Legal Protections for Patients

The law provides that registered patients and caregivers abiding by the Medical Marijuana Act are "not subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action …" for doing so.

It also prevents property owners, employers, and schools from discriminating based on a person's status as a caregiver or patient, unless they would otherwise lose a federal monetary or licensing benefit. Employers generally cannot penalize staff for testing positive for marijuana unless they used, possessed, or were impaired by marijuana at work or during work hours.

Possession Limits

Delaware’s law allows a patient with a State of Delaware registry identification card to possess six ounces at once and to obtain up to three ounces of processed marijuana every 14 days. When patients or caregivers are outside of their residence, marijuana must be stored in an approved, sealed container obtained from a compassion center, unless the marijuana is being administered or prepared for administration. Registered caregivers may possess up to six ounces for each patient they assist.

Home cultivation is not allowed in Delaware.
PATIENT ACCESS
Patients are permitted to obtain marijuana from one of the three state registered non-profit compassion centers to which they are empaneled by the Office of Medical Marijuana (OMM). The Department has developed rules for the compassion centers’ oversight, record keeping, and security. It also sets application and registration fees, which must cover the costs of administering the program.

The Department is also charged with selecting compassion centers, based on a scored competitive application process. Dispensaries must be at least 1,000 feet from schools, and they must cultivate their own marijuana; either at the retail site or at additional enclosed, locked cultivation locations that must be registered with the Department. No more than three ounces of marijuana can be dispensed to a patient every 14 days.

QUALIFYING FOR THE PROGRAM
The Department shall issue a registry identification card to an applicant upon written certification of the applicant’s physician, supporting application documents, and a non-refundable application fee. The Patient Application shall contain:

- Name, address, date of birth of the applicant
- Copy of the applicant’s State of Delaware or federal issued photo identification card verifying residence
- Medical justification for the physician’s certification of the patient’s medical condition
- Name, address, telephone number, fax number, and clinical licensure for applicant’s physician (licensed in Delaware)
- Length of time the applicant has been under the care of the physician providing the medical certification for the patient
- Physician signature and date within 90 days of application submission
- Signed consent for release of medical information related to the patient’s debilitating medical condition

Q: How old do I have to be to register?
A: Patients must be 18 years of age, and caregivers must be 21 years of age. Patients under 18 must be certified by a pediatric specialist.

Q: I possess a medical marijuana patient card from another state; may I use it in Delaware to obtain medical marijuana?
A: No. To be eligible for the Delaware Medical Marijuana program you must:
- Maintain a bona fide relationship with a Delaware physician; and
- Be certified with a debilitating medical condition; and
- Be a verified Delaware resident.

Q: Is medical marijuana covered by my health insurance?
A: No, medical marijuana is not a covered service under Medicaid or any other health plans in the State of Delaware.

Q: If qualified and approved, are there any restrictions regarding the use of medical marijuana?
A: This program does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal or other penalties for engaging in the undertaking of any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice. Smoking marijuana in any public place or in any form of transportation is prohibited.

For a full list of rules, regulations, limitations and restrictions, the Medical Marijuana Program recommends that you familiarize yourself with the Act.Title 16 Del.C.Ch.49A as can be found on our website: http://dhss.delaware.gov/dhss/dph/hsp/medmarhome.html