

# Arizona Medical Marijuana: Substance or just Smoke?

Arizona Department of Health Services (ADHS)

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# Outline

- Important Dates
- Voting Results by County
- Qualifying Patients
- Designated Caregivers
- Nonprofit Medical Marijuana Dispensaries
  - Medical Directors
- Nonprofit Medical Marijuana Dispensary Agents

# Important Dates

- Nov 2, 2010: Proposition 203 passes in the general election
- Dec 17, 2010: ADHS posts informal draft Rules for public comment
- Dec 17, 2010 – Jan 7, 2011: ADHS receives public comment on the informal draft Rules
- Jan 31, 2011: ADHS posts official draft Rules for public comment
- Jan 31 – Feb 18, 2011: ADHS accepts public comments on a revised draft of the Rules
  - Feb 14 – 17, 2011: ADHS holds 4 public meetings to receive comments about the draft Rules

# Important Dates, cont'd.

- March 28, 2011: ADHS publishes Final Rules
- April 14, 2011: Medical Marijuana Act effective and ADHS begins to accept applications for qualifying patients and designated caregivers
- June 1, 2011: ADHS begins to accept applications for dispensary registration certificates

# Voting Results by County

County	YES	NO	Total
Apache	6816	11726	18,542
Cochise	18466	20979	39,445
Coconino	20625	17761	38,386
Gila	7800	9554	17,354
Graham	2926	5906	8,832
Greenlee	1101	1248	2,349
La Paz	2023	2319	4,342
Maricopa	480564	484591	965,155
Mohave	25779	26526	52,305
Navajo	9918	18328	28,246
Pima	174591	131017	305,608
Pinal	36942	38928	75,870
Santa Cruz	4840	4560	9,400
Yavapai	35839	44066	79,905
Yuma	13118	19499	32,617
<b>Total:</b>	<b>841,348</b>	<b>837,008</b>	<b>1,678,356</b>

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Health Services**

# Important Note

 The following information is based upon the Final Rules published on March 28, 2011, and the State Law signed by the Governor in December 2010.

# ADHS' Licensing Responsibilities

- ADHS (“the Department”) will be responsible for issuing registry identification cards or registration certificates to the following:
  - Qualifying patients
  - Designated caregivers
  - Dispensaries
  - Dispensary agents

# Additional ADHS responsibility

- Provide database for dispensaries and law enforcement
  - Verify valid card holder
  - Verify amount of medical marijuana purchased from a dispensary in the last 60 days.
  - Verification done by unique 20 digit ID number.

# Qualifying Patients: What you should know...

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# Qualifying Patient (QP) Eligibility Requirements for Medical Marijuana

- Must have one of the following qualifying conditions
  - A specifically named disease: Cancer, glaucoma, HIV, AIDS, are examples.
  - A chronic or debilitating disease or medical condition or the treatment for a debilitating disease or medical condition that causes wasting syndrome, severe and chronic pain, severe nausea, seizures including those characteristic of epilepsy, severe or persistent muscle spasms, or
  - A debilitating medical condition or treatment approved by ADHS under A.R.S. § 36-2801.01 and R9-17-106

# QP Applications for Registry Identification Cards

- Must submit to ADHS an application in a Department-provided format
  - Includes photograph
  - Physician's contact information and written certification including initialed statements:
    - That physician made or confirmed diagnosis of QP's debilitating medical condition

# QP Applications for Registry Identification Cards

- An identification of one or more debilitating medical conditions
- That physician has established and is maintaining a medical record for the QP
- That physician has conducted an in-person physical exam of the QP within the previous 90 calendar days appropriate to the QP's presenting symptoms and debilitating medical condition diagnosed or confirmed by the physician

# QP Applications for Registry Identification Cards

- That the physician reviewed:
  - QP's medical records including those from other treating physicians for the previous 12 months
  - QP's response to conventional medications and medical therapies
  - QP's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database
- That the physician explained the potential risks and benefits of medical use of marijuana to QP

# QP Applications for Registry Identification Cards

- That in the physician's professional opinion, the QP is likely to receive therapeutic or palliative benefit from the QP's medical use of marijuana to treat or alleviate the QP's debilitating medical condition
- Physician attestation, including signature and date, that the information provided in the written certification is true and correct

# Gate Keeper

- The Physician is the gate keeper
  - ADHS will monitor certifications written by physician name
  - Concerns will be made known to medical boards
  - Concerns will be investigated and handled by medical boards

# QP Applications for Registry Identification Cards

- Whether the QP is requesting authorization for cultivating marijuana plants for the QP's medical use because the QP lives at least 25 miles from the nearest operating dispensary
- Whether QP is designating a caregiver and if so, the designated caregiver's information
  - If QP is requesting authorization to cultivate marijuana plants, whether they are designating their caregiver to cultivate marijuana plants for the QP's medical use

# QP Applications for Registry Identification Cards

- QP signed statement pledging not to divert marijuana to any person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1
- QP attestation, including signature and date, that the information provided in the application is true and correct

# QP Applications for Registry Identification Cards

- Registry ID card expires each year after the date of issuance; QP must be re-evaluated by physician and submit application (including fee) yearly

# Qualifying Patient Regulations

- May obtain 2 ½ ounces of marijuana every 14-calendar-day period
- May grow their own marijuana (up to 12 plants) in an enclosed, locked facility if they live more than 25 miles from a licensed dispensary
- May “give” (receive no compensation) usable marijuana and marijuana plants to dispensaries

# Designated Caregivers: What you should know...

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# Designated Caregiver (DC) Eligibility Requirements

- If a Qualifying Patient (QP) designates a caregiver to assist them with the medical use of marijuana, the QP must submit (annually) to ADHS an application in a Department-provided format.

# Designated Caregiver (DC) Eligibility Requirements

- DC attestation, including signature and date, that the DC has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801
- One of the following:
  - A statement signed by the DC that the DC does not currently hold a valid registry ID card; or
  - The assigned registry ID card number for the DC for each valid registry ID card currently held by the DC

# Designated Caregiver (DC) Eligibility Requirements

- A signed statement by the DC agreeing to assist the QP with the medical use of marijuana and pledging not to divert marijuana to any person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1
- Must not have been convicted of an excluded felony offense

# Nonprofit Medical Marijuana Dispensaries: What you should know...

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# Nonprofit Medical Marijuana Dispensaries

- Means a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation
- The Department may not issue more than one dispensary registration certificate for every ten pharmacies, except if necessary to ensure that the department issues at least one dispensary registration certificate in each county

# Dispensary Registration Certificate Allocation Process (1<sup>st</sup> Year)

- Dispensaries will be issued based on one dispensary per Community Health Analysis Area (CHAA)
- Beginning June 1, 2011, if the Department (ADHS) receives only one dispensary registration certificate application for a CHAA that is complete and in compliance, the ADHS will issue a registration certificate to that applicant

# Dispensary Registration Certificate Allocation Process (1<sup>st</sup> Year)

- If the ADHS receives more than one dispensary registration certificate application for a CHAA that is complete and in compliance, the ADHS will issue dispensary registration certificates using an evaluation process

# Dispensary Registration Certificate Allocation Process (2<sup>nd</sup> Year +)

- ADHS will review current valid dispensary registration certificates (starting May 2012) to determine if additional dispensaries can be approved
  - Department will post availability on the ADHS website, including deadlines, by the last working day of the month

# Dispensary Registration Certificate Allocation Process (2<sup>nd</sup> Year +)

- If the ADHS receives more dispensary registration certificate applications that it is allowed to issue, certificates will be allocated based on a set of priorities

# Priorities for Issuing Registration Certificates (2<sup>nd</sup> Year +)

- Priority to:
  - 1) Counties without a dispensary
  - 2) CHAA's without a dispensary
  - 3) The number of registry identification cards issued to QP's who reside within 10 miles of the proposed dispensary location and the number of dispensaries operating within 10 miles of the applicant's proposed dispensary location
    - If there is a tie or a margin of  $<0.1\%$  on the scores, an application will be randomly selected

# Applying for a Dispensary Registration Certificate

- Must submit to ADHS an application in a Department-provided format, including, but not limited to the following:
  - Legal name of dispensary
  - Physical address of the proposed dispensary
  - Name of the entity applying
  - Name of individual designated to submit dispensary agent applications on behalf of the dispensary
  - Name / license # of the dispensary's medical director

# Applying for a Dispensary Registration Certificate

- Name, address, and date of birth of each principal officer and board member
- Whether a principal officer or board member:
  - Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked
  - Is a physician currently providing written certifications for qualifying patients
  - Is a law enforcement officer
  - Is employed by or a contractor of the ADHS
  - Has submitted Arizona state income tax returns for the previous 3 years with the application

# Applying for a Dispensary Registration Certificate

- Is current on paying court-ordered child support
  - Is delinquent paying taxes, interest, or penalties due to a governmental agency
  - Is in default on a government-issued student loan
  - Has ever filed for personal or corporate bankruptcy
- Whether dispensary agrees to allow the Department to submit supplemental requests for information
  - Whether any individual who has 20% + interest in the dispensary is not the applicant or principal officer or board member of the dispensary
  - Whether applicant has submitted proof of \$150K to begin operating

# Applying for a Dispensary Registration Certificate

- An attestation that the information provided to the Department to apply for a dispensary registration certificate is true and correct
- Signature of individual(s) and date signed
- If the entity applying is a corporation, partnership, LLC, association or cooperative, joint venture, or another business organization type:
  - Name/type of the business organization
  - Name/title of each principal officer and board member
  - Copy of the business organization's articles of incorporation or organization, or partnership or joint venture documents

# Applying for a Dispensary Registration Certificate

- For each principal officer and board member:
  - Attestation that they have not been convicted of an excluded felony offense defined in A.R.S. § 36-2801.
  - Attestation that they have been a resident of Arizona for at least 3 consecutive years preceding the date of application submittal
  - Fingerprints in a Department provided format
  - Copy of residency documentation (i.e. Arizona driver's license, current lease agreement, tax statement, etc...)
- Policies and procedures for inventory control, qualifying patient recordkeeping, security, and patient education and support

# Applying for a Dispensary Registration Certificate

- A sworn statement certifying that the dispensary is in compliance with local zoning restrictions
- Dispensary's by-laws
- A business plan demonstrating the on-going viability of the dispensary on a not-for-profit basis
- Application fee

# Applying for Approval to Operate a Dispensary

- A person holding a dispensary registration certificate shall submit to ADHS at least 60 days before the expiration of the certificate, an application in a Department-provided format, including, but not limited to the following:
  - Legal name and registry ID number of dispensary
  - Physical address of the proposed dispensary
  - Name, address, and date of birth of each dispensary agent

# Applying for a Dispensary Registration Certificate

- Name / license # of the dispensary's medical director
- If applicable, the physical address of the dispensary's cultivation site
- Dispensary's Transaction Privilege Tax Number
- Proposed hours of operation
- Whether the dispensary agrees to allow the Department to submit supplemental requests for information

# Applying for a Dispensary Registration Certificate

- Whether the dispensary, and if applicable, the dispensary's cultivation site are ready for an inspection by the Department (or if not, when the dispensary will be ready)
- Attestation that the information provided in the application is true and correct
- Signature(s) and date signed
- Copy of the certificate of occupancy or other documentation issued by the local jurisdiction to the applicant authorizing occupancy of the building (dispensary and if applicable, cultivation site)

# Applying for a Dispensary Registration Certificate

- A sworn statement certifying that the dispensary is in compliance with local zoning restrictions
- Distance to the closest public or private school from the dispensary and if applicable, the dispensary's cultivation site
- Site plan of dispensary and if applicable, the dispensary's cultivation site
- Floor plan and if applicable, the dispensary's cultivation site

# Nonprofit Medical Marijuana Dispensary Medical Directors: What you should know...

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# Nonprofit Medical Marijuana Dispensary Medical Directors

- The dispensary shall appoint a physician to function as medical director
- During operational hours, the medical director or another physician designated by the medical director must be on-site or able to be contacted
- Medical directors shall not write medical marijuana certifications for QP's

# Medical Director Functions

- A medical director shall:
  - Develop and provide training to the dispensary agents at least once every 12 months, from the point of obtaining a certificate:
    - Guidelines for providing information to QP's related to risks, benefits and side effects associated with MM
    - Recognizing signs and symptoms for substance abuse

# Medical Director Functions

- Guidelines for providing support to QP's related to the QP's self-assessment of the QP's symptoms including a rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, and agitation
- Guidelines for refusing to provide medical marijuana to a person who appears to be impaired or abusing MM, and

# Medical Director Functions

- Assist in the development and implementation of review and improvement processes for patient education and support provided by dispensary
- Provide oversight for the development and dissemination of:
  - Educational materials for qualifying patients (QP) and designated caregivers (DC)

# Medical Director Functions

- System for a QP or DC to document the QP's pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, or agitation
- Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana

# Nonprofit Medical Marijuana Dispensary Agents: What you should know...

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# Nonprofit Medical Marijuana Dispensary Agents

- Means a principal officer, board member, employee or volunteer of a nonprofit medical marijuana dispensary who is at least twenty-one years of age and has not been convicted of an excluded felony offense
- The Department may conduct criminal records checks in order to carry out this section

# Nonprofit Medical Marijuana Dispensary Agents

- A dispensary agent shall be registered with the Department before volunteering or working at a dispensary
- A dispensary shall notify the Department within ten days after a dispensary agent ceases to be employed by or volunteer at the registered nonprofit medical marijuana dispensary

# Dispensary Agent Applications for Registry Identification Cards

- A dispensary shall submit (annually) to ADHS an application for each dispensary agent in a Department-provided format, including, but not limited to the following:
  - DA's name, address, date of birth, photo, fingerprints, application fee, name and registry ID # of the dispensary, etc...
  - Attestation that the information provided in the application is true and correct

# Dispensary Agent Applications for Registry Identification Cards

- Attestation signed and dated by the dispensary agent that they have not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801
- One of the following:
  - A statement signed by the dispensary agent that they do not currently hold a valid registry ID card
  - The assigned registry ID number for the dispensary agent for each valid registry ID cards currently held by the agent
- Statement signed by the dispensary agent pledging not to divert marijuana pursuant to A.R.S. Title 36, Chapter 28.1

# Dispensary Agent Functions

- Dispense medical marijuana
- Verify QP and DC before dispensing
- Maintain QP medical records
- Maintain an inventory control system
- Ensure that medical marijuana has required product labeling and analysis
- Provide required security

# Dispensary Agent Functions

- Ensure that edible food products sold or dispensed are prepared only as permitted
- Maintain dispensary and cultivation site in a clean and sanitary condition

# Dispensaries, Current Status

- The Arizona Department of Health Services is awaiting a ruling (declaratory judgment) from Federal Court to determine if State employees are at risk for providing dispensary registration certificates and other licensing components.

# New Twist

- “Marijuana Clubs”
  - Currently being reviewed by the Attorney General’s Office
  - Entry fee/Annual fee
  - “Give away” marijuana
  - Something of value exchanged?

# Latest Statistics 07/15/2011

Type	Quantity	Total
Caregiver	318	\$63,600.00
Patient Non-SNAP Additional Fee	53	\$3,975.00
Patient	6689	\$1,003,350.00
Patient SNAP Eligible	1294	\$97,050.00
Total		\$1,167,975.00

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Questions?  
Please visit our website at:  
[www.azdhs.gov/Prop203](http://www.azdhs.gov/Prop203)

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