

1 **RULES AND REGULATIONS**

2 **Title 28—HEALTH AND SAFETY**

3 **DEPARTMENT OF HEALTH**

4 **[28 PA. CODE CH. 1191]**

5 **Medical Marijuana; Patients and Caregivers; Patient and Caregiver Registry;**

6 **Medical Marijuana Cardholders; Temporary Regulations**

7 Sec.

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1 **§ 1191.21. Definitions.**

2 The following words and terms, when used in this Chapter, have the following meanings, unless
3 the context clearly indicates otherwise:

4 *Adult patient*—An individual who meets the following qualifications:

- 5 (i) Is over 18 years of age.
- 6 (ii) Has a serious medical condition.
- 7 (iii) Has met the requirements for certification under the act.
- 8 (iv) Is a resident of this Commonwealth.

9 *Applicant*—Either of the following who wishes to submit or submits an identification card
10 application to the Department:

- 11 (i) An adult patient or a minor patient.
- 12 (ii) A caregiver.

13 *Caregiver*—An individual over 21 years of age, or if the patient is under 18 years of age, an
14 individual under section 506(2) of the act (35 P.S. § 10231.506(2)), who is designated by a patient
15 for certified medical use.

16 *Financial hardship*—Evidence that an applicant is participating in a state program designated by
17 the Department at the time an identification card application is submitted.

18 *Homebound*—

- 19 (i) A condition, due to an illness or injury, that restricts the ability of a patient to leave
20 his or her home except with the assistance of another individual, or has a condition
21 such that the patient leaving his or her home is medically contraindicated.

1 (ii) A patient whose condition is such that there exists a normal inability to leave home
2 and that leaving home requires a considerable and taxing effort by the patient
3 without further support services.

4 (iii) The term does not mean that the patient must be bedridden.

5 *Individual dose*—A single measure of medical marijuana as stated on the patient certification.

6 *Inpatient*—A patient receiving care, including professional services, at a licensed hospital, skilled
7 nursing or rehabilitation facility.

8 *Legal guardian*—An individual lawfully invested with the power, and charged with the duty, of
9 taking care of and managing the property and rights of an adult patient or a minor patient.

10 *Medical marijuana cardholder*—An adult patient or a caregiver who has been issued an
11 identification card by the Department or a minor patient, homebound patient, or an inpatient who
12 has been issued a medical marijuana program letter by the Department.

13 *Medical marijuana program letter*—A document issued by the Department that allows a minor
14 patient, homebound patient, or an inpatient to use medical marijuana.

15 *Minor patient*—An individual who meets the following qualifications:

- 16 (i) Is under 18 years of age.
- 17 (ii) Has a serious medical condition.
- 18 (iii) Has met the requirements for certification under the act.
- 19 (iv) Is a resident of this Commonwealth.

20 *Parent*—The natural or adoptive mother or father of an adult patient or minor patient.

21 *Patient and caregiver registry*—A list of patients and caregivers established and maintained by
22 the Department.

1 *Pennsylvania Justice Network*—An integrated justice portal that provides a common online
2 environment for authorized users to access public safety and criminal justice information.

3 *Third-party caregiver*—A caregiver who is not a parent, legal guardian, or spouse.
4

5 **§ 1191.22. Medical marijuana cardholders generally.**

6 (a) The qualifications that a medical marijuana cardholder shall meet to be registered with the
7 Department under the medical marijuana program and to obtain an identification card or medical
8 marijuana program letter are continuing qualifications to maintain the validity of the identification
9 card or medical marijuana program letter.

10 (b) The Department may issue an identification card to an applicant who meets the
11 qualifications in subsection (a) and is:

12 (1) An adult patient.

13 (2) A caregiver.

14 (c) The Department may issue a medical marijuana program letter to a minor patient, a
15 homebound patient or an inpatient.

16 (d) Notwithstanding subsection (b)(2), the Department may issue an identification card to an
17 individual who is under the age of 21 to serve as a caregiver when a sufficient showing, as
18 determined by the Department, is made to the Department that the individual should be permitted
19 to serve as a caregiver.

20 (e) A minor patient shall have a caregiver who is one of the following:

21 (1) A parent, legal guardian or spouse.

22 (2) An individual designated by a parent, legal guardian or spouse.

1 (3) An appropriate individual approved by the Department upon a sufficient showing
2 that no parent or legal guardian is appropriate or available.

3 (f) A practitioner may recommend that a caregiver be designated for an adult patient or a minor
4 patient.

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6 **§ 1191.23. Obtaining medical marijuana from a dispensary.**

7 (a) A medical marijuana cardholder shall obtain medical marijuana product only from a
8 dispensary that holds a permit issued by the Department.

9 (b) A medical marijuana cardholder shall only be able to obtain an individual dose of medical
10 marijuana product from a dispensary based upon a recommendation in a patient certification that
11 is:

12 (1) Signed by a practitioner and submitted to the Department.

13 (2) Approved by the Department.

14 (3) Accessed by a dispensary through the electronic tracking system.

15 (c) A medical marijuana cardholder shall not possess:

16 (1) A different type of medical marijuana product from that indicated on the patient
17 certification.

18 (2) Individual doses of medical marijuana product that are greater than a 30-day supply.

19 (3) Medical marijuana product that has not been dispensed by a dispensary under §
20 1161.24 (relating to limitations on dispensing).

21 (d) Notwithstanding subsection (c)(2), during the last seven days of any 30-day period during
22 the term of the identification card, a patient may obtain and possess a 30-day supply for the
23 subsequent 30-day period.

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§ 1191.24. Medical marijuana cardholder responsibilities.

(a) A medical marijuana cardholder shall immediately contact the Department upon the occurrence of any of the following:

- (1) A change of the medical marijuana cardholder’s name or address.
- (2) The withdraw of a patient certification by a practitioner under § 1181.29 (relating to revocation of a patient certification).
- (3) Written notification from the Department that the patient’s practitioner has been removed from the practitioner registry under § 1181.26 (relating to removal of a practitioner from the practitioner registry).
- (4) A decision by a patient or a legal guardian to discontinue the services of a caregiver.
- (5) A decision by a caregiver to no longer serve as a caregiver for a patient.
- (6) A decision by a patient or a legal guardian to obtain medical treatment from another practitioner.

(b) Failure to contact the Department under subsection (a) may result in a medical marijuana cardholder being unable to use an identification card at a dispensary.

(c) A medical marijuana cardholder shall modify an identification card application under § 1191.28 (relating to renewing or modifying an identification card) within 10 business days of discovering the loss or defacement of the identification card.

(d) A medical marijuana cardholder shall return the identification card to the Department within 10 business days from the date of a notice from the Department of either of the following:

- (1) The removal of the medical marijuana cardholder from the patient and caregiver registry.

1 (2) The occurrence of any of the circumstances included in subsection (a).

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3 **§ 1191.25. Patient and caregiver registry.**

4 (a) The Department will maintain a patient and caregiver registry.

5 (b) Information maintained by the Department relating to medical marijuana cardholders shall
6 be confidential and not subject to public disclosure, including disclosure under the Right-to-Know
7 Law (65 P.S. §§ 67.101—67.3104), including:

8 (1) Information provided in an identification card application.

9 (2) Information contained in a patient certification issued by a practitioner.

10 (3) Criminal background check information provided as part of an identification card
11 application submitted by a caregiver under § 1191.29 (relating to criminal
12 background checks).

13 (4) Information encoded in the 2-D barcode of an identification card.

14 (5) Information relating to a patient's serious medical condition.

15 (c) A caregiver who has registered with the Department may waive in writing the caregiver's
16 right to confidentiality and consent to the caregiver's name and contact information being provided
17 to an adult patient or minor patient who has obtained a patient certification from a practitioner.

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19 **§ 1191.26. Revocation or suspension from the patient and caregiver registry.**

20 (a) The Department may revoke or suspend a patient or caregiver's identification card and
21 remove that patient or caregiver from the patient and caregiver registry upon the occurrence of any
22 of the following:

1 (1) A practitioner notifies the Department in writing that a patient certification has been
2 withdrawn under § 1181.29 (relating to revocation of a patient certification).

3 (2) A caregiver notifies the Department in writing that the caregiver is no longer acting
4 as a caregiver under a patient certification.

5 (3) Pennsylvania Justice Network notifies the Department that a medical marijuana
6 cardholder has been convicted of a criminal offense relating to the sale or
7 possession of drugs, narcotics or controlled substances after being approved as a
8 patient or caregiver by the Department.

9 (4) The patient or caregiver has intentionally, knowingly or recklessly violated any
10 provision of the act or regulations as determined by the Department. The suspension
11 or revocation shall be in addition to any criminal or other penalty that may apply.

12 (5) A medical marijuana cardholder does not visit a dispensary within 60-days from
13 the issuance date on an identification card.

14 (6) A patient notifies the Department in writing that the patient has removed or changed
15 a caregiver currently listed in the patient certification. If the caregiver is not serving
16 as a caregiver for any other patient, the Department will issue a notification to the
17 caregiver that the caregiver's identification card is invalid and must be promptly
18 returned to the Department.

19 (b) The Department shall notify a medical marijuana cardholder in writing of any information
20 received under subsection (a).

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22 **§ 1191.27. Identification card application.**

1 (a) An applicant shall submit an identification card application on a form prescribed by the
2 Department that is posted on the Department's web site.

3 (b) An identification card application filed by a patient or a patient's parent, legal guardian,
4 spouse or third-party caregiver shall include, at a minimum, the following:

5 (1) The name, address, telephone number, email address, if available, and date of birth
6 of the patient.

7 (2) The patient's Pennsylvania driver's license number or a Department of
8 Transportation state-issued identification card, if applicable.

9 (3) The name, address and telephone number of the practitioner treating the patient.

10 (4) Documentation from the practitioner that all of the requirements of § 403(a) (35
11 P.S. § 10231.403(a)) of the act have been met.

12 (5) The name, birth date, address, telephone number and email address, if applicable,
13 of up to two caregivers designated by the patient or the patient's parent, legal
14 guardian or spouse, including the parent, legal guardian or spouse.

15 (6) The patient certification issued by the patient's practitioner.

16 (7) The appropriate fee or proof of financial hardship as provided for in § 1191.31
17 (relating to application fees).

18 (8) The signature of the applicant or legal guardian and the date signed.

19 (9) A statement that a false statement made in the application is punishable under the
20 applicable provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and
21 intimidation).

22 (10) Any other information deemed necessary by the Department.

1 (c) An identification card application submitted by a patient who designates a caregiver who
2 is not authorized to act as a caregiver shall be denied by the Department. The Department will
3 review the balance of the identification card application and may approve that portion of it.

4 (d) An identification card application filed by a caregiver shall include, at a minimum, the
5 following:

6 (1) The name, address, telephone number, email address, if available, and date of birth
7 of the caregiver.

8 (2) The caregiver's Pennsylvania driver's license number or a Department of
9 Transportation state-issued identification card, if applicable.

10 (3) The name, address and telephone number of the practitioner treating the patient.

11 (4) Documentation from the practitioner that all of the requirements of § 403(a) (35
12 P.S. § 10231.403(a)) of the act have been met.

13 (5) The patient certification issued by the patient's practitioner.

14 (6) A copy of the background check required under § 1191.29 (relating to criminal
15 background checks).

16 (7) The name, address, telephone number and email address, if available, of up to five
17 patients for which the caregiver wishes to be approved by the Department as a
18 caregiver.

19 (8) The appropriate fee or proof of financial hardship as provided for in § 1191.31
20 (relating to application fees).

21 (9) The signature of the applicant and the date signed.

22 (10) A statement that a false statement made in the application is punishable under the
23 applicable provisions of 18 Pa.C.S. Ch. 49 (relating to falsification and
24 intimidation).

1 (11) Any other information deemed necessary by the Department.

2 (e) In addition to those items in subsection (d), an identification card application filed by a
3 third-party caregiver shall include an authorization to designate a third-party caregiver form as
4 prescribed by the Department, which is executed by the patient or legal guardian and the caregiver.

5 (f) In addition to a criminal background check under § 1191.29 (relating to criminal
6 background checks), the Department will review the Prescription Drug Monitoring Program
7 database before approving an identification card application submitted by a caregiver. The
8 Department may deny an application if the caregiver has a history of drug abuse or of diverting
9 controlled substances or illegal drugs.

10 (g) The Department will immediately notify an applicant in writing if an identification card
11 application is incomplete or factually inaccurate, and provide the applicant with an explanation
12 of what documents or information is necessary for the Department to consider the identification
13 card application to be complete and accurate.

14 (h) An applicant shall have fifteen (15) days from the date of a notification under subsection
15 (g) to submit to the Department the materials requested. If an applicant fails to submit the requested
16 materials within fifteen (15) days, the Department may deny the identification card application.

17 (i) The Department will notify an applicant in writing of the reasons for the denial of an
18 identification card application.

19 (j) An applicant whose identification card application is denied shall contact the Department
20 before submitting a new identification card application.

21

22 **§ 1191.28. Renewing or modifying an identification card.**

1 (a) A medical marijuana cardholder shall renew or modify an identification card on a form
2 prescribed by the Department that is posted on the Department's web site.

3 (b) A medical marijuana cardholder shall submit an application for renewal of an identification
4 card either within 90 days of receiving written notice from the Department or prior to the expiration
5 date on the identification card, whichever is sooner, upon the occurrence of any of the following
6 circumstances:

7 (1) The patient's practitioner has been removed from the practitioner registry under §
8 1181.26 (relating to removal of a practitioner from the practitioner registry).

9 (2) The patient's practitioner withdraws the patient's patient certification under §
10 1181.29(c) (relating to revocation of a patient certification).

11 (c) The Department may extend the period under subsection (b) by 30 days if a written request
12 is received by the Department prior to the expiration date on the identification card.

13 (d) The Department may revoke or suspend and remove a medical marijuana cardholder from
14 the patient and caregiver registry if an identification card application is not received by the
15 Department under subsection (b).

16 (e) A patient or caregiver shall submit a new or updated patient certification with the
17 application for renewal of an identification card.

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19 **§ 1191.29. Criminal background checks.**

20 (a) A caregiver shall submit fingerprints for the purpose of obtaining criminal history checks,
21 and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal
22 Bureau of Investigation for the purpose of verifying the identity of the caregiver and obtaining a
23 current record of any criminal arrests and convictions.

1 (b) The Department may only review criminal history record information under subsection (a)
2 to determine the caregiver's character, fitness and suitability to serve as a caregiver under the act.

3 (c) The Department may deny an identification card application if the caregiver has been
4 convicted of a criminal offense that occurred within the past five years relating to the sale or
5 possession of drugs, narcotics or controlled substances.

6

7 **§ 1191.30. Identification cards.**

8 (a) The Department will issue an identification card to a patient or caregiver as soon as
9 reasonably practicable after approving an identification card application.

10 (b) An identification card shall contain the following:

11 (1) The full name of the medical marijuana cardholder.

12 (2) The address of the medical marijuana cardholder.

13 (3) A designation whether the medical marijuana cardholder is a patient or a caregiver.

14 (4) The date of issuance and the date of expiration of the identification card.

15 (5) A unique identification number for the medical marijuana cardholder.

16 (6) A photograph of the medical marijuana cardholder, unless the patient or caregiver
17 provides the Department with a statement in accordance with subsection (c).

18 (7) Any requirement or limitation set by the practitioner as to the form and dosage of
19 medical marijuana.

20 (8) Any other information deemed necessary by the Department.

21 (c) Notwithstanding subsection (b)(6), the Department may not require a photograph on an
22 identification card if a statement is provided to the Department in an identification card application
23 that a photograph cannot be provided due to religious beliefs.

1 (d) An identification card issued to a patient shall expire one year from the date of issuance
2 unless one of the following occurs:

- 3 (1) The patient certification issued by the practitioner is for a period less than one year.
- 4 (2) The patient has not filed a renewal application under subsection § 1191.28(b)
5 (relating to renewing or modifying an identification card).
- 6 (3) The patient dies.

7 (e) An identification card issued to a caregiver shall expire one year from the date of issuance
8 unless any of the following occurs:

- 9 (1) Any of the events listed under subsection (d).
- 10 (2) The caregiver dies.
- 11 (3) The patient no longer desires the caregiver to act as the patient's caregiver.
- 12 (4) The caregiver no longer desires to act as the caregiver for a patient.
- 13 (5) The caregiver has been convicted of a crime under § 1191.26(a)(3) (relating to
14 revocation or suspension from the patient and caregiver registry).

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16 **§ 1191.31. Application fees.**

17 (a) An applicant shall submit a fee of \$50 with an identification card application or
18 identification card renewal application.

19 (b) Notwithstanding subsection (a), an applicant shall submit a fee of \$25 under the following
20 circumstances:

- 21 (1) The Department issues a replacement identification card as a result of a lost, stolen,
22 destroyed or illegible identification card.

1 (2) The patient’s practitioner has been removed from the practitioner registry under §
2 1181.26 (relating to removal of a practitioner from the practitioner registry).

3 (3) The patient’s practitioner withdraws the patient’s patient certification under §
4 1181.29(c) (relating to revocation of a patient certification).

5 (c) The Department may establish higher fees for issuance of second and subsequent
6 replacement identification cards. Each January, the Department will post on its website the fees
7 for issuance of second and subsequent replacement identification cards, and will publish notice of
8 those fees in the *Pennsylvania Bulletin*.

9 (d) The Department may waive or reduce the identification card application fee for an
10 applicant who demonstrates a financial hardship. Each January, the Department will post on its
11 website a list of documents that an applicant must submit with an identification card application
12 to request a waiver or reduction of the application fee, and will publish notice of that list in the
13 *Pennsylvania Bulletin*.

14 (e) Notwithstanding subsection (a), the Department will not require the submission of a fee
15 with an identification card application or identification card renewal application if the applicant
16 qualifies for a medical marijuana program letter.

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18 **§ 1191.32. Technical advisories.**

19 The Department may issue technical advisories to assist medical marijuana cardholders in
20 complying with the act and this part. Technical advisories do not have the force of law or
21 regulation, but will provide guidance on the Department’s interpretation of, and how a medical
22 marijuana cardholder may maintain compliance with, the act and this part. Notice of the
23 availability of a technical advisory will be published in the *Pennsylvania Bulletin*.

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2 **§ 1191.33. Appeals.**

3 Appeals from actions of the Department under this chapter that constitute an adjudication as
4 defined in 2 Pa.C.S. § 101 (relating to definitions) shall be governed by the provisions of 2 Pa.C.S.
5 Chapter 5 (relating to practice and procedure).

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