

§ 1. Short title. AR CONST Amend. 98, § 1

West's Arkansas Code Annotated
Constitution of the State of Arkansas of 1874
Amendments to the Constitution of Arkansas of 1874
Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 1

§ 1. Short title

This amendment shall be known and cited as the "Arkansas Medical Marijuana Amendment of 2016".

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

Const. Amend. 98, § 1. AR CONST Amend. 98, § 1

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

West's Arkansas Code Annotated
Constitution of the State of Arkansas of 1874
Amendments to the Constitution of Arkansas of 1874
Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 2

§ 2. Definitions

As used in this amendment:

- (1) "Acquire" or "acquisition" means coming to possess marijuana by means of any legal source herein authorized, not from an unauthorized source, and in accordance with this amendment and any rules promulgated under this amendment;
- (2) "Assist" or "assisting" means helping a qualifying patient make medical use of marijuana by enabling the medical use by any means authorized under this amendment;
- (3) "Cardholder" means a qualifying patient, a dispensary agent, a cultivation facility agent, or a designated caregiver;
- (4) "Cultivation facility" means an entity that:
 - (A) Has been licensed by the Medical Marijuana Commission under § 8 of this amendment; and
 - (B) Cultivates, prepares, manufactures, processes, packages, sells to and delivers usable marijuana to a dispensary;
- (5) "Cultivation facility agent" means an employee, supervisor, or agent of a cultivation facility who:
 - (A) Is twenty-one (21) years of age or older;
 - (B) Works at the cultivation facility; and
 - (C) Has registered with the Alcoholic Beverage Control Division under § 9 of this amendment;
- (6)(A) "Designated caregiver" means a person who is at least twenty-one (21) years of age, has not been convicted of an excluded felony offense, has agreed to assist a physically disabled qualifying patient with the medical use of marijuana, and who has registered with the Department of Health under § 5 of this amendment.

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(B) "Designated caregiver" includes without limitation a parent:

- (i) Of a qualifying patient who is under the age of eighteen (18); and
- (ii) Required to register as a designated caregiver under this amendment.

(C) "Designated caregiver" shall not include a member of the Arkansas National Guard or the United States military;

(7) "Dispensary" means an entity that has been licensed by the Medical Marijuana Commission under § 8 of this amendment;

(8) "Dispensary agent" means:

(A) An employee, supervisor, volunteer, or agent of a dispensary who:

- (i) Is twenty-one (21) years of age or older;
- (ii) Works at the dispensary; and
- (iii) Has registered with the division under § 9 of this amendment; and

(B) An owner, officer, or board member of a dispensary who has registered with the division under § 8 of this amendment;

(9) "Enclosed, locked facility" means a room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by an authorized individual;

(10) "Excluded felony offense" means:

(A)(i)(a) A felony offense as determined by the jurisdiction where the felony offense occurred.

(b) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.

(ii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or

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(B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted but not including:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(ii) An offense that has been sealed by a court or for which a pardon has been granted;

(11) "Medical use" means the acquisition, possession, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's qualifying medical condition or symptoms associated with the qualifying patient's qualifying medical condition;

(12) "Physician" means a doctor of medicine or doctor of osteopathic medicine who holds a valid, unrestricted, and existing license to practice in the state of Arkansas and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances;

(13) "Qualifying medical condition" means one (1) or more of the following:

(A) Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Tourette's syndrome, Crohn's disease, ulcerative colitis, post-traumatic stress disorder, severe arthritis, fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

(B) A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment, or surgical measures for more than six (6) months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis; and

(C) Any other medical condition or its treatment approved by the Department of Health under § 4 of this amendment;

(14)(A) "Qualifying patient" means a person who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the department under § 5 of this amendment.

(B) "Qualifying patient" shall not include a member of the Arkansas National Guard or the United States military;

(15) "Registry identification card" means a document issued by the department or the division that identifies a person as a qualifying patient, a dispensary agent, a cultivation facility agent, or a designated caregiver;

(16) "Sealed" means to expunge, remove, sequester, and treat as confidential the record or records of a felony offense;

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(17)(A) "Usable marijuana" means the stalks, seeds, roots, dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof.

(B) "Usable marijuana" does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food or drink;

(18) "Visiting qualifying patient" means a patient with a qualifying medical condition who is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days and who is in actual possession of a registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and pertains to a qualifying medical condition under this section;

(19)(A) "Written certification" means a document signed by a physician stating that in the physician's professional opinion, after having completed an assessment of the qualifying patient's medical history and current medical condition made in the course of a physician-patient relationship, the qualifying patient has a qualifying medical condition.

(B) A written certification shall specify the qualifying patient's qualifying medical condition, which also shall be noted in the physician's records.

(C) A physician shall not issue a written certificate to a patient based on an assessment performed through telemedicine.

(D) A written certification is not a medical prescription;

(20)(A) "Current use of marijuana" means use of marijuana that justifies the good faith belief of an employer that an applicant or employee is engaging in the use of marijuana.

(B) "Current use of marijuana" is presumed when a positive test result for marijuana occurs;

(21) "Employee" means an individual employed by an employer, but does not include:

(A) An individual employed by his or her parents, spouse, or child;

(B) An individual participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility;

(C) An individual employed outside the State of Arkansas; or

(D) An independent contractor;

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(22) "Employer" means an entity that employs nine (9) or more employees in the State of Arkansas in twenty (20) or more calendar weeks in the current or preceding calendar year;

(23)(A) "Good faith belief" means reasonable reliance on a fact, or that which is held out to be factual, without intent to deceive or be deceived and without reckless or malicious disregard for the truth.

(B) "Good faith belief" does not include a belief formed with gross negligence.

(C) "Good faith belief" may be based on any of the following:

(i) Observed conduct, behavior, or appearance;

(ii) Information reported by a person believed to be reliable, including without limitation a report by a person who witnessed the use or possession of marijuana or marijuana paraphernalia by an applicant or employee in the workplace;

(iii) Written, electronic, or verbal statements from the employee or other persons;

(iv) Lawful video surveillance;

(v) A record of government agencies, law enforcement agencies, or courts;

(vi) A positive test result for marijuana;

(vii) A warning label, usage standard, or other printed material that accompany instructions for usable marijuana;

(viii) Information from a physician, medical review officer, or a dispensary;

(ix) Information from reputable reference sources in print or on the internet;

(x) Other information reasonably believed to be reliable or accurate; or

(xi) Any combination of the items listed in subdivisions (23)(C)(i)-(x) of this section;

(24) "Positive test result for marijuana" means a result that is at or above the cutoff concentration level established by the United States Department of Transportation or the Arkansas laws regarding being under the influence, whichever is lower;

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(25)(A) "Safety sensitive position" means any position involving a safety sensitive function pursuant to federal regulations governing drug and alcohol testing adopted by the United States Department of Transportation or any other rules, guidelines, or regulations adopted by any other federal or state agency.

(B) "Safety sensitive position" also means any position designated in writing by an employer as a safety sensitive position in which a person performing the position while under the influence of marijuana may constitute a threat to health or safety, including without limitation a position:

(i) That requires any of the following activities:

(a) Carrying a firearm;

(b) Performing life-threatening procedures;

(c) Working with confidential information or documents pertaining to criminal investigations; or

(d) Working with hazardous or flammable materials, controlled substances, food, or medicine; or

(ii) In which a lapse of attention could result in injury, illness, or death, including without limitation a position that includes the operating, repairing, maintaining, or monitoring of heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles as part of the job duties; and

(26)(A) "Under the influence" means symptoms of the current use of marijuana that may negatively impact the performance of the job duties or tasks or constitute a threat to health or safety.

(B) "Under the influence" includes without limitation:

(i) Symptoms of the applicant's or employee's speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor, or other irrational or unusual behavior that are inconsistent with the usual conduct of the applicant or employee;

(ii) Negligence or carelessness in operating equipment, machinery, or production or manufacturing processes;

(iii) Disregard for safety;

(iv) Involvement in an accident that results in:

(a) Damage to equipment, machinery, or property;

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(b) Disruption of a production or manufacturing process; or

(c) An injury; or

(v) Other symptoms causing a reasonable suspicion that the current use of marijuana may negatively impact the performance of the job duties or tasks or constitute a threat to health or safety.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 5, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 438, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 479, §§ 1, 2, eff. Aug. 1, 2017; Acts of 2017, Act 544, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 593, §§ 1, 2, eff. Aug. 1, 2017; Acts of 2017 (1st Ex. Sess.), Act 1, § 2, eff. July 31, 2017; Acts of 2017 (1st Ex. Sess.), Act 8, § 2, eff. July 31, 2017.

Const. Amend. 98, § 2, AR CONST Amend. 98, § 2

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

West's Arkansas Code Annotated

Constitution of the State of Arkansas of 1874

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AR Const. Amend. 98, § 3

§ 3. Protections for the medical use of marijuana

(a) A qualifying patient or designated caregiver in actual possession of a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for the medical use of marijuana in accordance with this amendment if the qualifying patient or designated caregiver possesses not more than two and one-half ounces (2 ½ oz.) of usable marijuana.

(b)(1) A qualifying patient or designated caregiver is presumed to be lawfully engaged in the medical use of marijuana in accordance with this amendment if the qualifying patient or designated caregiver is in actual possession of a registry identification card and possesses an amount of usable marijuana that does not exceed the amount allowed under this amendment.

(2) The presumption made in subdivision (b)(1) of this section may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's qualifying medical condition or symptoms associated with the qualifying medical condition in accordance with this amendment.

(c) A qualifying patient or designated caregiver shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for giving, or offering to give, up to two and one-half ounces (2 ½ oz.) of usable marijuana to a qualifying patient or designated caregiver for the qualifying patient's medical use when nothing of value is transferred in return.

(d) A designated caregiver is not prohibited from receiving compensation or reimbursement of expenses from a qualifying patient for assisting a qualifying patient with the medical use of marijuana.

(e) A dispensary may:

(1) Accept marijuana seedlings, plants, or usable marijuana from:

(A) Cultivation facilities;

(B) Other dispensaries in Arkansas; and

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- (C) If permissible under federal law, out-of-state dispensaries;
 - (2) Transfer or sell marijuana seedlings, plants, or usable marijuana to:
 - (A) Cultivation facilities;
 - (B) Other dispensaries in Arkansas; and
 - (C) If permissible under federal law, out-of-state dispensaries; and
 - (3) Accept marijuana seeds from any individual lawfully entitled to possess marijuana seeds, seedlings, or plants under the laws of the state in which the individual resides.
- (f)(1) A school or landlord shall not refuse to enroll, refuse to lease to, or otherwise penalize an individual solely for his or her status as a qualifying patient or designated caregiver unless doing so would put the school or landlord in violation of federal law or regulations.
- (2) For the purposes of medical care, including without limitation organ transplants, a qualifying patient's authorized use of marijuana in accordance with this amendment is considered the equivalent of the authorized use of any other medication used at the direction of a physician and does not constitute the use of an illicit substance.
- (3)(A) An employer shall not discriminate against an applicant or employee in hiring, termination, or any term or condition of employment, or otherwise penalize an applicant or employee, based upon the applicant's or employee's past or present status as a qualifying patient or designated caregiver.
- (B) A cause of action shall not be established against an employer based upon, and an employer is not prohibited from, any of the following actions:
- (i) Establishing and implementing a substance abuse or drug-free workplace policy that may include a drug testing program that complies with state or federal law and taking action with respect to an applicant or employee under the policy;
 - (ii) Acting on the employer's good faith belief that a qualifying patient:
 - (a) Possessed, smoked, ingested, or otherwise engaged in the use of marijuana while on the premises of the employer or during the hours of employment; or
 - (b) Was under the influence of marijuana while on the premises of the employer or during the hours of employment, provided that a positive test result for marijuana cannot provide the sole basis for the employer's good faith belief; or

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(iii) Acting to exclude a qualifying patient from being employed in or performing a safety sensitive position based on the employer's good faith belief that the qualifying patient was engaged in the current use of marijuana.

(C) The authorized or protected actions of an employer under this subdivision (f)(3) include without limitation:

(i) Implementing, monitoring, or taking measures to assess, supervise, or control the job performance of an employee;

(ii) Reassigning an employee to a different position or job duties;

(iii) Placing an employee on paid or unpaid leave;

(iv) Suspending or terminating an employee;

(v) Requiring an employee to successfully complete a substance abuse program before returning to work;

(vi) Refusing to hire an applicant; or

(vii) Any combination of the actions listed in subdivisions (f)(3)(C)(i) -- (f)(3)(C)(vi) of this section.

(D)(i) Damages established for an employment discrimination claim based on an applicant's or employee's past or present status as a qualifying patient or designated caregiver in violation of this amendment shall be limited to the damages available for an employment discrimination claim under § 16-123-107(c) of the Arkansas Civil Rights Act of 1993, § 16-123-101 et seq., including the statutory limits provided under § 16-123-107(c)(2)(A)(i)-(v).

(ii) Liability for back pay shall not accrue from a date more than two (2) years prior to the filing of an action.

(iii) Damages under this subdivision (f)(3) shall not duplicate or increase an award for damages over the statutory limit allowed by state law or federal law existing on January 1, 2017, whichever is lower.

(E) An action based on employment discrimination in violation of this subdivision (f)(3) shall be brought within one (1) year of the occurrence of the alleged discrimination.

(F) An individual employee, agent of the employer, or employee of the agent of the employer is not liable for any violation of this subdivision (f)(3) that the employer is found to have committed.

(G) This amendment does not waive the sovereign immunity of the State of Arkansas.

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(g) A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied custody, visitation, or parenting time solely for conduct allowed under this amendment, nor shall there be:

(1) A finding of abuse solely for conduct allowed under this amendment; or

(2) A presumption of neglect or child endangerment for conduct allowed under this amendment.

(h)(1) A physician shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by the Arkansas State Medical Board or by any other business, occupational, or professional licensing board or bureau, solely for providing a written certification.

(2) Subdivision (g)(1) of this section does not prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or for otherwise violating the applicable physician-patient standard of care.

(i) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for providing a qualifying patient or designated caregiver with marijuana paraphernalia for purposes of facilitating the qualifying patient's medical use of marijuana.

(j) Any marijuana, marijuana paraphernalia, licit property, or interest in licit property, that is possessed, owned, or used exclusively in connection with the medical use of marijuana as allowed under this amendment, or property incidental to such use, shall not be seized or forfeited.

(k) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this amendment or for directly assisting a physically disabled qualifying patient with the medical use of marijuana.

(l)(1) A registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows a visiting qualifying patient to possess or use marijuana for medical use in the jurisdiction of issuance has the same force and effect when held by a visiting qualifying patient as a registry identification card issued by the Department of Health if the same qualifying medical condition exists.

(2)(A) A visiting qualifying patient may obtain marijuana from a dispensary upon producing evidence of his or her registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States.

(B) The department shall promulgate necessary rules concerning a visiting qualifying patient obtaining marijuana from a dispensary.

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(m) A pharmacist shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by the Arkansas State Board of Pharmacy or by any other business, occupational, or professional licensing board or bureau solely for performing his or her duties as a pharmacist consultant for a registered dispensary.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 593, § 3, eff. Aug. 1, 2017; Acts of 2017, Act 1024, § 1, eff. Aug. 1, 2017.

Const. Amend. 98, § 3, AR CONST Amend. 98, § 3

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

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Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 4

§ 4. Qualifying Patient--Administration and Enforcement--Rules

(a)(1) The Department of Health shall administer and enforce the provisions of this amendment concerning qualifying patients, qualifying medical conditions, and designated caregivers, including without limitation the issuance of a registry identification card to a qualifying patient and designated caregiver.

(2) The department shall adopt rules necessary to:

(A) Carry out the purposes of this amendment; and

(B) Perform its duties under this amendment.

(3) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4)(A) The Department of Health shall require each applicant for a designated caregiver registry identification card to apply for or authorize the Department of Health to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

(B) The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

(C) The applicant shall authorize the release of the criminal background checks to the Department of Health and shall be responsible for the payment of any fee associated with the criminal background checks.

(D) Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the Department of Health all information obtained concerning the applicant.

(b) Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules governing:

(1) The manner in which the department considers applications for and renewals of registry identification cards;

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(2) Labeling and testing standards for marijuana distributed to qualifying patients, including a warning label on all marijuana for medical use that is processed or sold for smoking that communicates the health and safety risks associated with smoking and a list of places and conditions in which smoking marijuana for medical use is illegal in the State of Arkansas; and

(3) Any other matters necessary for the department's fair, impartial, stringent, and comprehensive administration of this amendment.

(c)(1) Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules that govern the manner in which the department considers petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment.

(2) In considering a petition, the department shall add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment if patients suffering from the medical conditions or undergoing the treatments in question would derive therapeutic benefit from the use of marijuana, taking into account the positive and negative health effects of such use.

(3)(A) The department shall, after hearing, approve or deny a petition within one hundred twenty (120) days of submission of the petition.

(B) The approval or denial of a petition constitutes final agency action, subject to judicial review, and jurisdiction for judicial review is vested in the Pulaski County Circuit Court.

(d) The department shall adopt rules within one hundred eighty (180) days of the effective date of this amendment that govern the manner in which a designated caregiver assists a physically disabled qualifying patient or a qualifying patient under the age of eighteen (18) with the medical use of marijuana.

(e) The department may collect fines or fees for any violation of a rule adopted under this section.

Credits

Added by initiative petition approved at Nov. 8, 2016, election. eff. Nov. 9, 2016; amended by Acts of 2017, Act 4, §§ 2, 3, eff. Jan. 23, 2017, retroactive to Nov. 9, 2016; Acts of 2017, Act 545, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 639, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 740, § 2, eff. Aug. 1, 2017; Acts of 2017, Act 1023, § 2, eff. Aug. 1, 2017; Acts of 2017 (1st Ex. Sess.), Act 1, §§ 3, 4, eff. July 31, 2017; Acts of 2017 (1st Ex. Sess.), Act 8, §§ 3, 4, eff. July 31, 2017.

Const. Amend. 98, § 4, AR CONST Amend. 98, § 4

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AR Const. Amend. 98, § 5

§ 5. Registry identification cards

(a) The Department of Health shall issue registry identification cards to qualifying patients and designated caregivers who submit in accordance with the rules promulgated by the department:

(1) Written certification issued by a physician within thirty (30) days of the application;

(2)(A) A reasonable application or renewal fee as established by the department by rule.

(B) The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income;

(3) The name, address, and date of birth of the qualifying patient or designated caregiver, except that if the applicant is homeless, no address is required;

(4) For a designated caregiver application:

(A) The name of the physically disabled qualifying patient or qualifying patient under the age of eighteen (18) whom the applicant will be assisting; and

(B) Documentation from the qualifying patient's physician indicating that the qualifying patient is physically disabled or under the age of eighteen (18);

(5) The name, address, and telephone number of the qualifying patient's physician; and

(6) A signed statement from the qualifying patient or designated caregiver pledging not to divert marijuana to anyone who is not allowed to possess marijuana under this amendment.

(b) The department shall not issue a registry identification card to a qualifying patient who is under eighteen (18) years of age unless:

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- (1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and
 - (2) A parent, guardian, or person having legal custody:
 - (A) Consents in writing to:
 - (i) Allow the qualifying patient's medical use of marijuana;
 - (ii) Assist the qualifying patient in the medical use of marijuana; and
 - (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient; and
 - (B) Registers as a designated caregiver under this amendment.
- (c)(1) The department shall review the information contained in an application or renewal submitted under this section within fourteen (14) days of receiving it.
- (2) The department shall deny an application or renewal if the:
 - (A) Applicant previously had a registry identification card revoked; or
 - (B) Department determines the written certification was not made in the context of a physician-patient relationship or that the written certification was fraudulently obtained.
 - (3) Rejection of an application or renewal is considered a final agency action, subject to judicial review, and jurisdiction is vested in the Pulaski County Circuit Court.
- (d)(1) A registry identification card expires one (1) year after the date of issuance unless the physician states in the written certification that he or she believes the qualifying patient would benefit from the medical use of marijuana only until a specified earlier date.
- (2) If the written certification specifies an earlier date, the registry identification card shall expire on that date.
- (f)(1)¹ An application or renewal and supporting information submitted by a qualifying patient or designated caregiver under this amendment, including without limitation information regarding the qualifying patient's physician, are considered confidential records that are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

§ 5. Registry identification cards, AR CONST Amend. 98, § 5

(2)(A)(i) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards.

(ii)(a) The department may share information from the confidential list under this subsection with the Alcoholic Beverage Control Division and the Medical Marijuana Commission as necessary and the State Insurance Department for the purposes of the Arkansas all-payer claims database established under § 23-61-901 et seq.

(b) Confidential information shared with the division or commission shall remain confidential while in the division's or commission's possession.

(B) Individual names and other identifying information on the confidential list are confidential, exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., and not subject to disclosure except to authorized employees of the department, division, and commission as necessary to perform official duties of the department, division, and commission.

(3) The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including without limitation an employee or official of the department, division, commission, or another state agency or local government, who knowingly breaches the confidentiality of information obtained under this amendment commits a Class A misdemeanor.

(g)(1) Except as provided in § 3 of this amendment, a cardholder who transfers marijuana to a person who is not a qualifying patient or designated caregiver under this amendment shall have his or her registry identification card revoked and shall be subject to any other penalties established by law.

(2) The department may revoke the registry identification card of any cardholder who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law.

(3) This subsection does not prohibit:

(A) A qualifying patient or designated caregiver from giving up to two and one-half ounces (2 ½ oz.) of usable marijuana to another qualifying patient or designated caregiver as set forth in § 3 of this amendment; or

(B) The transfer of marijuana seedlings, plants, or usable marijuana as set forth in § 3 of this amendment.

(h) The department, division, and commission shall submit to the General Assembly an annual report that does not disclose any identifying information about cardholders or physicians but contains at a minimum:

(1) The number of applications and renewals filed for registry identification cards;

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- (2) The nature of the qualifying medical conditions of the qualifying patients;
- (3) The number of registry identification cards revoked and the number of licenses to operate a dispensary and licenses to operate a cultivation facility revoked;
- (4) The number of physicians providing written certifications for qualifying patients;
- (5) The number of licensed dispensaries;
- (6) The number of licensed cultivation facilities;
- (7) The number of dispensary agents; and
- (8) The number of cultivation facility agents.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 5, § 2, eff. Aug. 1, 2017; Acts of 2017, Act 948, § 1, eff. Aug. 1, 2017.

Footnotes

1 Paragraph designation so in approved constitutional amendment.

Const. Amend. 98, § 5, AR CONST Amend. 98, § 5

The constitution and statutes are current through the 2020 First Extraordinary Session and the 2020 Fiscal Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through July 10, 2020.

West's Arkansas Code Annotated
Constitution of the State of Arkansas of 1874
Amendments to the Constitution of Arkansas of 1874
Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 6

§ 6. Scope

(a) This amendment does not permit a person to:

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

(2) Possess, smoke, or otherwise engage in the medical use of marijuana:

(A) On a school bus;

(B) On the grounds of a daycare center, preschool, primary or secondary school, college, or university;

(C) At a drug or alcohol treatment facility;

(D) At a community or recreation center;

(E) In a correctional facility;

(F) On any form of public transportation;

(G) In a public place; or

(H) On any property that is under control of the Arkansas National Guard or the United States military;

(3) Operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle drawn by power other than muscle power while under the influence of marijuana;

(4) Smoke marijuana;

§ 6. Scope, AR CONST Amend. 98, § 6

- (A) In a place where the smoking of tobacco is prohibited by law;
 - (B) In the presence of a person who is under fourteen (14) years of age;
 - (C) Inside a motor vehicle, aircraft, motorized watercraft, or any vehicle drawn by power other than muscle power;
 - (D) Knowingly in the presence of a pregnant woman; or
 - (E) In a place where the smoking of marijuana for medical use is likely to cause another person not authorized to use marijuana to be under the influence of marijuana; or
- (5) Smoke marijuana for medical use if the person is under twenty-one (21) years of age.
- (b) This amendment does not require:
- (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana unless federal law requires reimbursement;
 - (2) An employer to accommodate the ingestion of marijuana in a workplace or an employee working while under the influence of marijuana;
 - (3) An individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property;
 - (4) An individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is inebriated as a result of his or her medical use of marijuana;
 - (5) A landlord to permit a qualifying patient to smoke marijuana on or in leased property, except that a landlord may not prohibit the medical use of marijuana through means other than smoking on leased property by a qualifying patient ; or
 - (6) A public school to permit a qualifying patient who is a student to be present on school grounds, to attend a school event, or to participate in extracurricular activities in violation of the public school's student discipline policies when a school officer has a good faith belief that the behavior of the qualifying patient is impaired.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 1099, § 1, eff. April 7, 2017; Acts of 2017, Act 479, § 3, eff. Aug. 1, 2017; Acts of 2017, Act 740, § 1, eff. Aug. 1, 2017; Acts of 2017 (1st Ex. Sess.), Act 1, § 5, eff. July 31, 2017; Acts of 2017 (1st Ex. Sess.), Act 8, § 5, eff. July 31, 2017.

§ 6. *Scope*, AR CONST Amend. 98, § 6

Const. Amend. 98, § 6, AR CONST Amend. 98, § 6

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West's Arkansas Code Annotated

Constitution of the State of Arkansas of 1874

Amendments to the Constitution of Arkansas of 1874

Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 7

§ 7. Affirmative defense and dismissal for medical use of marijuana

(a) Except as provided in § 6 of this amendment and this section, an individual may assert a medical purpose for using marijuana as an affirmative defense to prosecution for an offense involving marijuana intended for the individual's medical use, and this defense shall be presumed valid and the prosecution shall be dismissed where the evidence demonstrates that the individual is:

- (1) A qualifying patient or a designated caregiver; and
- (2) In compliance with the conditions set forth in § 3 of this amendment.

(b) The defense and motion to dismiss shall not prevail if either of the following are proven:

- (1) The individual's registry identification card had been revoked at the time of the alleged offense; or
- (2) The purposes for the possession of marijuana were not solely for medical use.

(c) An individual is not required to be in actual physical possession of a registry identification card to raise the affirmative defense set forth in this section.

(d) If an individual demonstrates a medical use of marijuana under this section, except as provided in § 6 of this amendment, the individual shall not be subject to the following:

- (1) Disciplinary action by a business, occupational, or professional licensing board or bureau; or
- (2) Forfeiture of any interest in or right to nonmarijuana, licit property.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016.

§ 7. Affirmative defense and dismissal for medical use of..., AR CONST Amend...

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End of Document

2020 Ark. Code Revis. Comm. Report

West's Arkansas Code Annotated
Constitution of the State of Arkansas of 1874
Amendments to the Constitution of Arkansas of 1874
Amendment 98. Arkansas Medical Marijuana Amendment of 2016 (Refs & Annos)

AR Const. Amend. 98, § 8

§ 8. Licensing of dispensaries and cultivation facilities

(a)(1) Dispensaries and cultivation facilities shall be licensed by the Medical Marijuana Commission.

(2) The commission shall administer and regulate the licensing of dispensaries and cultivation facilities, including the issuance of a:

(i) License to operate a dispensary; and

(ii) License to operate a cultivation facility.

(3) The Alcoholic Beverage Control Division shall administer and enforce the provisions of this amendment concerning dispensaries and cultivation facilities.

(b)(1) The commission and division shall each adopt rules necessary to:

(A) Carry out the purposes of this amendment; and

(B) Perform its duties under this amendment.

(2) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c) The following individuals associated with a dispensary or cultivation facility shall be current residents of Arkansas who have resided in the state for the previous seven (7) consecutive years:

(1) The individual(s) submitting an application to license a dispensary or cultivation facility; and

(2) Sixty percent (60%) of the individuals owning an interest in a dispensary or cultivation facility.

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(d) Not later than one hundred eighty (180) days after the effective date of this amendment, the commission shall adopt rules governing:

(1) The manner in which the commission considers applications for and renewals of licenses for dispensaries and cultivation facilities;

(2) The form and content of registration and renewal applications for dispensaries and cultivation facilities; and

(3) Any other matters necessary for the commission's fair, impartial, stringent, and comprehensive administration of this amendment.

(e) Not later than one hundred eighty (180) days after the effective date of this amendment, the division shall adopt rules governing:

(1) Oversight requirements for dispensaries and cultivation facilities;

(2) Recordkeeping requirements for dispensaries and cultivation facilities;

(3) Security requirements for dispensaries and cultivation facilities;

(4) Personnel requirements for dispensaries and cultivation facilities;

(5) The manufacture, processing, packaging, labeling, and dispensing of usable marijuana to qualifying patients and designated caregivers, including without limitation:

(A) Before sale, food or drink that has been combined with usable marijuana shall not exceed ten milligrams (10 mg) of active tetrahydrocannabinol per portion and shall be physically demarked; and

(B) If portions cannot be physically determined, the entirety of the food or drink that has been combined with usable marijuana shall not contain more than ten milligrams (10 mg) of active tetrahydrocannabinol;

(6) Procedures for suspending or terminating the licenses of dispensaries and cultivation facilities that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties;

(7) Procedures for inspections and investigations of dispensaries and cultivation facilities;

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(8) Advertising restrictions for dispensaries and cultivation facilities, including without limitation the advertising, marketing, packaging, and promotion of dispensaries and cultivation facilities with the purpose to avoid making the product of a dispensary or a cultivation facility appealing to children, including without limitation:

(A) Artwork;

(B) Building signage;

(C) Product design, including without limitation shapes and flavors;

(D) Child-proof packaging that cannot be opened by a child or that prevents ready access to toxic or harmful amount of the product, and that meets the testing requirements in accordance with the method described in 16 C.F.R. § 1700.20, as existing on January 1, 2017;

(E) Indoor displays that can be seen from outside the dispensary or cultivation facility; and

(F) Other forms of marketing related to medical marijuana;

(9) Procedures for the disposal or other use of marijuana not dispensed to a qualifying patient; and

(10) Any other matters necessary to the division's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

(f)(1) Not later than one hundred eighty (180) days after the effective date of this amendment, the commission shall adopt rules establishing license application and license renewal fees for dispensary and cultivation facility licenses.

(2)(A) The initial dispensary application fee shall be a maximum of seven thousand five hundred dollars (\$7,500).

(B) The initial cultivation facility application fee shall be a maximum of fifteen thousand dollars (\$15,000).

(C) A license that is initially issued between January 1 and July 1 may have the licensing fees up to fifty percent (50%) prorated and refunded as determined by the commission.

(g)(1) Not later than July 1, 2017, the commission shall begin accepting applications for licenses to operate a dispensary and cultivation facility.

(2) The application shall include without limitation the following:

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(A) The application fee:

(B) The legal name of the dispensary or cultivation facility:

(C) The physical address of the:

(i)(a) Dispensary, the location of which may not be within one thousand five hundred feet (1,500') of a public or private school, church, daycare center, or facility for individuals with developmental disabilities, existing before the date of the dispensary application, which shall be calculated from the primary entrance of the dispensary to the nearest property boundary of a public or private school, church, daycare center, or facility for individuals with developmental disabilities.

(b) Subdivision (g)(2)(C)(i)(a) of this section does not apply to or impact existing locations of dispensaries issued a license before the effective date of this subdivision (g)(2)(C)(i)(b) that may be located within one thousand five hundred feet (1,500') of a facility for individuals with developmental disabilities; or

(ii) Cultivation facility, the location of which may not be within three thousand feet (3,000') of a public or private school, church, or daycare center existing before the date of the cultivation facility application, which shall be calculated from the primary entrance of the cultivation facility to the nearest property boundary of a public or private school, church, or daycare center;

(D) The name, address, and date of birth of each dispensary agent or cultivation facility agent; and

(E) If the city, town, or county in which the dispensary or cultivation facility would be located has enacted zoning restrictions, a sworn statement certifying that the dispensary or cultivation facility will operate in compliance with the restrictions.

(2)¹None of the owners, board members, or officers of the dispensary or cultivation facility:

(A) Shall have been convicted of an excluded felony offense;

(B) Shall have previously been an owner of a dispensary or cultivation facility that has had its license revoked; and

(C) Shall be under twenty-one (21) years of age.

(4)(A) The commission may issue a temporary license to a another natural person in conjunction with a dispensary or a cultivation facility when the natural person whose name is on the license for the dispensary or cultivation facility ceases to be in actual control of the dispensary or cultivation facility.

(B) The commission shall adopt rules as necessary to provide temporary licenses.

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(h) The commission shall issue at least twenty (20) but no more than forty (40) dispensary licenses.

(i) There shall be no more than four (4) dispensaries in any one (1) county.

(j) The commission shall issue at least four (4) but no more than eight (8) cultivation facility licenses.

(k)(1) The commission shall conduct a criminal background check in order to carry out this section.

(2) The commission shall require each applicant for a dispensary license or cultivation facility license to apply for or authorize the commission to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

(3) The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

(4) The applicant shall authorize the release of the criminal background checks to the commission and shall be responsible for the payment of any fee associated with the criminal background checks.

(5) Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the commission all information obtained concerning the applicant.

(l)(1) No individual shall own an interest in more than:

(1) One (1) cultivation facility; and,

(2) One (1) dispensary.

(m)(1)(A) A dispensary licensed under this section may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana paraphernalia, and related supplies and educational materials to a qualifying patient or designated caregiver, but shall not supply, possess, manufacture, deliver, transfer, or sell marijuana paraphernalia that requires the combustion of marijuana to be properly utilized, including pipes, water pipes, bongs, chillums, rolling papers, and roach clips.

(B) A dispensary licensed under this section shall:

(i) Make marijuana vaporizers available for sale to qualifying patients; and

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(ii) Provide educational materials about medical marijuana methods of ingestion to qualifying patients and designated caregivers, including without limitation:

(a) Warnings on the potential health risks of smoking or combusting marijuana; and

(b) Information on potential health benefits of vaporizing marijuana compared to smoking or combusting.

(2)(A) A dispensary may receive compensation for providing the goods and services allowed by this section.

(B) A dispensary may contract with a transporter, distributor, or processor to extent of the license of the transporter, distributor, or processor.

(3)(A) A dispensary may grow or possess:

(i) Fifty (50) mature marijuana plants at any one (1) time plus seedlings; and

(ii) All usable marijuana derived from the plants under subdivision (m)(3)(A)(i) of this section or predecessor plants.

(B) A dispensary may contract with a cultivation facility to cultivate one (1) or more mature marijuana plants the dispensary is permitted to grow.

(4)(A)(i) A cultivation facility may cultivate and possess usable marijuana in an amount reasonably necessary to meet the demand for the needs of qualifying patients as determined by the commission with the assistance of the Department of Health.

(ii) However, a cultivation facility shall not sell marijuana in any form except to a dispensary or other cultivation facility.

(B) A cultivation facility may also possess marijuana seeds.

(C) The commission with the assistance of the Department of Health shall promulgate rules determining the amount of marijuana reasonably necessary under subdivision (m)(4)(A) of this section.

(5)(A) A cultivation facility may receive compensation for providing goods and services allowed by this section.

(B) A cultivation facility may contract with a transporter, distributor, or processor to extent of the license of the transporter, distributor, or processor.

(n)(1) A dispensary license and cultivation facility license shall expire on June 30 of each calendar year and are renewable on or before June 30 of each calendar year for the fiscal year beginning July 1.

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(2) The commission shall issue a renewal dispensary license or a renewal cultivation facility license within ten (10) days to any entity who complies with the requirements contained in this amendment, including without limitation the payment of a renewal fee.

(o) The commission may charge a reasonable fee as established by rule for the issuance of a renewal license.

(p) The commission and the division may collect fines or fees for any violation of a rule adopted under this section.

(q)(1) A license for a dispensary or cultivation facility shall only be issued to a natural person.

(2) A license issued for a dispensary or cultivation facility shall be transferable only to a natural person upon approval of the commission.

(r) Data or records submitted to the division or commission under rules adopted under this amendment may be shared with the Department of Health and the State Insurance Department for purposes of the Arkansas all-payer claims database established under the Arkansas Healthcare Transparency Initiative Act of 2015, § 23-61-901 et seq.

(s)(1) A dispensary shall appoint a pharmacist consultant who is a pharmacist licensed with the Arkansas State Board of Pharmacy.

(2) A pharmacist consultant shall:

(A) Register as a dispensary agent under this amendment and follow all procedures;

(B) Develop and provide training to other dispensary agents at least one (1) time every twelve (12) months from the initial date of the opening of the dispensary on the following subjects:

(i) Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;

(ii) Recognizing the signs and symptoms of substance abuse; and

(iii) Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana;

(C) Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary;

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(D) Provide oversight for the development and dissemination of:

(i) Education materials for qualifying patients and designated caregivers that include:

(a) Information about possible side effects and contraindications of medical marijuana;

(b) Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;

(c) A description of the potential effects of differing strengths of medical marijuana strains and products;

(d) Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, nonprescription drugs, and supplements;

(e) Techniques for the use of medical marijuana and marijuana paraphernalia; and

(f) Information about different methods, forms, and routes of medical marijuana administration;

(ii) Systems for documentation by a qualifying patient or designated caregiver of the symptoms of a qualifying patient that includes a logbook, rating scale for pain and symptoms, and guidelines for a patient's self-assessment; and

(iii) Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and

(E) Be accessible to the dispensary or dispensary agent through:

(i) Telephonic means at all times during operating hours; and

(ii) Telephone or video conference for a patient consultation during operating hours.

(t)(1) A cultivation facility shall meet the following security requirements:

(A)(i) The physical security controls set forth in 21 C.F.R. § 1301.72 -- 1301.74, as existing on January 1, 2017.

(ii) The division shall adopt rules to implement subdivision (t)(1)(A)(i) of this section;

(B) All cultivation of marijuana occurs within a building, greenhouse, or other structure that:

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(i) Has a complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;

(ii) Is secure against unauthorized entry;

(iii) Has a foundation, slab, or equivalent base to which the floor is securely attached;

(iv) Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of:

(a) Common visual observation;

(b) Odors, smells, fragrances, or other olfactory stimuli;

(c) Light pollution, glare, or brightness;

(d) Adequate ventilation to prevent mold; and

(e) Noise;

(v) Provides complete visual screening; and

(vi) Is accessible only through one (1) or more lockable doors;

(C) Current detailed plans and elevation drawings of all operational areas involved with the production of medical marijuana are maintained on the premises of the cultivation facility, including:

(i) All storage areas, ventilation systems, and equipment used for production;

(ii) All entrances and exits to the cultivation facility;

(iii) All windows, skylights, and retractable mechanisms built into the roof;

(iv) The location of all required security cameras;

(v) The location of all alarm inputs, detectors, and sirens;

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

- (vi) All video and alarm system surveillance areas;
 - (vii) All production areas labeled according to the specific activity occurring within the area;
 - (viii) All restricted and limited access areas identified; and
 - (ix) All nonproduction areas labeled according to purpose;
- (D) Access to areas where marijuana is grown, harvested, processed, and stored is limited to authorized personnel and:
- (i) Designated by clearly marked signage; and
 - (ii) Locked and accessible only by authorized personnel on a current roster of authorized personnel;
- (E)(i) Written policies regarding any nonregistered agent who may visit the premises and a log of all visitors to the premises are developed and maintained.
- (ii) The log shall consist of the visitor's name, purpose of visit, time of arrival, and time of departure.
 - (iii) Visitors to a cultivation facility shall be:
 - (a) Issued a visitor identification tag containing the visitor's name that shall be worn for the duration of the visit on the premises; and
 - (b) Escorted by a cultivation facility agent at all times while present on the premises.
 - (iv)(a) However, contractors conducting repairs, maintenance, or other specific duties may be escorted to their work site and left unaccompanied while completing a job.
 - (b) Cultivation facility agents shall ensure that the contractor and area under repair are under video surveillance for the duration of the time spent on the premises by the contractor; and
- (F)(i) An alarm system is equipped that upon attempted unauthorized entry, transmits a signal directly to a central protection company for a local or state police agency and a designated cultivation facility agent.
- (ii) The alarm system shall:

§ 8. Licensing of dispensaries and cultivation facilities, AR CONST Amend. 98, § 8

(a) Provide coverage for all points of ingress and egress to the cultivation facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms;

(b) Provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana;

(c) Be equipped with a panic drive that upon activation will not only sound any audible alarm components but will also notify law enforcement;

(d) Have duress and hold up features to enable a cultivation facility agent to activate a silent alarm notifying law enforcement of an emergency;

(e) Be equipped with failure notification systems to notify cultivation facilities and law enforcement of any failure in the alarm system; and

(f) Have the ability to remain operational during a power outage.

(2) A cultivation facility shall maintain compliance with applicable city or county building or structure rules, regulations, or ordinances and any other applicable state laws or rules regarding buildings or structures.

Credits

Added by initiative petition approved at Nov. 8, 2016, election, eff. Nov. 9, 2016; amended by Acts of 2017, Act 4, §§ 4 to 6, eff. Jan. 23, 2017, retroactive to Nov. 9, 2016; Acts of 2017, Act 545, § 2, eff. Aug. 1, 2017; Acts of 2017, Act 587, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 594, §§ 1, 2, eff. Aug. 1, 2017; Acts of 2017, Act 639, § 2, eff. Aug. 1, 2017; Acts of 2017, Act 640, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 641, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 642, § 1, eff. Aug. 1, 2017; Acts of 2017, Act 948, § 2, eff. Aug. 1, 2017; Acts of 2017, Act 1023, § 3, eff. Aug. 1, 2017; Acts of 2017, Act 1024, §§ 2, 3, eff. Aug. 1, 2017; Acts of 2017, Act 1100, §§ 1, 2, eff. Aug. 1, 2017; Acts of 2017 (1st Ex. Sess.), Act 1, § 6, eff. July 31, 2017; Acts of 2017 (1st Ex. Sess.), Act 8, § 6, eff. July 31, 2017; Acts of 2019, Act 1004, § 1, eff. April 15, 2019.

Notes of Decisions (5)

Footnotes

1 Paragraph designation so in approved constitutional amendment.

Const. Amend. 98, § 8, AR CONST Amend. 98, § 8

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