

Michigan Medical Marihuana Act (MMMA) Summary for Law Enforcement/Prosecutors-December 20, 2016

How much may be possessed?	
<p>Qualifying Patient may possess:</p> <ul style="list-style-type: none"> • An amount of marihuana that does not exceed a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents. MCL 333.26424(a). • 12 marihuana plants kept in an enclosed locked facility, if no primary caregiver has been specified. MCL 333.26424(a). • Shall have been diagnosed by a physician as having a debilitating condition. MCL 333.26423(l) • The privilege from arrest applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient. MCL 333.26424(a). 	<p>Primary Caregiver may possess:</p> <ul style="list-style-type: none"> • For each qualifying patient to whom he or she is connected through the department's registration process, a combined total of 2.5 ounces of usable marihuana and usable marihuana equivalents. MCL 333.26424(b). • 12 marihuana plants kept in an enclosed locked facility for each qualifying patient who has specified that the primary caregiver will be allowed under state under state law to cultivate marihuana for the qualifying patient. MCL 333.26424(b). • A caregiver may have up to 5 registered patients who are connected through the registration process. MCL 333.26426(b). • Shall be 21 years of age and not convicted of any felony within the last 10 years and has never been convicted of a felony involving illegal drug or an assaultive crime. MCL 333.26423(k). • The privilege from arrest applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary caregiver. MCL 333.26424(b).
<p>Enclosed, Locked Facility: Means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. MCL 333.26423(d).</p> <p>Marihuana Plant: Means any plant of the species Cannabis sativa L. MCL 333.26423(g).</p> <p>Plant: Means any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material. MCL 333.26423(j).</p> <p>Medical Use of Marihuana: Means the acquisition, possession, cultivation, manufacture, extraction, use, internal possession, delivery, transfer, or transportation of marihuana, marihuana-infused products, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition. MCL 333.26423(h).</p> <p>Plants Grown Outdoors: Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides. MCL 333.26423(d).</p> <p>Transporting Living Marihuana Plants: The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retains those plants at the second location, only the primary caregiver designated to maintain those plants or the qualifying patient to whom the living marihuana plants belong are allowed to move those plants. MCL 333.26423(d)(1)(2).</p> <p>Usable Marihuana Enclosed in the Case of a Trunk: Shall not transport or possess usable marihuana in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the usable marihuana is (1) Enclosed in a case that is carried in the trunk of the vehicle or (2) Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk. Misdemeanor-93 days or a fine of not more than \$500.00, or both. MCL 750.474. Note: This section is not under the Michigan Medical Marihuana Act.</p> <p>Marihuana-Infused Product in or upon a Motor Vehicle for a Qualifying Patient: Shall not transport or possess a marihuana-infused product in or upon a motor vehicle unless for a qualifying patient a marihuana-infused product is in a sealed and labeled package that is carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is enclosed in a case and carried so as not to be readily accessible from the interior of the vehicle. MCL 333.26424b(2). Civil Fine of not more than \$250.00. MCL 333.26424b(6).</p> <p>Marihuana-Infused Product in or upon a Motor Vehicle for a Primary Caregiver: Shall not transport or possess a marihuana-infused product in or upon a motor vehicle unless for a primary caregiver a marihuana-infused product is accompanied by an accurate transportation manifest and enclosed in a case carried in the trunk of the vehicle or, if the vehicle does not have a trunk, is enclosed in a case and so as not to be readily accessible from the interior of the vehicle. MCL 333.26424b(3). Civil Fine of not more than \$250.00. MCL 333.26424b(6).</p> <p>Rebuttable Presumption: There is a rebuttable presumption that the weight of a marihuana-infused product listed on its package label or on a marihuana transportation manifest is accurate. MCL 333.26424b(5).</p> <p>Usable Marihuana: Means the dried leaves, flowers, plant resin, or extract of the marihuana plant, but does not include the seeds, stalks, and roots of the plant. MCL 333.26423(n).</p> <p>Marihuana-Infused Product: Means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption other than smoke inhalation. Marihuana-infused product shall not be considered a food for purposes of the food law. MCL 333.26423(f).</p> <p>Usable Marihuana Equivalent: Means the amount of usable marihuana in a marihuana-infused product that is calculated as provided in section 4(c). MCL 333.26423(o).</p> <p>Calculation of Usable Marihuana Equivalency: For purposes of determining marihuana equivalency, the following shall be considered to 1 ounce of usable marihuana: (1) 16 ounces of marihuana-infused product if in a solid form. (2) 7 grams of marihuana-infused product if in gaseous form. (3) 36 fluid ounces of marihuana-infused product if in liquid form. MCL 333.26424(c).</p>	

Protection of Arrest/Search and Seizure
Protection for a Qualifying Patient: A qualifying patient who has been issued and possesses a registry identification card is not subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with the is act. MCL 333.26424(a).
Protection for a Primary Caregiver: A primary caregiver who has been issued and possesses a registry identification card is not subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. MCL 333.26424(b).
Further Protections for both a Qualifying Patient and a Primary Caregiver: Transferring or purchasing marihuana in an amount authorized by this act from a provisioning center licensed under the medical marihuana facilities licensing act (MMFLA); transferring or selling marihuana seeds or seedlings to a grower licensed under the MMFLA; transferring marihuana for testing to and from a safety compliance facility licensed under the MMFLA. MCL 333.26424a.
Marihuana Forfeiture: Any marihuana, marihuana paraphernalia, or licit (lawful) property that is possessed, owned, or used in connection with the medical use of marihuana shall not be seized or forfeited. MCL 333.26424(i).
In the Presence or Vicinity: A person shall not be subject to arrest, prosecution, or penalty in any manner ... solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana. MCL 333.26424(j).
Probable Cause or Reasonable Suspicion: Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion to search or seize or otherwise subject the person or property to inspection. MCL 333.26426(g).
Out-of-State Cards
Michigan recognizes medical marihuana cards, or the equivalent, that are issued by other states, territories, etc. possessed by a visiting qualifying patient. MCL 333.26424(k).
A visiting qualifying patient means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days. MCL 333.26423(p).
Disclosure of Information
MDCH shall verify to law enforcement whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the card. MCL 333.26426(h)(3).
A person, including an employee or official of MDCH or another state agency or local unit of government who discloses confidential information in violation of this act = 6 month misdemeanor. MCL 333.26426(h)(4).
Violations under the Act
Any registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed to use marihuana for medical purposes = 2 year felony and card revoked. MCL 333.26424(l).
Prohibitions: This act shall not permit any person to do any of the following: <ul style="list-style-type: none"> • Undertake any task under the influence of marihuana, when doing so would constitute negligence or professional malpractice. MCL 333.26427(b)(1) • Possess marihuana or engage in the medical use of marihuana: <ul style="list-style-type: none"> ▪ In a school bus; MCL 333.26427(b)(2)(A) ▪ On the grounds of any preschool or primary or secondary school; or MCL 333.26427(b)(2)(B) ▪ In any correctional facility. MCL 333.26427(b)(2)(C) • Smoke marihuana: <ul style="list-style-type: none"> ▪ On any form of public transportation; or MCL 333.26427(b)(3)(A) ▪ In any public place. MCL 333.26427(b)(3)(B) • Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, snowmobile, or off-road recreational vehicle, or motorboat while under the influence of marihuana. MCL 333.26427(b)(4) • Use marihuana if that person does not have a serious or debilitating medical condition. MCL 333.26427(b)(5) • Separate plant resin from a marihuana plant by butane extraction in any public place or motor vehicle, or within the curtilage of any residential structure. MCL 333.26427(b)(6) • Separate plant resin from a marihuana plant by butane extraction in a manner that demonstrates a failure to exercise reasonable care or reckless disregard for the safety of others. MCL 333.26427(b)(7).
Fraudulent Representation: Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marihuana to avoid arrest or prosecution = \$500.00 fine. MCL 333.26427(d)
Affirmative Defense
A patient or caregiver may assert the medical purpose for using marihuana as a defense to any prosecution involving marihuana. MCL 333.26428(a).
A physician has stated that the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana. MCL 333.26428(a)(1).
The patient or caregiver was in possession of a quantity of marihuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marihuana for the purpose of treating or alleviating the patient's condition or symptoms. MCL 333.26428(a)(2) .
The patient or caregiver had the marihuana or paraphernalia to treat medical condition or symptoms. MCL 333.26428(a)(3).
Submission of Application
If the department fails to issue a valid registry identification card in response to a valid application or renewal within 20 days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card. MCL 333.26429(b).
Note: All cards have the LARA logo in the bottom left front area of the card, and shall expire 2 years after the date of issuance.

Patient's Registry Identification Card

There is a small square at the bottom right of the card with the letter "P" in white, on a **navy blue** background.

The color of the bar across the top and the color behind the photo are **navy blue** and stretches across the entire top of the card and states "Department of Licensing and Regulatory Affairs *Michigan Medical Marihuana Program*".

The individual's name, date of birth, and address is printed on the front of the card. The date of issuance and expiration date of the registry identification card is printed on the front of the card.

Patient registry number is near the top, begins with the letter "P", and is 12 digits long (6 digits hyphen 6 digits).

The card will state "YES" or "NO", depending on whether or not the Patient is Authorized to Possess Plants.

There is a box for a photo. **NO PHOTOS ARE AVAILABLE OR PRINTED ON THE CARDS and there should NOT be a photo on the card.** The box will state "No Photo Available".

If there is NO Caregiver designated, the back of the card will read "NO CAREGIVER".

Primary Caregiver's Registry Identification Card

There is a small square at the bottom right of the card with the letter "C" in white, on a **dark green** background.

The color of the bar across the top and the color behind the photo are **dark green** and stretches across the entire top of the card and states "Department of Licensing and Regulatory Affairs *Michigan Medical Marihuana Program*".

The individual's name, date of birth, and address is printed on the front of the card. The date of issuance and expiration date of the registry identification card is printed on the front of the card.

Caregiver registry number is near the top, begins with the letter "C", and is 12 digits long (6 digits hyphen 6 digits).

The card will state "YES" or "NO", depending on whether or not the Caregiver is Authorized to Possess Plants.

There is a box for a photo. **NO PHOTOS ARE AVAILABLE OR PRINTED ON THE CARDS and there should NOT be a photo on the card.** The box will state "No Photo Available".

The back of the Caregiver Card will give related Patient information.

Verification of the validity of the card will have to be done only using the Registry Number for the Patient or the Caregiver. The Department of Licensing and Regulatory Affairs (LARA) CANNOT verify by name or address. Contact LARA at 517-373-0395 or BHP-MMMPINFO@michigan.gov, for further clarification.