

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 7.
HUMAN HEALTH CARE AND SAFETY.

CHAPTER 16B.
USE OF MARIJUANA FOR MEDICAL TREATMENT.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 16B. USE OF MARIJUANA FOR MEDICAL
TREATMENT.

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CHAPTER 16B. USE OF MARIJUANA FOR MEDICAL TREATMENT.

§ 7-1671.01. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Administer" or "administration" means the direct introduction of medical marijuana, whether by inhalation, ingestion, or any other means, into the body of a person.
- (2) "Bona fide physician-patient relationship" means a relationship between a physician and patient in which the physician:
 - (A) Has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination; and
 - (B) Has responsibility for the ongoing care and treatment of the patient.
- (3) "Caregiver" means a person who:
 - (A) Is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a dispensary, dispense, and assist in the administration of medical marijuana;
 - (B) Is registered with the Department as the qualifying patient's caregiver;
 - (C) Is not currently serving as the caregiver for another qualifying patient; and
 - (D) Is at least 18 years of age.
- (4) "Controlled Substances Act" means Unit A of Chapter 9 of Title 48.
- (5) "Cultivation center" means a facility operated by an organization or business registered with the Mayor pursuant to § 7-1671.05 from or at which medical marijuana is cultivated, possessed, manufactured, and distributed in the form of medical marijuana, and paraphernalia is possessed and distributed to dispensaries.
- (6) "Department" means the Department of Health.
- (7) "Dispensary" means a facility operated by an organization or business registered with the Mayor pursuant to § 7-1671.05 from or at which medical marijuana is possessed and dispensed and paraphernalia is possessed and distributed to a qualifying patient or a caregiver.
- (8) "Dispense" means to distribute medical marijuana to a qualifying patient or caregiver pursuant to this chapter and the rules issued pursuant to § 7-1671.13.
- (9) "Distribute" means the actual, constructive, or attempted transfer from one person to another.
- (10) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or re-labeling of its container.
- (11) "Marijuana" shall have the same meaning as provided in § 48-901.02(3)(A).
- (12) "Medical marijuana" means marijuana cultivated, manufactured, possessed, distributed, dispensed, obtained, or administered in accordance with this chapter and the rules issued pursuant to § 7-1671.13.
- (13) "Minor" means any person under 18 years of age, but does not include an emancipated minor.
- (14) "Paraphernalia" means:
 - (A) Objects used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing medical marijuana into the human body; and
 - (B) Kits, objects, devices, or equipment used, intended for use, or designed for use in planting,

propagating, manufacturing, cultivating, growing, harvesting, processing, or preparing medical marijuana.

(15) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under District law.

(16) "Program" means the medical marijuana program established by § 7- 1671.05.

(17) "Qualifying medical condition" means:

- (A) Human immunodeficiency virus;
- (B) Acquired immune deficiency syndrome;
- (C) Glaucoma;
- (D) Conditions characterized by severe and persistent muscle spasms, such as multiple sclerosis;
- (E) Cancer; or
- (F) Any other condition, as determined by rulemaking, that is:
 - (i) Chronic or long-lasting;
 - (ii) Debilitating or interferes with the basic functions of life; and
 - (iii) A serious medical condition for which the use of medical marijuana is beneficial:
 - (I) That cannot be effectively treated by any ordinary medical or surgical measure; or
 - (II) For which there is scientific evidence that the use of medical marijuana is likely to be significantly less addictive than the ordinary medical treatment for that condition.

(18) "Qualifying medical treatment" means:

- (A) Chemotherapy;
- (B) The use of azidothymidine or protease inhibitors;
- (C) Radiotherapy; or
- (D) 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.

(19) "Qualifying patient" means a resident of the District who has a qualifying medical condition or is undergoing a qualifying medical treatment.

(20) "Residence" means a dwelling or dwelling unit in which a person lives in a particular locality with the intent to make it a fixed and permanent home.

(Feb. 25, 2010, D.C. Law 13-315, § 2, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

Law 18-210, the "Legalization of Marijuana for Medical Treatment Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-622, which was referred to the Committee on Health and the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on April 20, 2010, and May 4, 2010, respectively. Signed by the Mayor on May 21, 2010, it was assigned Act No. 18-429 and transmitted to both Houses of Congress for its review. D.C. Law 18-210 became effective on July 27, 2010.

Temporary Addition of Section

Section 2 of D.C. Law 18-152 added a section to read as follows:

"Sec. 11a. Applicability.

"This act shall apply upon the effective date of the Legalization of Marijuana for Medical Treatment Initiative Amendment Act of 2010, as introduced on January 19, 2010 (D.C. Bill 18-622)."

Section 4(b) of D.C. Law 18-152 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 2 of Legalization of Marijuana for Medical Treatment Initiative Applicability Emergency Amendment Act of 2009 (D.C. Act 18-323, March 1, 2010, 57 DCR 1849).

Miscellaneous Notes

History of D.C. Law 13-315.

Initiative 59, permitting the use of marijuana for medical treatment, was certified as a proper subject for an initiative by the District of Columbia Board of Elections and Ethics on September 17, 1998. In reaction to the certification, Congress enacted and the President signed the "Barr Amendment" that prohibited the use of

appropriated funds to conduct any ballot initiative which sought to legalize or otherwise reduce penalties associated with a controlled substance. Since, the ballots for the November 3 election had already been printed before enactment of the Barr Amendment, District voters still considered the initiative.

After the vote, the Board of Elections and Ethics refused, in light of the Barr Amendment, to release and certify the results of the vote on Initiative 59. Certain District of Columbia voters then sued the Board.

In *Turner v. District of Columbia Board of Elections and Ethics*, 77 F.Supp.2d 25 (D.D.C. 1999), the court ruled that the Board could count and certify the election results concerning Initiative 59. After the count, the Board announced that Initiative 59 had been approved by the voters and certified the results. The initiative was eventually assigned D.C. Act 13-138.

On October 20, 1999, the District of Columbia Chief Financial Officer ("CFO") submitted a fiscal impact statement that found that implementation of Act 13- 138 would have a fiscal impact and recommended that the cost be included in the development of the fiscal year 2001 budget.

On October 25, 1999, the District of Columbia Council transmitted D.C. Act 13- 138 to the District of Columbia Financial Responsibility and Management Assistance Authority ("Control Board").

On October 26, 1999, the Control Board informed the Council that it would not accept D.C. Act 13-138 without a revised fiscal impact statement from the CFO.

On September 30, 2001, the Control Board suspended its activities.

Between 1998 and 2009 all District of Columbia appropriations acts contained language that prevented Initiative 59 from taking effect as law. Congress did not include the language in the District of Columbia Appropriations Act, 2010 (Pub. L. 111-117).

With the removal of the "Bar Amendment", the Council transmitted Act 13-138 to Congress on December 21, 2009, for a 30-day period of review.

Act 13-138 became D.C. Law 13-315 on February 25, 2010, and is published at 57 DCR 3360. D.C. Law 18-210 amended Law 13-315 in its entirety "to read as follows."

Establishment of Medical Marijuana Program Pursuant to the Legalization of Marijuana for Medical Treatment Initiative of 1999, see Mayor's Order 2011-71, April 13, 2011 (58 DCR 3527).

§ 7-1671.02. USE OF MEDICAL MARIJUANA.

(a) Notwithstanding any other District law, a qualifying patient may possess and administer medical marijuana, and possess and use paraphernalia, in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(b) Notwithstanding any other District law, a caregiver may possess and dispense medical marijuana to a qualifying patient, and possess and use paraphernalia, for the sole purpose of assisting in the administration of medical marijuana to a qualifying patient in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(c) A qualifying patient may possess and administer medical marijuana, and possess and use paraphernalia, only for treatment of a qualifying medical condition or the side effects of a qualifying medical treatment and only after having:

- (1) Obtained a signed, written recommendation from a physician in accordance with § 7-1671.04; and
- (2) Registered with the Mayor pursuant to § 7-1671.05.

(d) A qualifying patient or caregiver shall only possess, administer, or dispense medical marijuana, or possess or use paraphernalia, obtained from a dispensary registered with the Mayor pursuant to § 7-1671.05.

(e) A qualifying patient who is a minor may possess and administer medical marijuana only if the parent or legal guardian of the minor has signed a written statement affirming that the parent or legal guardian:

- (1) Understands the qualifying medical condition or qualifying medical treatment of the minor;
- (2) Understands the potential benefits and potential adverse effects of the use of medical marijuana, generally, and, specifically, in the case of the minor;
- (3) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
- (4) Consents to, or designates another adult to, serve as the caregiver for the qualifying patient and the caregiver controls the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient.

(Feb. 25, 2010, D.C. Law 13-315, § 3, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.03. RESTRICTIONS ON USE OF MEDICAL MARIJUANA.

(a) The maximum amount of medical marijuana that any qualifying patient or caregiver may possess at any moment is 2 ounces of dried medical marijuana; provided, that the Mayor, through rulemaking, may increase the quantity of dried medical marijuana that may be possessed up to 4 ounces; and shall promulgate through rulemaking limits on medical marijuana of a form, other than dried.

(b)(1) Medical marijuana shall not be administered by or to a qualifying patient anywhere other than the qualifying patient's residence, if permitted, or at a medical treatment facility when receiving medical care for a qualifying medical condition, if permitted by the facility.

(2) A qualifying patient or caregiver shall not administer medical marijuana at a dispensary or cultivation center.

(3) Notwithstanding paragraph (1) of this subsection, a qualifying patient shall not use medical marijuana if exposure to the medical marijuana or the medical marijuana smoke would adversely affect the health, safety, or welfare of a minor.

(c) A qualifying patient or caregiver shall transport medical marijuana in a labeled container or sealed package in a manner and method established by rulemaking.

(d) Nothing in this chapter permits a person to:

(1) Undertake any task under the influence of medical marijuana when doing so would constitute negligence or professional malpractice; or

(2) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of medical marijuana.

(e) The use of medical marijuana as authorized by this chapter and the rules issued pursuant to § 7-1671.13 does not create a defense to any crime and does not negate the mens rea element for any crime except to the extent of the voluntary-intoxication defense recognized in District of Columbia law.

(f) Notwithstanding any other law, a person or entity may provide information about the existence or operations of a cultivation center or dispensary to another person pursuant to this law.

(g) A qualified patient, caregiver, or an employee of a cultivation center or a dispensary who is stopped by the police upon reasonable suspicion or probable cause that the stopped individual is in possession of marijuana may not be further detained or arrested on this basis alone if the police determine that he or she is in compliance with this chapter and the rules issued pursuant to § 7-1671.13.

(Feb. 25, 2010, D.C. Law 13-315, § 4, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.04. RECOMMENDING PHYSICIAN; PROTECTIONS.

(a) A physician may recommend the use of medical marijuana to a qualifying patient if the physician:

(1) Is in a bona fide physician-patient relationship with the qualifying patient; and

(2) Makes the recommendation based upon the physician's assessment of the qualifying patient's medical history, current medical condition, and a review of other approved medications and treatments that might provide the qualifying patient with relief from a qualifying medical condition or the side effects of a qualifying medical treatment.

(b)(1) A physician's recommendation that a qualifying patient may use medical marijuana shall be signed by the physician and include:

(A) The physician's medical license number; and

(B) A statement that the use of medical marijuana is necessary for the treatment of a qualifying medical condition or the side effects of a qualifying medical treatment.

(2) A physician's recommendation shall be valid only if it is written on a form prescribed by the Mayor.

(c) Except as provided in § 7-1671.07, a physician shall not be subject to any penalty, including arrest, prosecution, or disciplinary proceeding, or denial of any right or privilege, for advising a qualifying patient about the use of medical marijuana or recommending the use of medical marijuana to a qualifying patient pursuant to this chapter and the rules issued pursuant to § 7-1671.13.

(d) A physician recommending the use of medical marijuana by a qualifying patient shall not have a professional office located at a dispensary or cultivation center or receive financial compensation from a dispensary or cultivation center, or a director, officer, member, incorporator, agent, or employee of a dispensary or cultivation center.

(Feb. 25, 2010, D.C. Law 13-315, § 5, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.05. MEDICAL MARIJUANA PROGRAM.

There is established a medical marijuana program, which shall regulate the manufacture, cultivation, distribution, dispensing, purchase, delivery, sale, possession, and administration of medical marijuana and the manufacture, possession, purchase, sale, and use of paraphernalia. The Program shall be administered by the Mayor and shall:

- (1)(A) Require the registration with the Department of all:
 - (i) Qualifying patients; and
 - (ii) Caregivers; and
- (B) As part of the registration process, require a qualifying patient to:
 - (i) Designate the dispensary from which the qualifying patient will receive medical marijuana; provided, that the qualifying patient may change the designation with 14 days written notice to the Department; and
 - (ii) Provide a copy of the physician's recommendation for the qualifying patient's use of medical marijuana;
- (2) Require the registration of all:
 - (A) Dispensaries;
 - (B) Cultivation centers; and
 - (C) Directors, officers, members, incorporators, agents, and employees of dispensaries and cultivation centers;
- (3) Issue nontransferable registration identification cards that expire annually to registered persons and entities, which may be presented to and used by law enforcement to confirm whether a person or entity is authorized to administer, cultivate, dispense, distribute, or possess medical marijuana, or manufacture, possess, or distribute paraphernalia;
- (4) Require all dispensaries and cultivation centers to:
 - (A) Maintain true, complete, and current records of the following:
 - (i) The name, address, home telephone number, and date of birth of each employee;
 - (ii) A record of each transaction, including:
 - (I) The quantity of medical marijuana distributed or dispensed;
 - (II) The consideration given for the medical marijuana; and
 - (III) The recipient of the medical marijuana;
 - (iii) The quantity of medical marijuana at the dispensary or cultivation center;
 - (iv) The disposal method used for any medical marijuana that was cultivated or acquired but not sold, including evidence of the disposal of the medical marijuana; and
 - (v) Any other information required by the Mayor;
 - (B) Notify the Chief of the Metropolitan Police Department in writing and immediately of the loss, theft, or destruction of any medical marijuana;
- (5) Require all dispensaries to maintain true, complete, and current records of:
 - (A) The name and address of the qualifying patient authorized to obtain the distribution or dispensing of medical marijuana; and
 - (B) The name and address of the caregiver who receives the medical marijuana;
- (6) Develop educational materials about potential harmful drug interactions that could occur from using medical marijuana concurrently with other medical treatments and the importance of informing health

care providers and pharmacists of the use of medical marijuana to help avoid harmful drug interactions;

(7) Revoke or suspend the registration of any person or entity if the Mayor determines that the person or entity has violated a provision of this chapter or the rules issued pursuant to § 7-1671.13;

(8) Conduct announced and unannounced inspections of dispensaries and cultivation centers;

(9) Establish sliding-scale registration and annual renewal fees for all persons and entities required to register pursuant to this chapter; provided, that the registration and annual renewal fees for dispensaries and cultivation centers and for the directors, officers, members, incorporators, agents, and employees of dispensaries and cultivation centers shall be sufficient to offset the costs of administering this chapter;

(10) Establish a system to provide for the safe and affordable dispensing of medical marijuana to qualifying patients who are unable to afford a sufficient supply of medical marijuana based upon the qualifying patient's income and existing financial resources that:

(A) Allows qualifying patients to apply to the Mayor to be eligible to purchase medical marijuana on a sliding scale from dispensaries; and

(B) Requires each dispensary to devote a percentage of its gross revenue, as determined by the Mayor, to providing medical marijuana on the sliding scale to qualifying patients determined eligible pursuant to subparagraph (A) of this paragraph;

(11) Submit to the Council an annual report that does not disclose any identifying information about qualifying patients, caregivers, or physicians, but that includes:

(A) The number of applications filed for a registration identification card;

(B) The number of qualifying patients and caregivers registered;

(C) The qualifying medical condition or qualifying medical treatment for each qualifying patient;

(D) The number of registration identification cards suspended and the number revoked; and

(E) The number of physicians providing written recommendations for qualifying patients;

(12) Establish standards by which applicants for dispensary and cultivation center registration will be evaluated to determine which applicants will be accepted for registration and renewal of registration, which shall include the following factors:

(A) Knowledge of District and federal law relating to marijuana;

(B) Suitability of the proposed facility;

(C) A proposed staffing plan;

(D) A security plan that has been assessed by the Metropolitan Police Department;

(E) A cultivation plan; and

(F) A product safety and labeling plan;

(13)(A) Provide notice through the mail to all Advisory Neighborhood Commissions in the affected ward at least 30 days prior to approval of a location for a dispensary or cultivation center; and

(B) Accord great weight to input provided by the Advisory Neighborhood Commission regarding the proposed location of a dispensary or cultivation center when approving or rejecting an application for registration; and

(14) Require caregivers and qualifying patients to notify the Department immediately and in writing of the loss, theft, or destruction of a registration identification card.

(Feb. 25, 2010, D.C. Law 13-315, § 6, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

Delegation of Authority

Establishment of Medical Marijuana Program and Delegation of Authority, see Mayor's Order 2010-138, August 6, 2010 (57 DCR 7110).

§ 7-1671.06. DISPENSARIES AND CULTIVATION CENTERS.

(a) Notwithstanding any other District law, a dispensary may possess medical marijuana for the purpose of dispensing the medical marijuana to a qualifying patient or caregiver and may manufacture, purchase, possess, distribute, and use paraphernalia, in accordance with this chapter and the rules issued pursuant

to § 7-1671.13.

(b) Notwithstanding any other District law, a cultivation center may cultivate and possess medical marijuana for the purpose of distribution to a dispensary and may manufacture, purchase, possess, and use paraphernalia in accordance with this chapter and the rules issued pursuant to § 7-1671.13.

(c) A dispensary may dispense medical marijuana and distribute paraphernalia to a qualifying patient or the qualifying patient's caregiver, and a qualifying patient or the qualifying patient's caregiver may obtain medical marijuana and paraphernalia from a dispensary, only if the qualifying patient is registered to receive medical marijuana from that dispensary.

(d)(1) Each dispensary and cultivation center shall be registered with the Mayor prior to manufacturing, cultivating, dispensing, possessing, or distributing medical marijuana, or manufacturing, possessing, using, or distributing paraphernalia.

(2) No more than 5 dispensaries shall be registered to operate in the District; provided, that the Mayor may increase the number to as many as 8 by rulemaking to ensure that qualifying patients have adequate access to medical marijuana.

(3) The number of cultivation centers that may be registered to operate in the District shall be determined by rulemaking.

(e)(1) A dispensary may not dispense more than 2 ounces of medical marijuana in a 30-day period to a qualifying patient, either directly or through the qualifying patient's caregiver; provided, that the Mayor, through rulemaking, may increase the quantity of medical marijuana that may be dispensed to up to 4 ounces.

(2) A cultivation center shall not possess more than 95 living marijuana plants at any time.

(3) It shall be unlawful for a dispensary to dispense or possess more than the quantity of medical marijuana needed to support the number of qualifying patients or caregivers registered to receive medical marijuana at that dispensary, as determined by the Mayor pursuant to rules issued under § 7-1671.13; provided, that the Mayor may allow a dispensary to possess a higher quantity of medical marijuana in anticipation of additional qualifying patients or caregivers registering.

(f) No marijuana or paraphernalia at a dispensary or a cultivation center shall be visible from any public or other property.

(g) A dispensary or cultivation center shall not locate within any residential district or within 300 feet of a preschool, primary or secondary school, or recreation center.

(h) Each dispensary and cultivation center shall:

(1) Be either a for-profit or nonprofit corporation incorporated within the District;

(2) Implement a security plan to prevent the theft or diversion of medical marijuana, including maintaining all medical marijuana in a secure, locked room that is accessible only by authorized persons; and

(3) Ensure that all of its employees receive training on compliance with District law, medical marijuana use, security, and theft prevention.

(i) Each dispensary shall regularly distribute to all qualifying patients and caregivers the educational materials regarding potential harmful drug interactions developed as part of the Program.

(j) No director, officer, member, incorporator, agent, or employee of a dispensary or cultivation center who has access to the medical marijuana at the dispensary or cultivation center shall have:

(1) A felony conviction; or

(2) A misdemeanor conviction for a drug-related offense.

(k) A person found to have violated any provision in this chapter shall not be a director, officer, member, incorporator, agent, or employee of a dispensary or cultivation center, and the registration identification card of the person shall be immediately revoked and the registration of the dispensary or cultivation center shall be suspended until the person is no longer a director, officer, member, incorporator, agent, or employee of the dispensary or cultivation center.

(Feb. 25, 2010, D.C. Law 13-315, § 7, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Temporary Amendments of Section

Section 2 of D.C. Law 19-122 amended subsecs. (d)(2) and (3) and added subsec. (d)(4) to read as follows:

"(2)(A) No more than 5 dispensaries shall be registered to operate in the District; provided, that the Mayor may increase the number to as many as 8 by rulemaking to ensure that qualifying patients have adequate access to medical marijuana; provided further, that no more than 2 dispensaries shall be registered to operate within an election ward established by the Council in section 4 of the Redistricting Procedure Act of

1981, effective March 16, 1982 (D.C. Law 4-87; D.C. Official Code § 1-1041.03).

"(B) The prohibition of no more than 2 dispensaries being registered to operate within a ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of the effective date of the Medical Marijuana Cultivation Center and Dispensary Locations Emergency Amendment Act of 2012, effective January 31, 2012 (D.C. Act 19-299; 59 DCR ____), ('Emergency Act').

"(3)(A) The number of cultivation centers that may be registered to operate in the District shall be determined by rulemaking; provided, that no more than 6 cultivation centers shall be registered to operate within an election ward established by the Council in section 4 of the Redistricting Procedure Act of 1981, effective March 16, 1982 (D.C. Law 4-87; D.C. Official Code § 1- 1041.03).

"(B) The prohibition of no more than 6 cultivation centers being registered to operate within a ward set forth in subparagraph (A) of this paragraph shall apply to applications pending as of the effective date of the Emergency Act.

"(4)(A) No more than one dispensary may be registered to operate in any ward in which 5 cultivation centers have been registered to operate.

"(B) The prohibition of no more than one dispensary being registered to operate within a ward in which 5 cultivation centers have been registered to operate set forth in subparagraph (A) of this paragraph shall apply to applications pending as of the effective date of the Emergency Act."

Section 4(b) of D.C. Law 19-122 provides that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 19-146 added subsec. (g-1) to read as follows:

"(g-1)(1) A cultivation center shall not be located within a Retail Priority Area, as designated pursuant to section 4 of the Retail Incentive Act of 2004, effective September 8, 2004 (D.C. Law 15-185; D.C. Official Code § 2- 1217.73), and as approved by the Council pursuant to the Great Streets Neighborhood Retail Priority Areas Approval Resolution of 2007, effective July 10, 2007 (Res. 17-025; 54 DCR 7194).

"(2) Any applicant with a pending application for a registration to operate a cultivation center within a Retail Priority Area as identified in paragraph (1) of this subsection shall be allowed to modify the application within 180 days of the effective date of the Medical Marijuana Cultivation Center Emergency Amendment Act of 2012, effective April 7, 2012 (D.C. Act 19-339; 59 DCR ____), without negatively affecting the current status of the application.

"(3) The prohibition set forth in paragraph (1) of this subsection shall apply only to applications pending as of the effective date of the Medical Marijuana Cultivation Center Emergency Amendment Act of 2012, effective April 7, 2012 (D.C. Act 19-339; 59 DCR ____)."

Section 4(b) of D.C. Law 19-146 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2 of Medical Marijuana Cultivation Center and Dispensary Locations Emergency Amendment Act of 2012 (D.C. Act 19-299, January 31, 2012, 59 DCR 902).

For temporary (90 day) amendment of section, see § 2 of Medical Marijuana Cultivation Center Emergency Amendment Act of 2012 (D.C. Act 19-339, April 7, 2012, 59 DCR 2784).

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.07. BOARD OF MEDICINE REVIEW OF MEDICAL MARIJUANA PHYSICIAN RECOMMENDATIONS.

(a) The Board of Medicine shall have the authority to review and audit the written physician recommendations submitted to the Department as part of the registration process and shall have the authority to discipline physicians who act outside of the scope of this chapter.

(b) The Board of Medicine shall audit the recommendations submitted by any physician who provides more than 250 recommendations in any 12-month period to patients for the use of medical marijuana.

(c) Submitting a false statement regarding a qualifying patient's eligibility to participate in the Program on the form developed pursuant to § 7- 1761.04(b)(2) shall be grounds for the revocation, suspension, or denial of a license to practice medicine or osteopathy, or the imposition of a civil fine pursuant to § 3-1205.14(c), or both.

(Feb. 25, 2010, D.C. Law 13-315, § 8, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.08. PENALTIES.

(a) Any person who manufactures, cultivates, possesses, administers, dispenses, distributes, or uses marijuana, or manufactures, possesses, distributes, or uses paraphernalia, in a manner not authorized by this chapter or the rules issued pursuant to § 7-1671.13 shall be subject to criminal prosecution and sanction under subchapter I of Chapter 11 of Title 48.

(b) Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the person's manufacture, cultivation, possession, administration, dispensing, distribution, or use of medical marijuana, or manufacture, possession, distribution, or use of paraphernalia, to avoid arrest or prosecution shall be subject to a criminal fine not to exceed \$1,000. The imposition of the fine shall be in addition to any other penalties that may otherwise apply for the making of a false statement or for the manufacture, cultivation, possession, administration, dispensing, distribution, or use of marijuana, or the manufacture, possession, distribution, or use of paraphernalia.

(c) It shall be an affirmative defense to a criminal charge of possession or distribution of marijuana, or possession with intent to distribute marijuana, that the person charged with the offense is a person who:

- (1) Was in possession of medical marijuana only inside the qualifying patient's residence or a medical treatment facility;
- (2) Only administered or assisted in administering the medical marijuana to the qualifying patient and only within the qualifying patient's residence or at a permitted medical treatment facility;
- (3) Assisted the qualifying patient only when the caregiver was not reasonably available to provide assistance; and
- (4) Is 18 years of age or older.

(d) Civil fines, penalties, and fees may be imposed as sanctions for any infraction of the provisions of this chapter, or any rules issued under § 7-1671.13, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Feb. 25, 2010, D.C. Law 13-315, § 9, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.09. MEDICAL MARIJUANA ADVISORY COMMITTEE.

(a) The Mayor shall establish a Medical Marijuana Advisory Committee ("Committee"), which shall monitor:

- (1) Best practices in other states that allow the use of medical marijuana;
- (2) Scientific research on the medical use of marijuana; and
- (3) The effectiveness of the District's medical marijuana program.

(b) No later than January 1, 2012, the Committee shall submit a report to the Mayor and the Council recommending:

- (1) Whether the District of Columbia should allow qualifying patients and caregivers to cultivate medical marijuana;
- (2) How to implement and regulate cultivation of medical marijuana by qualifying patients and caregivers; and
- (3) Any other comments the Committee believes to be important.

(Feb. 25, 2010, D.C. Law 13-315, § 10, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.10. FEES.

(a) The Mayor is authorized to establish, by rulemaking, fees for the registration of caregivers, cultivation

centers, dispensaries, and qualifying patients and for the inspection and audit of cultivation centers and dispensaries.

(b) Any of the fees collected pursuant to this chapter shall be applied first toward the cost of administering this chapter.

(Feb. 25, 2010, D.C. Law 13-315, § 11, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.11. LIABILITY.

(a) No liability shall be imposed by virtue of this chapter upon any duly authorized District officer engaged in the enforcement of any law relating to controlled substances.

(b) The District shall not be held liable for any deleterious outcomes from the use of medical marijuana, including the acts or omissions of any qualifying patient attributed to the use of medical marijuana.

(Feb. 25, 2010, D.C. Law 13-315, § 12, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.12. PUBLIC AND PRIVATE INSURANCE.

Nothing in this chapter shall require a governmental, private, or any other health insurance provider or health care service plan to be liable for any claim for reimbursement for the use of medical marijuana.

(Feb. 25, 2010, D.C. Law 13-315, § 13, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.

§ 7-1671.13. RULES.

(a) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this chapter, including rules to:

- (1) Adopt manufacturing practices that cultivation centers and dispensaries shall be required to comply with to ensure that medical marijuana sold by cultivation centers and dispensaries is of pharmaceutical grade;
- (2) Ensure that the labeling on medical marijuana sold by cultivation centers and dispensaries provides sufficient information for qualifying patients to be able to make informed choices;
- (3) Ensure that each cultivation center and dispensary has appropriate signage and outdoor lighting and an appropriate security system, security plan, and theft prevention plan;
- (4) Limit the hours during which dispensaries and cultivation centers may operate;
- (5) Determine, for the purpose of ensuring that qualifying patients have adequate access to medical marijuana, the number of cultivation centers that may operate in the District, based on the number of qualifying patients expected to register in the first year of the Program's operation; provided, that the Mayor may adjust this number through rulemaking based on:
 - (A) The number of registered qualifying patients; and
 - (B) The number of qualifying patients expected to register in the subsequent 180 days;
- (6) Determine the amount of any registration fee for any dispensary or cultivation center; and
- (7) Determine the forms of medical marijuana that dispensaries and cultivation centers shall be permitted to dispense or distribute.

(b) The Mayor shall submit the proposed rules to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 30-day review period, the

proposed rules shall be deemed approved.

(Feb. 25, 2010, D.C. Law 13-315, § 14, as added July 27, 2010, D.C. Law 18-210, § 2, 57 DCR 4798.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 18-210, see notes following § 7-1671.01.