

# **Medical Marijuana Laws and Regulations for Patients, Caregivers and Physicians: Delaware, New Jersey and Washington, DC<sup>i</sup>**



© 2014 Research is current for all states through January 15, 2014. 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. In order to ensure that the information contained herein is as current as possible, research is conducted using both nationwide legal database software and individual state legislative websites. Please contact Susan Weinstein at 703-836-6100, ext. 101 with any additional updates or information that may be relevant to this document. Headquarters Office: THE NATIONAL ALLIANCE FOR MODEL STATE DRUG LAWS, 215 Lincoln Ave., Suite 201, Santa Fe, NM, 87501.

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
	Del. Code Ann. tit. 16, §§ 4901A to 4926A; 16 Del. Admin. Code 4470 to 4470.10.0	N.J. Stat. Ann. §§ 24:6I-1 to 24:6I-16; N.J. Admin. Code tit. 8, §§ 64-1.1 to 64-13.11; tit. 3 §§ 35-7A.1 to 35-7A.6; tit. 13 §§ 45A-33.1 to 45A-33.6	DC Code Ann. § 3-1202.03; §§ 7-1671.01 to 7-1671.13; DC Mun. Regs. tit. 22-C §§ 100 to 9900
<b>State Registration</b>			
Identification Cards Issued to Registered Users and Caregivers	X	X	X
Registry of Authorized Users, Physicians and Primary Caregivers Maintained by the State	X	X (excluding physician names)	X
Requires Development of 24-Hour Verification System for Law Enforcement	X	X	
<b>Individuals Allowed Access to Registry</b> <i>*Only categories listed below appear in state laws which are the subject of this chart. Other categories that appear in other state statutes do not appear below if they are not applicable to the subject states in this chart.*</i>			
Authorized Employees of Administrative Department to Perform Official Duties	X	X	
Authorized Employees of State or Local Law Enforcement to Verify that a Person is Lawfully in Possession of ID Card	Department must disclose whether ID card is valid	X (LE need not be local)	Administrative agency is required to verify validity of an ID card
<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 or That The Patient May Benefit From The Medical Use of Marijuana	X	X (Must also specify diagnosis)	X
Name	Patient, Caregiver, Physician	Patient, Physician, Caregiver	Caregiver must be designated by patient, Physician
Address	Patient, Caregiver, Physician	Patient, Physician, Caregiver	Patient, Caregiver, Physician
Date of Birth	Patient, Caregiver	Patient, Caregiver	

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Application Information Required From Patient, Caregiver or Physician Before Placement in Registry (continued)</b>			
Driver's License or ID Card Number			Copy of Patient and Caregiver ID
Telephone Number	Physician	Physician	Physician
Proof of Residency		Patient, Caregiver	Patient, Caregiver
Patient Signature		Patient, Caregiver	
Social Security Number/Patient ID #			Patient, Caregiver
Duties of Primary Caregiver			
Medical License Number of Physician		X	X
A Statement From The Caregiver That The Caregiver Agrees to Serve as The Caregiver	X		
Consent of Caregiver to A Criminal Background Check		X	X
Length of Time the Patient Has Been Under the Care of the Practitioner			X
Designation As To Whether The Qualifying Patient or The Caregiver Will Be Allowed To Possess Marijuana Plants			X
Photograph		X	Photograph of Patient, Caregiver
A Complete Set of Fingerprints of Patient and Caregiver		Caregiver	Caregiver
A Notarized Program Waiver and Acknowledgment Form			
Signature of Physician and Date of Application			X
Name of Compassion Center if One is Designated	X		
A Signed Statement Pledging Not to Divert Marijuana	X		
A Release Signed by the Patient, the Patient's Guardian or the Patient's Health Care Power of Attorney Authorizing the State to Obtain Further Information, From the Physician Who Submits a Written Certification on Behalf of the Patient			Patient authorizing release of medical records related to qualifying condition or treatment
A Statement By The Caregiver That The Caregiver Agrees to Serve as The Caregiver		X <sup>3</sup>	
Name, Address, and Phone Number of Dispensary Patient Will Use		X	
Statement That the Physician is Licensed in Good Standing and Possesses an Active Controlled Dangerous Substance Registration		X	

	Delaware	New Jersey	Washington, DC
<b>Application Information Required From Patient, Caregiver or Physician Before Placement in Registry (continued)</b>			
Statement that the Physician Has an Ongoing Responsibility for the Assessment, Care and Treatment of the Patient		X	
<b>Additional Steps/Information That Must Be Submitted Before Use Can Be Approved for Minors</b>	<b>Issuing ID Cards to Minors is Prohibited in DE</b>		
Two Physicians Must Diagnose the Minor With A Debilitating Condition and Submit Written Certification			
A Statement That The Minor’s Physician Has Explained the Potential Risks and Benefits to the Patient and Parent/Guardian		X	X
A Statement That Parent/Guardian Understands the Qualifying Medical Condition or Qualifying Medical Treatment of the Minor			X
Parent/Guardian Must Consent in Writing to Allow the Medical Use of Marijuana		X	X (May designate another adult as primary caregiver)
Parent/Guardian Must Consent in Writing to Agree to Serve As the Minor’s Caregiver		X	X (Parents may designate to an adult caregiver)
Parent/Guardian Must Consent in Writing to Agree to Control the Acquisition of Marijuana, The Dosage, and Frequency of Use		X	X
Parent/Guardian Must Consent in Writing to Requires Physician to Perform Follow Up Services to Track Effectiveness of Treatment		Every 3 months	
<b>Information on ID Cards</b>			
Name	X	X	
Address		X	X
Date of Birth		X	
Social Security Number			
Photo of ID Cardholder		X	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			
Date of Issuance/Expiration Date		X	X
Primary Caregiver Information Included on Patient’s Card		X	X

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Information on ID Cards (continued)</b>			
Patient's Information Included on Primary Caregiver's Card		X	X
Phone Number of Administrative Agency		X	
Designation As To Whether The Qualifying Patient or The Caregiver Will Be Allowed To Possess Marijuana Plants			
Indication if Cardholder is Patient or Caregiver	X	X	
Name and Address of Dispensary			X
Medical License Number of Recommending Physician			X
Department Internal Authentic Identifier			X
Other Information As Determined By the State		X	
Period of Time an ID Card is Valid	1 Year <sup>1</sup>	2 Years	1 Year
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	Within 10 days (Must also notify of change in compassion center or card lost)	Within 10 days (Must also notify if change of dispensary)	Within 14 days (Must also notify if change of dispensary)
Must Notify if Card is Lost, Stolen or Destroyed		Within 24 hours	Verbal notification in 24 hours; Written notification in 72 hours
Cardholder Must Return Card If They No Longer Have A Debilitating Condition	Must notify the state	Must notify state of change in debilitating medical condition within 10 days	Within 14 days (Must also return all unused marijuana to police)
<b>Primary Caregiver Conditions and Requirements</b>			
Minimum Age	21	18	18
Must Sign Statement Agreeing to Provide Marijuana Only to the Patient Who Named The Caregiver	X	X	
Disqualification For A Felony Conviction/ Probation or Parole	X <sup>2</sup>	X <sup>4</sup>	X
Maximum Number of Patients a Primary Caregiver May Assist	5	1	1
Caregiver is Allowed to Receive Compensation	X		
Number of Designated Caregivers a Qualified User Is Allowed			

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Qualifying Diseases and Debilitating Conditions</b>			<b>See note below<sup>6</sup></b>
Cancer	X	X (terminal cancer)	X
Glaucoma		X	X
HIV/AIDS	X	X	X
Hepatitis C			
Alzheimer's Disease	X		
Nail Patella			
Amyotrophic Lateral Sclerosis	X	X	
Cachexia/Wasting Syndrome	X	X	
Severe/Chronic Pain	X	X	
Severe Nausea	X	X	
Seizures	X	X	
Intractable Skeletal Muscular Spasticity		X	
Anorexia			
Severe and Persistent Muscle Spasms - MS/Crohns's	X	X	X
Damage to the Nervous Tissue of The Spinal Cord, With Neurological Indication of Intractable Spasticity			
Appetite Loss			
Cramping			
Arthritis			
Inflammatory Bowel Disease		X	
Migraine			
Decompensated Cirrhosis	X		
Post-Traumatic Stress Disorder	X		
Admission to Hospice Care/Terminal Illness		For terminal illness if a physician had determined a prognosis of less than 12 months of life	
Any Other Chronic or Persistent Medical Condition			
Other Medical Conditions Approved by the State	Pursuant to petition	X	X <sup>7</sup>
<b>Reasons an Application May Be Denied</b>			
Information Provided is False	X	X	X
Information Cannot Be Verified			
Not All Required Information Was Submitted	X	X	X

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Reasons an Application May Be Denied (continued)</b>			
Failure to Establish Chronic or Debilitating Medical Condition			
Failure to Document a Consultation With an Attending Physician			
Failure to Provide an Address Located in The State			
Failure to Comply With Established Regulations		Caregiver refusal to consent to background check	
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 Specified Offenses		Primary Caregiver	Caregiver
Patient Has Been Prohibited By A Court			
An Applicant Previously Had an ID Card Revoked, or Knowingly Violated A Provision Related to The Medical Use of Marijuana	X		Patients cannot reapply for one year, Caregivers cannot reapply for five years
An Applicant Does Not Meet Established Criteria	X		
<b>Places Where/Occasions When Use Is Prohibited</b>			<b>DC only allows use in a patient's residence, or if permitted, at a medical treatment facility</b>
Any Place Where Smoking Is Prohibited By Law			
Any Public Place	X		X
Any Way That Endangers The Health or Well Being of Any Person			When use affects children
Grounds of a School, Recreation Center or Youth Center	X	X	X
On a School Bus	X	X	X
Public Transportation	X	X	
Public Park or Beach		X	
In the Workplace			
In a Correctional Facility	X	X	
In A Medical Facility	X		
Any Licensed Drug Treatment Facility	X (state funded)		

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Places Where/Occasions When Use Is Prohibited (continued)</b>			
Undertaking Tasks Under The Influence of Marijuana That Would Constitute Negligence or Professional Malpractice	X		X
Operating Motor Vehicle While Under the Influence	X	X (Prohibits use in a private vehicle unless it is stationary)	X
Operating a Boat While Under the Influence	X	X	X
Operating an Aircraft While Under the Influence	X	X	X
While Operating Vehicle Propelled or Drawn By Power	X	X (Train)	
Stationary Heavy Equipment		X	
While Possessing A Firearm			
Transporting Medical Marijuana Outside The State			X
On The Grounds of a Dispensary			X
Provides That An Employer Will Not Be Required To Accommodate Use In The Workplace		X	Possession is prohibited in workplace
<b>Statutory Protections for Patients and Caregivers for Medical Use of Marijuana as Defined By The State</b>			
Protection from Arrest, Prosecution or Penalty	X	X	X
Civil Penalty	X	X	
Discipline from a Professional Licensing Board	X	X	
Prohibits A School, Employer or Landlord From Refusing to Enroll, Employ or Lease or Penalize an Individual Solely Upon The Individuals Status As A Qualifying Patient or Registered Caregiver	X		
Property Used in Connection With Medical Marijuana Is Not Subject to Forfeiture			
Allows A Registered Qualifying Patient or Caregiver to Give Marijuana to Another Registered Qualifying Patient or Caregiver To Whom They Are Not Connected By The Registration Process Provided That Payment is Not Received			
Provides That Application For, or Possession of an ID Card Does Not Alone Constitute Probable Cause or Reasonable Suspicion for Search, Seizure or Inspection		X	



	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Statutory Protections for Patients and Caregivers for Medical Use of Marijuana as Defined By The State (continued)</b>			
Allows Use of Medical Marijuana to be Used as an Affirmative Defense to Prosecution	X	X	X
Requires Authorized to Be Considered the Same as Use of Any Other Authorized Drug for the Purpose of Medical Care	X		
Provides That Custody or Visitation of a Minor Will Not Be Denied Unless The Person's Behavior Creates Unreasonable Danger to the Minor	X		
Prohibits Arrest or Prosecution of An Individual for Being In the Presence or Vicinity of Medical Use of Marijuana	X	X	
Provides That Individuals Who Provide A Qualified Patient or Caregiver With Paraphernalia Are Not Subject to Arrest, Prosecution or Penalty	X		
Provides That Individuals Who Assist a Qualified Patient With Using or Administering Marijuana Are Not Subject to Arrest, Prosecution or Penalty	X		
Provides That Parents/Guardians Who Have Legal Custody of a Qualifying Patient Are Not Subject to Arrest or Prosecution		X	
Provides That Patients Are Not Protected from Liability for Damages or Criminal Prosecution for Acts Committed or Omitted While Under the Influence			X
<b>Statutory Protections for Physicians When Acting In Compliance With State Medical Marijuana Statutes</b>			
Protection from Arrest or Prosecution	X	X	X <sup>8</sup>
Civil Penalty	X	X	X <sup>8</sup>
Discipline from a Professional Licensing Board	X	X	X <sup>8</sup>
<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			X (or if they obtain from unauthorized source)
Conviction of A Marijuana Relate Offense	Selling to person not allowed to possess		
Pursuant to A Court Order			
The Discovery of Repeated Violations of Statute			

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Reasons a Card May Be Revoked (continued)</b>			
If A Person Violates A Section of the Act or Another Controlled Substances Law	Serious or multiple violations of laws pertaining to medical marijuana	Any specified disqualifying conviction	For any violation of laws or rules pertaining to medical marijuana
Failure To Provide Access To The State To Material and Information Necessary For Determining Compliance With Regulations			
If a Caregiver is De-designated		X	
If a Patient Ceases to Have a Debilitating Condition		X	
Failure to Notify State of Change in Name, Address, Physician or Primary Caregiver		X (Includes failure to notify change of dispensary)	
<b>Possession Limitations for Patients and Primary Caregivers</b>			
Ounce Limit		2 ounces <sup>5</sup>	2 ounces
Plant Limit		None	
Exemptions			Allows the Mayor to increase up to 4 ounces, and requires the Mayor to promulgate through rulemaking limits on medical marijuana of a form other than dried.
<b>Offenses Created</b>			
Fraudulent Representation of a Medical Condition to Obtain an ID Card			X
Fraudulent Representation of ID Card to Law Enforcement		X	
Fraudulent Misrepresentation to Law Enforcement of Treatment Center Permit			
Fraudulent Use or Theft of an ID Card		Sale or transfer of an ID card	
Counterfeit Production of ID Card			
Sale or Transfer of ID Card			
Disclosing Confidential Information Maintained By The Registry			Subject to HIPAA
Failure of Cardholder to Notify State of Change in Name, Address, Caregiver or Physician			

	<b>Delaware</b>	<b>New Jersey</b>	<b>Washington, DC</b>
<b>Offenses Created (continued)</b>			
Failure of Cardholder to Notify State That The Cardholder No Longer Has A Debilitating Condition			
<b>Department/Agency in Charge/Contact</b>			
Agency In Charge		Department of Health and Senior Services	
Division In Charge			
Contact			
Clarifies That Municipalities May Enact Regulations as Specified by State Law	X		
Creates Research Program			
State Uses Program to Monitor Dispensing of Marijuana			
Clarifies that Insurance Will Not Be Required to Provide Coverage	X	X	X
State Uses Program To Monitor Dispensation of Marijuana		Statute requires the use of system that serves the same purpose as, and is “cross referenced” with the state PMP	
Requires Physician to Maintain Medical Records With Specified Information Required by the State			X
Clarifies That An Employer Will Not Be Required To Provide Reimbursement For The Purposes of Workers’ Compensation			
Clarifies That An Employer Will Not Be Required to Accommodate Use	X		
Provides That A Penal Institution is Not Required to Accommodate Use			
State Honors Identification Card Issued By Another State	Requires visitors to acquire Delaware card		
ID Cards Issued By Another State Do Not Qualify An Individual For Medical Use			
Establishes Advisory Committee	X		X
Creates Severability	X		

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<sup>1</sup>Note, Maryland has limited medical marijuana laws which can be found at Md. Health Code Ann. §§ 13-3301 to 13-3310; Md. Crim. Code § 5-601; and Md. Health Occ. Code § 14-404. The Health Code provides that an “academic medical center” (i.e., a hospital that performs federally approved research and has medical residency programs) may apply to an independent commission to operate a medical marijuana program, with great restrictions. The Criminal and Health Occupations Code sections provide that in a prosecution for use or possession of marijuana, it is an affirmative defense that the defendant used or possessed the substance because, among other things, he or she has a debilitating medical condition diagnosed by a physician, the condition is resistant to conventional medicine and the marijuana is likely to provide the defendant with therapeutic or palliative care. The defense only may be invoked if the amount of marijuana is one ounce or less. Unless the physician submits that the patient should be allowed to use medical marijuana for less than one year; or if the patient is a visiting qualifying patient whose permission to use medical marijuana in the person’s home jurisdiction would expire sooner than one year after the issuance date, then the registry identification card shall expire on the date their home jurisdiction documentation would expire.

<sup>2</sup>Disqualification does not apply to a violation of a state or federal controlled substance law that was classified as a felony if an offense for which the sentence was completed 10 or more years earlier, or an offense that consisted of conduct for which this chapter would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this chapter or was prosecuted by an authority other than the state of Delaware.

<sup>3</sup>Must also state that the caregiver: is only serving one patient; is not the patient’s physician; will not grow or cultivate medicinal marijuana for the qualifying patient; will not purchase medicinal marijuana through non-permitted alternative treatment centers or vendors and will not obtain medicinal marijuana from or for other qualifying patients and/or primary caregivers.

<sup>4</sup>Unless the conviction occurred after the effective date of the state Act and was for a federal law violation for the sale or possession under the Act.

<sup>5</sup>Maximum amount that may be dispensed in a 30-day period.

<sup>6</sup>Also allows for individuals undergoing “qualifying medical treatment” as defined as: chemotherapy, the use of azidothymidine or protease inhibitors, radiotherapy or any other treatment, as determined by rulemaking, whose side effects require treatment through the administration of medical marijuana in the same manner as a qualifying medical condition.

<sup>7</sup>Must be, among other things, chronic and long lasting, debilitating or interfere with the basic functions of life.

<sup>8</sup>Grants the Board of Medicine the authority to review and audit written physician recommendations and the authority to discipline physicians who act outside of the scope of this chapter. Requires the Board of Medicine to audit the recommendations submitted by any physician who provides more than 250 recommendations in any 12-month period