Montana Medical Marijuana Act
From SB 423 to I-182 and SB 333
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Background

The 2011 Legislature repealed Montana’s Medical Marijuana Act and replaced it with Senate Bill 423 to create the Montana Marijuana Act. That law put in place more stringent requirements and was immediately challenged in court.

Key provisions of SB 423 were on hold until Aug. 31, 2016, while the lawsuit made its way through the court system. The Montana Supreme Court upheld all challenged provisions of the law last year except the ban on compensation for marijuana products.

Then in November 2016, voters approved Initiative 182. The initiative removed many of the stricter requirements that SB 423 had placed on the program. It also changed the name of the law back to the Montana Medical Marijuana Act.

The 2017 Legislature made additional changes to the initiative by passing SB 333. That bill created more detailed regulations, allowed for additional chemical manufacturing of marijuana products, and created a tax on gross sales.

Changes to the MMA Over Time

This briefing paper uses a series of graphics on the following pages to illustrate the metamorphosis of the law over the last six years in the following topic areas:

- cardholder requirements;
- provider requirements;
- testing laboratory requirements;
- regulatory matters; and
- funding of the program.
Cardholders

- Must register with DPHHS and be issued a card
- Must have certain debilitating medical conditions
- Can possess 4 plants, 12 seedlings, and 1 ounce of usable marijuana
- Must be a Montana resident
- Parents must be the provider for a minor
- PTSD added to list of conditions
- Minor can have any provider
- Card must have patient's picture and be able to track purchases
- Cardholder growing for self must notify DPHHS of location
- Cardholder growing for self can have 4 plants, 4 seedlings, and amount of usable marijuana allowed by DPHHS rule
- Cardholder with provider may not own plants and may possess 1 ounce of usable marijuana

Key
Providers

- Must be named by a patient and be registered with DPHHS
- Limit of 3 patients per provider
- Can possess 4 plants, 12 seedlings, and 1 ounce of usable marijuana per patient
- Must be Montana resident
- Can operate dispensaries
- Can have employees

- Must be named by a patient and be licensed by DPHHS
- No limit on the number of patients
- Per-patient possession limits eliminated and replaced with canopy, or square footage, amounts
- Must be a Montana resident for 1 year
- DPHHS to set dispensary standards by rule
- Must be Montana resident for 3 years
- DPHHS will define canopy amounts

Key
Testing Laboratories

Not specifically authorized or prohibited

Authorized by initiative

Must test all marijuana products before sale

Must test all samples collected during DPHHS inspections

May test samples provided by cardholders

May not have a financial interest in a provider for whom testing is being done

Must employ a scientific director with a doctorate or master's degree and lab experience

DPHHS to set lab standards and testing requirements in rule

Fingerprint background checks required; no license if felony offense

Key
General Regulatory Matters

Law enforcement and DPHHS may conduct unannounced inspections

- Law enforcement may not conduct unannounced inspections
- DPHHS shall conduct annual inspections and may conduct unannounced inspections
- DPHHS may establish penalties for licensing, health, or agricultural violations
- DPHHS must collect samples during inspections and have them tested
- DPHHS must report results of inspections to Children and Families Interim Committee
- Inspections must be unannounced

Board of Medical Examiners must report to DPHHS names of doctors certifying more than 25 patients

- Board of Medical Examiners reporting requirement eliminated

DPHHS must establish a system to track plants/marijuana from start to sale

- Providers must participate in tracking system

DPHHS must adopt rules on dispensaries, chemical manufacturing, testing, and tracking

Key
Funding

DPHHS must set provider and patient cardholder fees to cover costs

Provider fees set at $1,000 for 10 or fewer patients and $5,000 for more than 10 patients

DPHHS may adjust provider fees to adequately fund program and have a $250,000 reserve

DPHHS to set fees for chemical manufacturing endorsements for providers

Providers must pay a 4% tax on gross sales in FY 2018 and a 2% tax after that

Testing lab fee set at $1,200

DPHHS to set lab fee by rule

DPHHS to set patient fees by rule

No fee for dispensaries

DPHHS to set dispensary fee by rule

Key