

## Chapter 10 – Registering Members

Recall that our definition of a dispensary is a collective (or cooperative) organized under state law to promote and facilitate the nonprofit, collaborative association of patients and caregivers engaged in the medical cultivation and use of cannabis. One of the most important elements of a collective is that it is membership based. You can not make a credible claim to be a collective if you do not have a process through which patients and caregivers join your dispensary. The membership process should include recording the patient or caregiver's identity and obtaining their explicit consent to affiliate with the dispensary, but it need not include a membership fee. We will discuss protecting membership data below.

There are numerous dispensaries that allow patients and caregivers to enter and receive services after simply displaying a medical cannabis ID card or doctor's letter. This is problematic for three reasons. First, it does not allow for verification of the patient or caregiver's status. Cards and letters can be forged, and you can get in trouble for accepting them! Second, this casual process does not require any real affiliation between the patient or caregiver and the dispensary. Thus, they can not claim the protection offered under the law to collectives of patients and caregivers. Worse still, the dispensary operator has no idea who is coming and going from the dispensary.

Dispensary operators have broad latitude in determining who can join their collective. The widest possible membership criteria would allow membership to any legally-qualified patient or caregiver. It is advisable, however, to have a handful of guidelines that otherwise limit membership. You have the legal right to set whatever membership qualifications you chose – so long as they are not discriminatory under the law. No patient or caregiver is *entitled* to membership simply because he or she has a recommendation. I strongly recommend allowing membership only when a patient meets these criteria:

- The patient should have a verifiable written recommendation for medical cannabis use from a California physician who is currently licensed to practice medicine in the state. Oral or unverifiable recommendations are suspect and offer limited protection to the patient and dispensary.
- The patient must be able to demonstrate that he or she is a resident of the state of California. Otherwise, he or she is not a legal patient under state law. I recommend requiring a valid California driver's license or DMV ID card. You may choose to accept other forms of ID, but these two are beyond reproach and available to all California residents. Passports do not establish California residency.
- The patient should explicitly consent to affiliation (membership) in the collective. This can be as simple as completing a membership registration form. You may choose to issue a dispensary ID card as evidence of membership. Be sure your members understand that an ID card issued by a dispensary does not give them any legal protection and may not be honored by law enforcement.
- The patient should have to obey the rules of the dispensary to maintain membership. These rules should be written and provided to the members when they join.

- The patient should only be a member as long as he or she has an unexpired recommendation and maintains residency in California. Membership should renew annually or whenever the member's doctor letter renews.

Some dispensaries were established to serve very select populations of patients. For example, the dispensary may only accept members from a certain city or with a certain diagnosis. This is not illegal so long as the membership criteria do not discriminate against people on the basis of gender, ethnicity, country of origin, sexual orientation, or other illegal basis. A dispensary serving only men would be illegal, while a dispensary serving only cancer patients would not. I have a strong preference for collectives that serve a broader base of members. Many people need safe access, and I do not like setting boundaries that exclude anyone unnecessarily. You should give a great deal of thought to your goals and motives before limiting membership.

Caregivers are a controversial topic when it comes to membership. Proposition 215 allows a qualified patient to designate a primary caregiver. This person must be someone who has "consistently provided for the housing, safety, or welfare" of the patient (CA H&S 11362.5). As such, a caregiver should be someone with more than a casual acquaintance with the patient – someone who is actively involved in the patient's life. Family, loved ones, and co-habitants are ideal. Casual friends are not. State law and case law set some additional guidelines for caregivers. These are discussed in greater detail elsewhere. What is important for this topic is that neither the dispensary nor the operator can be a caregiver for all of the members. This is an old strategy that has been negated by the courts (*Lungren v. Peron*, CA Supreme Court, 1997).

Dispensary operators may choose to admit caregivers, but it is a bad idea to admit any caregiver unless his or her patient is already a registered member. Caregivers should also be registered as members, and should only visit the dispensary on behalf of their patient – never for themselves. The caregiver should carry a copy of the patient's doctor letter and proof of his or her designation as a primary caregiver whenever acquiring, transporting, or possessing medication for the patient. Proof of designation may be a letter signed by the patient stapled to the copy of the patient's doctor letter. Some recommending doctors will provide caregiver letters, but this is not required under the law.

Keep a careful eye on caregivers. Some patients will designate an unqualified individual as their caregiver so that that person may have access to medication for personal use. As dispensary operators, we are not in a position to prove who is acting as a caregiver in the spirit of Proposition 215 and who is taking advantage. We can, however, stay alert for telltale signs of abuse. Be suspicious if a patient and his or her caregiver visit separately on the same day. This should not be necessary since all of the medication is for the patient. Do not allow the abuse of caregiver status to continue unchecked. This will eventually lead to legal problems and jeopardize your credibility as a lawful dispensary.

Some illegitimate caregivers may actually be using cannabis as medicine, but without the required doctor's recommendation. They may have asked a qualified friend to designate them as caregiver so they could enjoy safe access, too. We can not know their motives – maybe they can not afford a doctor's visit; maybe they do not know that their condition qualifies; or perhaps they are just trying to exploit a loop hole! A compassionate approach is to offer suspect caregivers an opportunity to get legal. Offer

them some educational literature about talking with their primary care doctor or the number for a doctor who specializes in medical cannabis. Be firm about your policies, but polite in helping steer them on the right path.

In 2005, a handful of counties began issuing medical cannabis ID cards authorized under CA H&S Code 11362.7 (SB-420). These ID cards provide patients and caregivers immunity from arrest when they are in compliance with the cultivation or possession limits under state law, or higher local limits where applicable. Cities and counties can not establish cultivation and possession limits lower than the state limits. State law allows a patient or caregiver to grow up to 6 mature plants or 12 immature plants, and to possess up to eight ounces of dried medication.

A patient's letter of recommendation must be verified before he or she receives a medical cannabis ID card from the county health department. Because this verification process is mandatory and conducted by state personnel, a dispensary operator is justified in accepting a state-issued ID card in lieu of a doctor's letter. The validity of the state issued card can be determined 24 hours per day using the CA Department of Health Services' Internet web site (<http://www.calmmmp.ca.gov/>). Nevertheless, the patient should still join the dispensary using the regular membership process discussed below. Remember that the ID cards must be issued by the county health department (or by an agency contracted by the health department) to substitute for a doctor's letter. Cards issued by doctors, dispensaries, or third parties are not sufficient.

State issued medical cannabis ID cards are optional under state law and not yet available in most counties. A patient does not have to have a card to be legal, and should not be required to obtain a medical cannabis ID card to join a collective. There are some legitimate patients who will never obtain a card because the fee is too high or they are concerned about privacy. You should always allow patients without cards (but with verifiable letters) equal membership in your dispensary.

The membership process for a patient begins when he or she presents (1) a letter of recommendation and/or a state issued medical cannabis ID card and (2) a California driver's license or DMV ID card at the dispensary. First we will discuss the membership registration process using a letter of recommendation and ID, then we will see how the process differs when a patient presents a medical cannabis ID card in lieu of a recommendation. Remember that you will need both processes to accommodate everyone.

You should ask potential members to present an original copy of their doctor's letter of recommendation and driver's license on their first visit. The original copy makes it relatively easy to spot alterations (i.e. expiration date or patients name), which can be more easily concealed in a photocopy. The staff person registering the new member should examine the note to be sure that it is, in fact, an unaltered and signed letter of recommendation. Then, make two copies of the letter and the patients ID (copy the ID on the same page as the letter to save paper). Be sure to return the original and advise the patient to keep the letter safely at home. Also, also give the patient one copy of his or her letter to keep while traveling with medication or visiting the dispensary.

Ask the patient to complete and sign a membership registration form (see Attachment 1). The form will collect basic personal data that you will need to contact the member,

establish identity, and verify the recommendation. It will also collect data that you need to know who you are serving. You may want to know what cities or counties your members come from, for example. I recommend collecting email addresses as a way to keep members informed about activities, legal developments, and services. This is a great way to build camaraderie and a sense of membership identity among patients.

The membership registration form should contain a release statement authorizing you to verify the letter of recommendation. It should also let patients know that they must meet certain criteria and obey the rules to maintain membership. This will be important if you ever have to terminate someone's membership. The registration form is the formal means through which you gain consent for affiliation with the collective and demonstrate the membership-based nature of the dispensing collective. Do not skip this important step.

Attach your copy of the patient's letter and ID to the signed registration form. (do not staple it yet because you may have to fax it for verification). Now you must verify the validity of the letter and the doctor's license. Make personal contact with the doctor or his or her agent to verify the letter. Most medical cannabis specialists and clinics have staff members who verify recommendations on the telephone during business hours. Just call the number provided on the letter. Other doctors prefer you to fax the letter and signed release (from your registration form) for verification. Unfortunately, each doctor will have small differences in what they require for verification. You will have to learn these nuisances as you go along. I recommend keeping a Rolodex file on the desk where you verify recommendations. Add each doctor's name and contact information to a card when you get the first letter from him or her. Then make a note about how he or she likes to verify notes. Notes like "Verify by fax only" or "Include patient's date of birth" will save you a lot of time on the next verification – and they will save the doctor's staff a lot of frustration! Keeping a current file of doctor's telephone numbers will also help you spot problematic notes that have a previously unknown telephone number for verification. This could be a sign of a fraudulent note.

Doctors are professional people, and they are accustomed to working with other professionals. Remember that verifying a letter is important business communication that is serious and confidential. You must present yourself as a professional health care worker. Otherwise, the doctor's staff will be uncomfortable and suspicious. Always maintain a professional and courteous demeanor. Keep it short and to the point. They have work to do, too. Be aware that some doctors – especially those who only write a few recommendations – are not accustomed to verifying recommendations. Assure them that this is a routine part of the confidential membership process, and the patient has signed a release authorizing the verification. They may also need to know that you are not with law enforcement or the medical board.

This is a sample verification script:

"Hello. This is Susan Smith from City Compassion Collective. I am calling to verify a letter of recommendation from Dr. Jones for his patient, Michelle Jordan. Can you help me with that? Great. Ms. Jordan has submitted a letter dated January 10, 2005. Did she visit your office that day to obtain that letter?"

"This phone call is part of our routine membership process. Would it be helpful if I faxed a signed release?"

Sometimes, doctors will take the information and call you or fax you later with the verification. Make a note on the copy of the letter indicating its status – verified, not verified, or pending. If the status is pending, you should indicate why – left message, waiting for doctor, need more information, etc. This makes follow up easier.

The second step is to verify the doctor's license. This can be done easily any time of day by visiting the CA Medical Board Internet web site (<http://www.medbd.ca.gov/Lookup.htm>). You can get the doctor's license information using his or her name or license number (usually listed on the letterhead). Place a bookmark the appropriate web page in your web browser software for easy recall.

You will also need to enter the member's data into a database for easy management and to check membership status on future visits. Personal preferences in software are widely divergent. Use whatever database you prefer. I recommend off-the-shelf software because it is usually affordable and user friendly. You are also more likely to find staff already trained to use common software. I like Microsoft Access for PC's and QuatroPro for Mac's. Both of these offer basic database templates that can be easily modified to your needs by anyone reasonably skilled in their use.

Your database should contain these fields:

- Name
- Address
- Database ID number (automatically assigned by database software)
- Telephone
- Email
- Membership type (patient or caregiver)
- Patient or caregiver for whom
- Contact preference (some members will not want phone calls or mail)
- Date joined
- Verification status (verified, not verified, pending)
- Expiration date
- Date of Birth
- Driver's license/DMV ID no.
- Medical cannabis ID card no. (if any)
- Doctor's name
- Doctor's number
- Notes (any additional information, see below)

Enter this data very carefully. It is only as useful as it is accurate. Most commercial software allows you to use drop down lists for commonly used terms and data filters to avoid common typographical errors. Both will save you a lot of headaches. One final note on databases: If the terminology in the last two paragraphs is unfamiliar or if you have limited computer skills, hire a professional to help you!

You can use the notes field in your database for added security. This field can be used to record problematic behavior so that you can address it with the member on his or her next visit. You might add a note like, "Saw member smoking in car on Tuesday, March 6." Then you know to remind the member of your rules on the next visit after March 6. Be specific with these notes, but only say what you saw and when. Do not include accusations or speculation about motives. You never want the member or staff to think you are attacking anyone. Notes like these are a great way to identify patterns that are

suspicious. Just remember to always use this information to correct behavior. Never use it to persecute or incriminate anyone. Medical cannabis patients deal with enough of that already!

You should check your database every time a member returns to the dispensary. The easiest way to do this is to search your database using the member's driver's license or DMV ID card number. Of course, you can query your database by any field to locate a member. You and your staff should be familiar with database use so that you can easily search by driver's license number, birth date, name, or other field when needed. Be sure the member is registered and that his or her doctor's letter has been verified before allowing access to medication. You should also check the member's expiration date on every visit. Members will appreciate a reminder before they expire. Be sure to check the notes field for messages like those described above. Make it a habit for every member to check in every time they visit.

Database security is an important topic. Any organization that collects personal information from members has an ethical obligation to protect that information from abuse. This is especially important when that organization is working in a legally sensitive and controversial field like ours. You should install and use encryption software on the computer where your database is stored. While not foolproof, this is a great first step towards protecting data from unauthorized use. I recommend PGP encryption software, which can be bought and downloaded from a variety of Internet sites. Learn how to use the security features on your encryption software – it is a powerful tool.

You should also install and use firewall software to block unauthorized access to your computer from the Internet. There are numerous titles and software packages available. You may even find that your computer includes some programs already. In addition to encryption and firewall software, you can protect the data from local misuse by turning on your computers password feature and keeping the password private. I also like “privacy screens” that are installed over a computer monitor making the screen invisible unless you are looking directly at it.

There has never been an instance in which the database of a dispensary has been used to track down and prosecute members. Law enforcement – especially a federal agent – is likely more interested in your database to assess and demonstrate the scope of your organization than to prosecute your members. Nevertheless, it is prudent to take additional measures beyond encryption to protect your database. Some dispensaries use removable hard drives or tiny “thumb” drives to store their databases. These can be stored in a safe and discreet location when not in use. Others use a “black hole” program to delete the data in an emergency. You should be aware that there is a risk that prosecutors will allege wrongdoing if they believe you deleted your database to conceal “evidence.” You may wish to discuss this option with an attorney privately.

Some collectives choose to keep a copy of the patient's letter of recommendation following verification. There is no legal requirement to do so, and I have always found it to be an unnecessary administrative burden. There has never been an instance when I have needed a copy of a patient's letter of recommendation after verification. Most patients like to know we are keeping very little personal information on file. If you choose to keep letters, staple them to the registration form for filing later.

After entering the data, you will want to file the registration forms in a safe place. Membership data should be secured in a locking closet or file cabinet. The data you collect should not contain personal medical information, but it is still private. Note that the registration form does not require the member to disclose diagnosis. I have always favored three-ring binders for storing registration forms, as they are easy to use when filing or looking up members. Filing the forms in numerical order based on the database ID number is the simplest solution. You can store filed records off site for added peace of mind.

Completing the registration form and data entry are important first steps, but the most important part of signing up new members is the orientation process. This consists of a short review of the rules and procedures and may also include a tour of the facility. The initial registration is the one time you are certain to speak one on one with a new member. Make the most of this opportunity by ensuring that the new member leaves this orientation feeling well informed and with a clear understanding of his or her affiliation (membership) in the collective.

It is a good idea to have your operating rules written down for new members. Be sure they know what is expected of them as far as documentation and behavior is concerned. Keep the rules short and simple. A draft set of dispensary rules is included in Attachment 2. Note that these rules discuss what documents and ID are required to visit. They also explicitly state what behavior is not tolerated. Making the rules clear from the beginning is essential to correcting problematic behavior later.

It is most effective to provide the new member with a copy of the rules and discuss the key elements verbally. You will want to keep the discussion brief so that you do not lose their attention or make them feel impatient. When highlighting significant rules, be sure to emphasize why the rule is important. For example, say something like, “You should bring a copy of your doctor’s letter every time you visit so that you can prove your legal status in case you have an encounter with the police after your visit. This will protect both you and the dispensary.”

You and your staff will learn to tailor the orientation to the needs of different kinds of members. This is important because you may not have time to cover every rule with every patient. Middle-aged members will have different compliance problems than young members, for example. Nevertheless, be sure every new member knows that diversion of medication and nuisance activity in the neighborhood are unacceptable.

Besides communicating the rules, be clear with the new member that he or she is joining a collective – not just shopping at a medical cannabis store. A sense of belonging and identity are hallmarks of a membership-based organization and serve to build loyalty and support among patients. Let them know that you appreciate their decision to join the collective and value their input. Give them a chance to ask questions or volunteer information about themselves.

You may also want to include a short tour and operational explanation of the facility. In a small dispensary, you can do this by just pointing out things like the restroom, refreshments, seating area, and display counters. In a larger facility, you may want to walk into the dispensing area with the new member. This helps introduce them to the facility in a way that is comfortable and personal. Point out the menu. Show them where the line starts. You may even want to introduce them to the person who is dispensing the

medicine. This will help them feel welcome and facilitate their first interaction with the rest of the staff.

There may come a time when you must revoke membership before the patient's letter of recommendation expires. You should be prepared to revoke membership when you know with certainty that a patient or caregiver has diverted medication for non-medical use. You should also revoke membership for shoplifting, dangerous/violent behavior, serious disorderly conduct, causing a nuisance in the neighborhood, or repeated willful violations of the rules. We want to be compassionate people. Always try to work out issues with a member before revoking membership. There may be intermediate steps you can take to correct less serious violations of the rules. Consider probation, temporary suspension, or new conditions on continued membership. You can not, however, allow one person's behavior to endanger everyone's safe access.

Be clear, firm, and polite when revoking membership. Avoid the temptation to argue with the member or display anger at his or her behavior. Simply inform the member that his membership is revoked for violating the rules and ask him to leave. For example, "Mr. Jordan, I saw you take medicine off the counter and put it in your pocket without paying for it. That is against the rules you agreed to obey when you joined. You can not be a member here anymore. Please leave now." Never attack or antagonize. Your goal is to de-escalate the situation and get the individual out the door.

I strongly recommend keeping the terminated member's name and ID numbers in your database in case he or she tries to return when someone else is at the registration desk. Add a comment to the member's record explaining why membership was revoked. You should, however, delete the member's contact information (address, telephone, and email) so that he or she is not inadvertently contacted as a member later.

There is one more aspect of membership to consider. Registering members lets you know exactly who is coming into your dispensary. I like to say that there are no strangers in my dispensary. This is partially an articulation of the spirit of friendship that the collective should embody, but it is also a part of the culture of security in the dispensary. Everyone who comes in has been positively identified. People are less likely to misbehave or engage in dangerous or dishonest activity when they are not anonymous. Be sure to communicate this precaution to your staff and members so that they can feel safe at your collective.

Registering members, verifying letters, entering data, and conducting orientations are time-consuming tasks that require attention to details. However, they are crucial elements in legitimate operation that will bolster your credibility and protect you from harm. Take the time to do these things from the beginning. Be diligent about record keeping and accuracy. It will make all of your membership administration easier. Having good membership processes will demonstrate compliance with the law and a commitment to professional operation. Your neighbors and your members will notice the difference.

## **New Member Registration Checklist**

- Check to see if the patient has an original copy of his or her letter of recommendation and a valid California ID or Driver's License.
- Match the name on the letter to the name on the ID, then match the picture on the ID to the patient.
- Ask the patient to read the new member brochure and complete and sign a new member registration form.
- Make a copy of the patient's letter of recommendation and return the original to the patient.
- Call the telephone number on file or on the letter to verify the recommendation. You may use an online verification service if applicable.
- Log onto the CA Medical Board web site to verify that the doctor is licensed in California (<http://www.medbd.ca.gov/Lookup.htm>).
- Check to see that the patient has completed and signed his or her registration form.
- Complete the verification information at the bottom of the registration form.
- Staple your copy of the patient's letter of recommendation to the signed registration form.
- Briefly discuss the facility rules and welcome the new member. Be sure to ask if he or she has any questions.
- Carefully enter the data from the registration form into the database. Double-check your work.
- File the registration form and letter in the appropriate place.

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### **Primary Caregivers:**

- Have the Primary Caregiver complete all of the relevant data on the new member registration form and sign the bottom.
- Have the patient and the Primary Caregiver sign the Designation of Primary Caregiver Form on the back of the patient's registration form.
- Make a copy of the patient's letter of recommendation and the Designation of Primary Caregiver Form for the Primary Caregiver to carry whenever he or she carry medicine on behalf of the patient.
- Enter the Primary Caregiver's data into the database, being careful to reference the patient's name and database ID number in the Notes section of the record.
- File the Primary Caregiver's registration form in the appropriate place.

**Medical Cannabis Dispensing Collective or Cooperative  
Membership Registration Form**

--- Please print clearly to avoid errors ---

I am **Primary Caregiver** for the registered member \_\_\_\_\_.

Name \_\_\_\_\_  Please do not  
*first last* send me mail

Address \_\_\_\_\_  
\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

CA DL or ID No. \_\_\_\_\_ Date of birth \_\_\_\_\_

Tel. Number ( ) \_\_\_\_\_ (for administrative use only)

Complete this section only if you already have a **medical cannabis ID card** issued by a county health department or other agency pursuant to California Health & Safety Code §11356.7, *et seq.* (SB-420, 2003).

**ID card issued by** \_\_\_\_\_

**ID card number** \_\_\_\_\_ **Exp. Date** \_\_\_\_\_

Please give us your email address so that we can keep you up to date on events and services at LAPCG.

**Please print clearly:** \_\_\_\_\_  
Email address (*i.e. yourname@domain.com*)

- I have read and understand the facilities rules and/or guidelines and consent to joining this collective or cooperative.
- I certify under penalty of perjury that (1) the information provided is true and accurate, and (2) I am not seeking membership for any fraudulent purpose.
- I will not distribute medicine received here to any other person, nor use it for non-medical purposes.
- **I authorize my recommending physician to verify his or her recommendation or approval for the use of medical cannabis (marijuana).**

**X** \_\_\_\_\_  
Members signature

\_\_\_\_\_  
Date

*Staff Use only*

Staff Initials \_\_\_\_\_

Membership/recommendation verified by \_\_\_\_\_

Database ID No. \_\_\_\_\_

Date of verification \_\_\_\_\_

# Designation of Primary Caregiver

As per California Health and Safety Code §11362.5

I hereby certify that I am a patient suffering from serious illness and have obtained a recommendation or approval from a licensed physician in the state of California to use medical cannabis (marijuana) in treating my illness. A copy of my recommendation may be attached hereto.

I hereby designate the individual described below as my “Primary Caregiver,” in accordance with California Health and Safety Code §11362.5(d) and §11362.5(e), which reads as follows:

“ (d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to the patient’s primary caregiver, who posses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this Section, ‘primary caregiver’ means the individual designated by the person exempt under this act who has consistently assumed responsibility for the housing, health, or safety of that person.”

I agree that I will consistently rely on the individual described below as the primary source of medical cannabis as a matter of my personal health and safety. This designation shall remain in effect (1) for one year from the date below, (2) until I revoke this designation, or (3) until I designate another individual as my “primary caregiver.”

Dated: \_\_\_\_\_

\_\_\_\_\_  
Patient Name (*print clearly*)

\_\_\_\_\_  
Primary Caregiver Name (*print clearly*)

\_\_\_\_\_  
Patient Signature

\_\_\_\_\_  
Primary Caregiver Signature

NOTICE TO LAW ENFORCEMENT: Pursuant to the Constitution of the State of California, Amendment III, Section 3.5(c), state enforcement officials have “no power... to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute.” It is therefore your legal duty and responsibility to respect and obey this agreement per the above cited legislation, and to leave the individuals herein described unmolested and unreported to federal authorities. Failure to follow state law may result in legal action being taken against you. Thank you for your understanding and compliance.

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

**CA DL or ID No.** \_\_\_\_\_

Date of birth \_\_\_\_\_

Tel. Number ( ) \_\_\_\_\_