

CHAPTER 11
FORMERLY
SENATE BILL NO. 7
AS AMENDED BY
SENATE AMENDMENT NOS. 1 & 2

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE MEDICAL MARIJUANA ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4922A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4922A. ~~Annual reports.~~ Oversight committee; annual report by Department.

~~(a) (1) The legislature shall appoint a 9 member oversight committee comprised of: 1 member of the House of Representatives; 1 representative of the Department; 1 member of the Senate; 1 physician with experience in medical marijuana issues; 1 nurse; 1 board member or principal officer of a registered safety compliance facility; 1 individual with experience in policy development or implementation in the field of medical marijuana; and 3 registered patients.~~

(a) The Medical Marijuana Act Oversight Committee is established to evaluate and make recommendations regarding the implementation of this chapter.

(1) The Oversight Committee shall consist of 9 members who possess the qualifications and are appointed as follows:

a. One member, appointed by the President *Pro Tempore* of the Senate.

b. One member, appointed by the Speaker of the House.

c. The Secretary of the Department, or a designee appointed by the Secretary.

d. Two medical professionals, each licensed in Delaware, with experience in medical marijuana issues, appointed by the Governor.

e. One member with experience in policy development or implementation in the field of medical marijuana, appointed by the Governor.

f. Three members who each shall be a cardholder, as defined in § 4902A of this title, appointed by the Governor.

(2) The members of the Oversight Committee shall serve at the pleasure of the appointing authority.

(3) A quorum shall consist of 51% of the membership of the Oversight Committee.

(4) The Oversight Committee shall select a Chair and Vice Chair from among its members.

(5) Staff support for the Oversight Committee shall be provided by the Department.

~~(2) (6) The oversight committee~~ Oversight Committee shall meet at least 2 times per year for the purpose of evaluating and making recommendations to ~~the legislature and the Department~~ the Governor, the General Assembly, and the Department regarding the following:

a. The ability of qualifying patients in all areas of the State to obtain timely access to high-quality medical marijuana.

b. The effectiveness of the registered compassion centers, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the registered qualifying patients of Delaware.

c. The effectiveness of the registered safety compliance facility or facilities, including whether a sufficient number are operating.

d. The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the Department to ensure that access to and use of marijuana cultivated is provided only to cardholders authorized for such purposes.

e. Any recommended additions or revisions to the Department regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature.

f. Any research studies regarding health effects of medical marijuana for patients.

(b) The Department shall submit to ~~the legislature~~ the Governor and the General Assembly an annual report that does not disclose any identifying information about cardholders, registered compassion centers, or physicians, but does contain, at a minimum, all of the following information:

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

(2) The number of qualifying patients and designated caregivers approved in each ~~county;~~ county.

(3) The nature of the debilitating medical conditions of the qualifying ~~patients;~~ patients.

(4) The number of registry identification cards revoked for ~~misconduct;~~ misconduct.

(5) The number of physicians providing written certifications for qualifying ~~patients;~~ patients.

(6) The number of registered compassion ~~centers, and~~ centers.

(7) Specific accounting of fees and costs.

Section 2. The Secretary of the Department, or a designee appointed by the Secretary, shall serve as temporary Chair pending the Oversight Committee's selection of a Chair under § 4922A(a)(4) of Title 16. The Secretary of the Department, or a designee appointed by the Secretary, shall set the date, time, and place for the initial organizational meeting of the Oversight Committee.

Section 3. Amend § 4910A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4910A. Denial of registry identification cards.

(a) The Department shall deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

- (1) Did not provide the required information and materials;
- (2) Previously had a registry identification card revoked; or
- (3) Provided false or falsified information.

(b) The Department shall deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:

- (1) The designated caregiver does not meet the requirements of § 4902A(5) of this title;
- (2) The applicant did not provide the information required;
- (3) The designated caregiver previously had a registry identification card revoked; or
- (4) The applicant or the designated caregiver provides false or falsified information.

~~(c) The Department shall conduct a background check of the prospective designated caregiver in order to carry out this provision.~~

(c) A prospective designated caregiver shall obtain a background check in compliance with § 4927A of this title to enable the Department to comply with subsection (b) of this section. Once a prospective designated caregiver has been granted a registry identification card, the designated caregiver must obtain a background check in compliance with § 4927A of this title every year.

(d) The Department shall notify the qualifying patient who has designated someone to serve as his or her designated caregiver if a registry identification card will not be issued to the designated caregiver.

(e) Denial of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

Section 4. Amend § 4918A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4918A. Compassion center and safety compliance facility agents.

~~(a) (1) Registered compassion centers and registered safety compliance facilities shall conduct a background check into the criminal history of every person seeking to become a principal officer, board member,~~

~~agent, volunteer, or employee before the person begins working at the registered compassion centers or registered safety compliance facility.~~

(a) (1) Every person seeking to become a principal officer, board member, agent, volunteer, or employee of a registered compassion center or a registered safety compliance facility shall obtain a background check in compliance with § 4927A of this title before beginning work, with or without compensation, at a registered compassion center or a registered safety compliance facility. Once a person becomes a principal officer, board member, agent, volunteer, or employee of a registered compassion center or a registered safety compliance facility, the person must obtain a background check in compliance with § 4927A of this title every 5 years.

(2) A registered compassion center or a registered safety compliance facility may not employ, with or without compensation, any person who:

- a. Was convicted of an excluded felony offense;
- b. Is under 21 years of age;
- c. Has been convicted of a misdemeanor drug offense, as provided in Title 16 or an equivalent offense from another jurisdiction, within 5 years from the date of the application that is not excluded in § 4902A(7)b.2. of this title.

(3) The Department is responsible for reviewing the background check of a person seeking to become, or who is, a principal officer, board member, agent, volunteer, or employee of a registered compassion center or a registered safety compliance facility to determine if the person complies with paragraph (a)(2) of this section. The Department shall notify the registered compassion center or registered safety compliance facility if a person is disqualified under paragraph (a)(2) of this section.

Section 5. Amend Chapter 49A, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4927A. Background checks.

(a) A person required to obtain a background check under this chapter shall submit fingerprints and other necessary information to the State Bureau of Identification in order to obtain all of the following:

(1) A report of the person's entire criminal history record from the State Bureau of Identification or a statement that the State Bureau of Identification Central Repository contains no such information relating to that person.

(2) A report of the person's entire federal criminal history record from the Federal Bureau of Investigation pursuant to Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534) or a statement that the Federal Bureau of Investigation's records contain no such information relating to that person.

(b) The State Bureau of Identification shall be the intermediary for the purpose of subsection (a) of this section and shall forward all information required by subsection (a) of this section to the Department.

(c) The Department shall use the background check required by this section only to determine if the person required to obtain a background check meets the requirements of this chapter.

(d) A person required to obtain a background check under this chapter is responsible for any costs associated with obtaining the background check.

Approved April 21, 2015