approved If State Does Not Approve Or Deny Application Within A Specified Period of Time |   |  |
| Requirement to Notify State of Change in Name, Address, Physician, or Primary Caregiver                                  | 7 days to notify of physician or caregiver change                                 | Within 5 Working Days (Must also notify if changing location where Marijuana is grown) |

|  | California          | Hawaii                     |
|--|---------------------|----------------------------|
| <b>Primary Caregiver Conditions and Requirements</b>   |                     |                            |
| Minimum Age  | 18                  | 18                         |
| Disqualification For A Felony Conviction/ Probation or Parole  |                     |                            |
| Maximum Number of Patients a Primary Caregiver May Assist  | Varies <sup>1</sup> | One                        |
| Must sign Statement Agreeing to Provide Marijuana Only To Qualifying Patients Who Has Named Caregiver By the Patient                     |                     |                            |
| Must Be A Resident of The State  |                     |                            |
| Caregiver is Allowed To Receive Compensation   | X                   |                            |
| <b>Qualifying Diseases and Debilitating Conditions</b>   |                     |                            |
| Cancer   | X                   | X                          |
| Glaucoma   | X                   | X                          |
| HIV/AIDS   | X                   | X                          |
| Hepatitis C  |                     |                            |
| Alzheimer's Disease  |                     |                            |
| Nail Patella   |                     |                            |
| Amyotrophic Lateral Sclerosis  |                     |                            |
| Cachexia/Wasting Syndrome  | X                   | X                          |
| Severe/Chronic Pain  | X                   | X                          |
| Severe Nausea  | X                   | X                          |
| Seizures   | X                   | X                          |
| Anorexia   | X                   |                            |
| Severe and Persistent Muscle Spasms MS/Crohns's  | X                   | X                          |
| Damage to the Nervous Tissue of The Spinal Cord, With Neurological Indication of Intractable Spasticity                                  |                     |                            |
| Arthritis  | X                   |                            |
| Post Traumatic Stress Disorder   |                     |                            |
| Migraine   | X                   |                            |
| Admission to Hospice Care  |                     |                            |
| Painful Peripheral Neuropathy  |                     |                            |
| Any Other Chronic or Persistent Medical Condition  | X <sup>2</sup>      |                            |
| Other Medical Conditions Approved by the State   |                     | X (Pursuant to a petition) |
| <b>Reasons an Application May Be Denied</b>  |                     |                            |
| Information Provided is False  | X                   | X                          |
| Information Cannot Be Verified   |                     |                            |
| Not All Required Information Was Submitted   | X                   | X                          |
| Failure to Establish Specified Chronic or Debilitating Medical Condition   |                     |                            |
| Failure to Document a Consultation With an Attending Physician   |                     |                            |
| Failure to Comply With Established Regulations   |                     |                            |
| The Attending Physician Was Not Licensed in the State  |                     |                            |
| Primary Caregiver Denied If Caregiver Is Already Listed As Caregiver for Maximum Number of Patients                                      |                     |                            |
| Patient or Primary Caregiver Has Been Convicted of Selling A Controlled Substance  |                     |                            |
| An Applicant Previously Had an ID Card Revoked, or Knowingly Violated A Provision Related to The Medical Use of Marijuana                |                     |                            |
| If the Applicant Has Threatened or Harmed an Employee of a Producer, a Medical Practitioner, a Patient, or an Employee of the Department |                     |                            |
| In The Case of A Minor, Parent/Guardian Did Not Sign Written Statement   |                     |                            |
| An Applicant Does Not Meet Established Criteria  | X                   |                            |
| An Applicant Previously Had an ID Card Revoked, or Knowingly Violated A Provision Related to The Medical Use of Marijuana                |                     |                            |

|  | <b>California</b>  | <b>Hawaii</b>  |
|--|--|--|
| <b>Places Where/Occasions When Use Is Prohibited</b>   |  |  |
| Any Place Where Smoking Is Prohibited By Law   | X  |  |
| Any Way That Endangers The Health or Well Being of Any Person  | X  | X  |
| Grounds of a School, Recreation Center, or Youth Center  | Within 1,000 ft, unless use occurs in a residence                  | X  |
| On a School Bus  | X  | X  |
| Public Transportation  |  | Public Bus   |
| Public Park or Beach   |  | X  |
| In the Workplace   |  | X  |
| Places Open to the Public  |  | X  |
| In a Correctional Facility   |  |  |
| In A Medical Facility  |  |  |
| While Operating a Motor Vehicle  | While in a motor vehicle that is being operated                    | While in any moving vehicle  |
| While Operating a Boat   | X  |  |
| While Possessing A Firearm   |  |  |
| In A Medical Marijuana Center  |  |  |
| Transporting Medical Marijuana Outside The State   |  |  |
| In One's Place of Employment   |  | X  |
| <b>Statutory Protections for Patients and Caregivers for Medical Use of Marijuana as Defined By The State</b>  |  |  |
| Protected From Arrest, Prosecution, or Penalty for the Medical Use of Marijuana <sup>1</sup>   | X  |  |
| Civil Penalty  |  |  |
| Assisting A Qualified Patient or Designated Caregiver  | X  |  |
| Individuals Not Required to Obtain Identification Card to Claim Protection   | X  |  |
| Protected From Disciplinary Action By A Professional Licensing Board   | Applies to caregivers  |  |
| Provides That Property Used in Connection With Medical Use Will Not Be Subject to Forfeiture, and Must Be Returned, Unless Pursuant to a Sentence Imposed After Conviction of a Criminal Offense |  | X  |
| Clarifies That Possession of a Registry ID Card Does Not Alone Constitute Probable Cause to Search an Individual or Property   |  |  |
| Allows Medical Use of Marijuana To Be Used As An Affirmative Defense to Criminal Prosecution   | X  | X  |
| Prohibits Arrest or Prosecution of An Individual for Being In the Presence or Vicinity of Medical Use of Marijuana   |  | X  |
| <b>Statutory Protections for Physicians When Acting In Compliance With State Medical Marijuana Statutes</b>  |  |  |
| Protection from Arrest or Prosecution  | Prohibits punishment of physicians                                 | X  |
| Civil Penalty  |  |  |
| Discipline from a Professional Licensing Board   | Provides that physicians will not be denied any right or privilege | Provides that physicians will not be denied any right or privilege |

|  | <b>California</b>                | <b>Hawaii</b>  |
|--|----------------------------------|--|
| <b>Reasons a Card May Be Revoked</b>   |                                  |  |
| It is Discovered Information on Application Was False  |                                  | X  |
| If a Cardholder Sells Marijuana to a Person Who Is Not Authorized to Use Marijuana   |                                  |  |
| If A Person Willfully Violates A Section of the Act or Another Controlled Substances Law   |                                  | X  |
| Failure to Notify of Change in Address or Primary Caregiver  |                                  | X (Must also notify if changing location where Marijuana is grown) |
| <b>The Discover of Repeated Violations of Statute</b>  |                                  |  |
| Threatening or Harming an Employee of a Producer, a Medical Practitioner, a Patient, or an Employee of the Department                            |                                  |  |
| The Patient Was Not Examined By A Physician Within At Least 16 Months of Required Annual Resubmission of Application Information                 |                                  |  |
| Failure To Provide Access To The State To Material and Information Necessary For Determining Compliance With Regulations                         |                                  |  |
| Any Determination by the Primary Caregiver's Licensing Body that the Primary Caregiver has Engaged in Unprofessional or Dishonorable Conduct     |                                  |  |
| Failure of the Patient to Satisfy Any Criterion Identified as a Prerequisite to Eligibility  |                                  |  |
| A Certifying Provider of the Patient Determines that the Use of Cannabis by the Patient Would More Likely Be Detrimental to the Patient's Health |                                  |  |
| If A Cardholder Was Convicted of Knowingly or Intentionally Selling A Controlled Substance   |                                  |  |
| Revocation of A Physician's Medical License or Controlled Substance Registration   |                                  | X  |
| It Is Found That Written Certification Was Not Submitted Based on Established Criteria   |                                  | X  |
| <b>Possession Limitations for Patients and Primary Caregivers</b>  |                                  | Amount possessed jointly by patient and caregiver                  |
| Ounce Limit  |                                  | 1 ounce of usable marijuana per each mature plant                  |
| Plant Limit  |                                  | 3 mature plants, and 4 immature plants                             |
| <b>Exemptions</b>  |                                  |  |
| <b>Offenses Created</b>  |                                  |  |
| Fraudulent Representation of a Medical Condition to Obtain an ID Card  | X                                |  |
| Fraudulent Representation to Law Enforcement Relating to Medical Marijuana   | X                                | X  |
| Fraudulent Use or Theft of an ID Card  | X                                |  |
| Counterfeit Production of ID Card  | X                                |  |
| Releasing Confidential Information Maintained By Registry  | X                                |  |
| <b>Department/Agency in Charge/Contact</b>   |                                  |  |
| Agency In Charge   | Department of Health Services    | Department of Public Safety  |
| Division In Charge   | Office of County Health Services | Narcotics Enforcement Division                                     |
| Contact  | (916) 552-8600                   | (808) 837-8470   |

|   | California | Hawaii          |
|---|------------|-----------------|
| Creates Research Program  | X          |                 |
| Number of Designated Caregivers a Qualified User Is Allowed   |            |                 |
| Clarifies that Insurance Will Not Be Required to Provide Coverage                                       | X          | X               |
| Provides That An Employer Will Not Be Required To Accommodate Use In The Workplace                      | X          |                 |
| Provides That A Penal Institution is Not Required to Accommodate Use                                    | X          |                 |
| State Honors Identification Card Issued By Another State  |            |                 |
| ID Cards Issued By Another State Do Not Qualify An Individual For Medical Use                           |            |                 |
| Allows for Inspection of Patients and Caregivers to Ensure Compliance and Allows for Corrective Actions |            |                 |
| Creates Advisory Board or Committee   |            |                 |
| Creates Severability  | X          | X (regulations) |

<sup>1</sup>A caregiver may treat an unlimited number of patients provided that every patient lives in the same city or county as the caregiver. If a caregiver is the designated caregiver of a patient who lives in a county or city, other than the county or city in which the caregiver resides, the caregiver may only act as caregiver for that patient.

<sup>2</sup>The chronic or debilitating medical condition must substantially limit the ability of the person to conduct one or more major life activities as defined by the Americans with Disabilities Act of 1990; or if not alleviated, may cause serious harm to the patient's safety or physical or mental health.

<sup>3</sup>Upon an inquiry by a law enforcement agency, the department of public safety must verify that a patient is a lawful possessor of a registry identification certificate, that a person is the designated primary caregiver of such a patient, that a person has submitted an application for a registry identification certificate that is pending verification by the department, that the persons registry identification certificate was denied but the denial is being appealed or to supply optional information provided on the written certification/registry identification forms.

<sup>4</sup>Physicians who issue written certification are required to submit this information to the registry.