



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health

- Preproposal Statement of Inquiry was filed as WSR WSR 15-17-057 ; or
- Expedited Rule Making--Proposed notice was filed as WSR ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

Chapter 246-71 WAC - Medical Marijuana Authorization Database. Proposing a new chapter regarding rules for a medical marijuana authorization database.

Hearing location(s): See Attachment 1

Date: See Attach. 1

Time: See Attach. 1

Submit written comments to:

Name: Susan Reynolds
Address: PO Box 47852
Olympia, WA 98504-7852
e-mail: <https://fortress.wa.gov/doh/policyreview/>
fax 360-236-2901 by (date) 03/25/2016

Assistance for persons with disabilities: Contact

Susan Reynolds by dates on Attachment 1

TTY (800) 833-6388 or () 711

Date of intended adoption: 04/08/2016

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The purpose is to create new rules to implement the medical marijuana authorization database. The rules are needed to allow for the creation of recognition cards for patients and their designated providers. The cards allow them to possess larger amounts of marijuana products, purchase the products without sales tax, and provide arrest protection. Rules will also outline how authorized users may access data in the database.

Reasons supporting proposal:

RCW 69.51A.230 requires the Department of Health to adopt rules to implement a medical marijuana authorization database. The proposed rules would create an effective, consistent and enforceable process for adding qualifying patients and designated providers to the authorization database, and ensuring confidentiality of patient information.

Statutory authority for adoption:

RCW 69.51A.230

Statute being implemented:

RCW 69.51A.230

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 12, 2016

TIME: 1:05 PM

WSR 16-05-061

DATE 02/12/2016

NAME (type or print)

John Wiesman, DrPH, MPH

SIGNATURE

_____, DrPH, MPH

TITLE

Secretary of Health

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Department of Health

- Private
- Public
- Governmental

Name of agency personnel responsible for:

| Name | Office Location | Phone |
|-------------------------------------|-------------------------------------|--------------|
| Drafting..... Chris Baumgartner | 111 Israel Rd SE Tumwater, WA 98501 | 360-236-4819 |
| Implementation... Chris Baumgartner | 111 Israel Rd SE Tumwater, WA 98501 | 360-236-4819 |
| Enforcement..... Chris Baumgartner | 111 Israel Rd SE Tumwater, WA 98501 | 360-236-4819 |

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name: Susan Reynolds

Address: PO Box 47852

Olympia, WA 98504-7852

phone 360-236-4819

fax 360-236-2901

e-mail medicalmarijuana@doh.wa.gov

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Susan Reynolds

Address: PO Box 47852

Olympia, WA 98504-7852

phone 360-236-4819

fax 360-236-2901

e-mail medicalmarijuana@doh.wa.gov

No: Please explain:

Attachment 1

Proposed Rule Making (CR-102)

Chapter 246-71 WAC – Medical Marijuana Authorization Database: Proposing a new chapter establishing rules for a medical marijuana database.

Notice of Public Hearings

The Department of Health (department) will conduct two public hearings for this rule proposal. Written comments may be submitted to the department at any time up until the second public hearing on March 25, 2016. Further information regarding how and where to send written public comments or make hearing arrangements for those with disabilities may be found on the CR-102 form.

Public Hearing #1

Date: March 22, 2016
Time: 2:00pm
Location: Red Lion Hotel at the Park (Ballroom A)
303 W. North River Drive
Spokane, WA 99201

Assistance for persons with disabilities must be arranged with the department by March 15th, 2016.

Public Hearing #2

Date: March 25, 2016
Time: 1:00pm
Location: Capital Event Center at ESD 113 (Pacific/Grays Harbor Room)
6005 Tyee Drive SW
Tumwater, WA 98512

Assistance for persons with disabilities must be arranged with the department by March 18th, 2016.

Small Business Economic Impact Statement
Chapter 246-71 WAC (New)
A Rule Concerning Medical Marijuana Authorization Database
December 7, 2015

Describe the proposed rule, including: a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

The Washington State Department of Health is proposing a chapter of rules that would:

- Establish the requirements for the department to contract with an entity to create, administer and maintain a medical marijuana authorization database; and
- Establish a process to obtain recognition cards for patients and designated providers who are authorized to use medical marijuana.

The proposed rule is one element of the department's overall implementation of Second Substitute Senate Bill 5052 (2SSB 5052) which aims to align the medical marijuana market into the recreational market.

On April 24, 2015, Gov. Inslee signed Second Substitute Senate Bill (2SSB) 5052 (chapter 70, Laws of 2015), the Cannabis Patient Protection Act . This act creates licensing and regulation of all marijuana producers, processors and retail stores under the oversight of the renamed Washington State Liquor and Cannabis Board (LCB). It also directs the Department of Health to complete tasks that include:

- Contracting with a third party to create and administer a medical marijuana authorization database, and authorizes rules relating to the operation of the database;
- Adopting rules regarding products sold to patients and their designated providers;
- Consulting with the LCB about requirements for a retail store to get a medical marijuana endorsement;
- Creating a medical marijuana consultant certification program, and developing and approving continuing education for healthcare practitioners who authorize the medical use of marijuana; and
- Completing three reports: Making recommendations to the legislature about establishing medical marijuana specialty clinics, Reporting costs of establishing the authorization database; and Examining the feasibility of changing marijuana's schedule I designation in the state Controlled Substances Act.

Section 21 of 2SSB 5052 (Chapter 70, Laws of 2015, Regular Session) requires the Department of Health to adopt rules to establish a medical marijuana authorization database. The proposed medical marijuana authorization database rules will establish the requirements for a third party vendor to create, administer and maintain the database. The purpose of the database is to provide a process for issuing recognition cards to patients and designated providers who are authorized to

use medical marijuana and allow access to various entities who need to verify a card's validity or perform other regulatory work.

Only a marijuana retailer licensed by the LCB and holding a LCB medical marijuana endorsement may obtain permission to access the department's authorization database and issue recognition cards. The probable compliance requirements that a business is likely to need in order to comply with the proposed rule are to follow the requirements of sections WAC 246-71-020; WAC 246-71-030.

The kinds of professional services that a business is likely to need in order to comply with the proposed rule are employing staff who have successfully completed a department approved medical marijuana consultant training program and hold a valid medical marijuana consultant certificate in accordance with chapter 246-72 WAC (proposed separately). Under proposed LCB rules, a retail marijuana store with a medical endorsement is required to have medical marijuana consultants on staff, to add qualifying patients and designated providers to the authorization database.

Background

The department requested stakeholders to provide feedback on the potential cost to implement the proposed changes through four public stakeholder meetings, written feedback and survey response. Stakeholders included current medical marijuana outlets, prospective operators of retail marijuana outlets, patients and patient advocates, and health care practitioners. Through stakeholder input the department's determination is that the collective cost of the rule changes are nominal, based on current and projected revenue data. More detailed cost estimates are included in the section below.

Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

Table A:

| NAICS Code (4, 5 or 6 digit) | NAICS Business Description | # of businesses in WA | Minor Cost Threshold = 0.1% of Average Annual Payroll | Minor Cost Threshold = 0.03% of Average Annual Revenue |
|-------------------------------------|---|------------------------------|--|---|
| None available | Marijuana Retail Store with Medical Endorsement | 188 | Not available | \$88,965 ¹ |

¹ Based on average daily current revenue of \$9,885 for medical marijuana-only outlets operating under Initiative 502, multiplied by 300 operating days per year (six days per week), or about \$3, 094,000 per year. This does not count prospective sales to recreational marijuana.

Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

The table below identifies sections of the rule that based on the analysis will not result in compliance costs.

Table: Rule Sections that will not likely result in cost:

| # | WAC Section | Section Title |
|---|----------------|--|
| 1 | WAC 246-71-010 | Definitions |
| 2 | WAC 246-71-060 | Database access by qualifying patients or designated providers |
| 3 | WAC 246-71-070 | Database access by prescribers and dispensers |
| 4 | WAC 246-71-080 | Database access by local, state, tribal, and federal law enforcement and prosecutorial officials |
| 5 | WAC 246-71-090 | Database access by the department of revenue |
| 6 | WAC 246-71-100 | Confidentiality |
| 7 | WAC 246-71-110 | Penalties and sanctions |
| 8 | WAC 246-71-150 | Release of aggregate information from the database |

The department analyzed the cost of compliance to the proposed rules in the following sections:

WAC 246-71-020 Adding qualifying patients and designated providers to the database, WAC 246-71-030 Renewing qualifying patients and designated providers in the database, WAC 246-70-120 Process to obtain a replacement recognition card, WAC 246-71-130 Removal of a qualifying patient or designated provider from the database, and WAC 246-71-140 Revocation of a designated provider.

Description of the proposed rules: The proposed rules establish the steps and requirements for the initial addition of someone into the database, the required renewals for cards, and the replacement of cards. The rules also list the required information that must be entered into the database for each patient and designated provider. The rules requires a medical marijuana consultant certificate holder to enter a qualifying patient’s or designated provider’s information into the authorization database. The rule requires consultants at a medical outlet to:

- Ensure that the authorization form provided is valid and meets all requirements specified in the statute and from the form’s instructions, and have been printed by the authorizing practitioner on approved tamper resistant paper.
- Verify the identity of every patient age 18 and older and every designated provider’s valid photographic identification. Except for patients under the age of 18, a person cannot be entered into the database without valid photographic identification.
- Check the database to ensure that a designated provider is not currently associated with a different patient in the database, before associating them with a new patient in the database. If a designated provider is still associated to a different patient, the

consultant cannot enter the designated provider into the database as associated with the new patient.

Stakeholder input determined the majority of medical outlets will employ more than one staff holding a medical marijuana consultant certificate, to meet the requirements for adding qualifying patients and designated providers to the database and creating recognition cards. Because these stores already are required by WA State Liquor and Cannabis Board rules to interface with their seed to sale system we are assuming they already have a computer(s) with internet access for the purpose of entering information into the database.

Probable costs to comply with the proposed rule, include the following:

- Average wage for medical marijuana consultant certified staff: \$22.00 an hour with benefits,
- Annual full time employee hours worked: 2,088 hours
- Labor: \$137,808 annually per medical outlet, based on three full time employees. Some of these may be existing employees who obtain a medical marijuana consultant certificate. But for the purposes of this analysis, the department assumes that consultants would be considered new employees.
- Recognition card creation: The estimated labor cost to enter information into the authorization database and create a recognition card is between \$5.40 and \$11.00 per card.
- Recognition card renewal: Estimated labor cost to produce a renewal recognition card is between \$3.60 and \$7.20 per card.
- Recognition card replacement: The estimated labor cost to produce a replacement recognition card is \$3.60 per card, plus minor costs for the card material and lamination.

Using the state of Colorado's medical marijuana registry and its population we estimate that we will have approximately 80,000 cards created per year. This is based on the assumption that since the card is optional for those 18 and over that approximately half of all patients who could receive a card will. We estimate a five percent new application rate or 4,000 after the new year and a ninety-five percent renewal rate or 76,000. So each year we estimate receiving \$80,000 in card fees. Projected staffing levels are indeterminate at this time, but stakeholders indicate there will be a need to increase staff at the majority of medical outlets in the first year of business to meet demands.

Current estimated sales revenue for retail outlets based on LCB data exceeds \$9,885.00 a day per outlet. Annual sales revenue for the 188 licensed retail stores from January, 2015 through November, 2015, has exceeded \$259,785,729.00. The average annual sales per retail store would be approximately \$1.5 million. Estimated one-time costs for complying with sections 020, 030, 120, 130, and 140 are approximately \$140,000. The department estimates about 600 retail marijuana outlets may eventually obtain a medical marijuana endorsement allowing them potentially have authorization database access. Survey responses from retail marijuana outlets indicated the number of employees per store ranges from 2 to 40, with the average being 9 employees. Compliance with the proposed rule is expected to increase sales and revenue for affected businesses.

WAC 246-71-040 Requirements for recognition cards

Description of the proposed rule: The proposed rule states the requirements for recognition cards. The rule identifies equipment requirements and establishes the steps and requirements for issuing recognition cards at medical outlets. The rule also states the requirements that must be met by the database vendor.

The rule does require businesses to have certain equipment available in order to create the recognition cards. This equipment includes:

- Cost of combined equipment: \$300.00 initial cost (printer, laminator, paper, supplies)
- Supplies: \$100.00 monthly

The database software application is supplied free of charge by the department to the medical outlets.

WAC 246-71-050 Database access by marijuana retailers with medical endorsements

Description of the proposed rule: The proposed rule establishes the process employees of medical outlets will use to confirm the validity of a recognition card presented by a patient or designated provider. This includes requirements for medical outlet employees to register with the department to receive credentials for access to the database.

The department estimates that 15 to 20 minutes will be required to register for access to the database. The time to verify the validity of recognition cards is estimated to be 10 minutes or less per card. Checking card validity will be part of the regular duties of designated employees, so the cost should be minimal.

WAC 246-71-990 Recognition card fees

Description of the proposed rule: The proposed rule establishes the process for medical outlets to collect and remit a one dollar fee for each initial, replacement, and renewal recognition card.

The department only anticipates minor costs of employee time involved to remit periodic payments. The one dollar fee is established in law.

Analyze whether compliance with the proposed rule will cause businesses to lose sales or revenue.

When surveyed, stakeholders indicated that the proposed rule will not cause businesses to lose sales or revenue, but would likely increase their client volume, which may increase sales and revenue compared to when a retailer is operating with no medical marijuana endorsement.

Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.

The department has calculated the minor cost threshold to be approximately \$88,965. Assumed costs to comply with the proposed rule include:

- \$140,000 related to ongoing compliance costs for having up to three certified staff enter patients or designated providers information into the database and storing it, and issuing renewal or replacement cards;
- \$300 in one time equipment costs;
- \$100 in monthly supply costs;
- Other minimal cost as noted in this analysis.

The department has determined that proposed rules will have more than minor costs on businesses in the industry.

Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Based on our survey of currently licensed retail stores, the largest businesses employed approximately 40 staff. Of the 57 stores that responded to our survey the average number of staff were 9 per store.

While the proposed rule will impose costs on businesses, it is indeterminate whether or not there will be a disproportionate impact on small businesses. This is due to the fact that no store is currently able to sell medical products with their endorsement until July 1, 2016.

We could have limited the staffing costs imposed by allowing any employee to enter someone into the database, but concerns from patients about protecting their private health information we believe warranted restricting card creation to only staff trained and certified as a marijuana consultant. Current staff can become certified as consultants so stores do not necessarily have to hire new staff.

We did also attempt to ensure the rule only required the base minimum equipment necessary to produce the cards with the appropriate security features needed.

Describe how small businesses were involved in the development of the proposed rule.

The department conducted four stakeholder meetings, collecting input verbally and in writing on the proposed rule. Stakeholders included current medical marijuana outlets, prospective operators of retail marijuana outlets, patients and patient advocates, potential customers, health care practitioners, and other interested parties. Stakeholder input indicated the medical outlets supported the proposed rule language and the implementation of the authorization database.

Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

The estimated number of jobs that will be created as a result of compliance with the proposed rule is based on a survey of current retail outlets licensed by the WSLCB and reporting sales, and projections for the number of retail outlets that will become medically endorsed. The number of medical outlets is estimated to be 606 in the first year of business operation. If each outlet hired three department-certified medical marijuana consultants who would access the authorization database in order to cover all shifts, potentially 1,818 new jobs may be created by compliance with these rules. However, it is unknown how many existing retail employees may obtain a department certification, which would reduce the number of new jobs created. No jobs are anticipated to be lost as a result of compliance with the proposed rule.

Chapter 246-71 WAC
MEDICAL MARIJUANA AUTHORIZATION DATA BASE

NEW SECTION

WAC 246-71-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper approved by the Washington pharmacy quality assurance commission.

(2) "Consultant" means a person who holds a valid medical marijuana consultant certificate issued by the secretary under chapter 246-72 WAC and who is employed by a retail outlet with a medical marijuana endorsement.

(3) "Credential for access" or "credentials" means information, electronic device, or certificate provided by the department or the department's designee to a data requestor to electronically access the data base. The authentication may include, but is not limited to, a user name, password, or an identification electronic device or certificate.

(4) "Data base" means the medical marijuana authorization data base established under RCW 69.51A.230.

(5) "Department" means the Washington state department of health.

(6) "Designated provider" has the same meaning as RCW 69.51A.010(4).

(7) "Dispenser" means a person authorized to dispense controlled substances other than marijuana under chapter 69.50 RCW.

(8) "Health care practitioner" or "authorizing health care practitioner," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physician's assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(9) "Official" means an official of a local, state, tribal, or federal law enforcement or prosecutorial agency.

(10) "Prescriber" means a person authorized to prescribe or dispense controlled substances other than marijuana under chapter 69.50 RCW.

(11) "Qualifying patient" or "patient" has the same meaning as RCW 69.51A.010(19).

(12) "Recognition card" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization data base.

(13) "Retail outlet with a medical marijuana endorsement" or "endorsed outlet" means a location licensed by the WSLCB under RCW 69.50.325 for the retail sale of usable marijuana and marijuana-infused products to the public, and under RCW 69.50.375 to qualifying patients and designated providers for medical use.

(14) "Valid photographic identification" means:

(a) A driver's license or instruction permit issued by any state of the United States or province of Canada. If the patient's driver's license has expired, the patient must also show a valid temporary driver's license with the expired card.

(b) A state identification card issued by any state of the United States or province of Canada.

(c) An official passport issued by any nation.

(d) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(e) A merchant marine identification card issued by the United States Coast Guard.

(f) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses.

A recognition card, whether current or expired, does not qualify as valid photographic identification.

(15) "Vendor" means the third-party administrator with whom the department has contracted to operate the data base.

(16) "WSCLB" means the Washington state liquor and cannabis board.

NEW SECTION

WAC 246-71-020 Adding qualifying patients and designated providers to the data base. A qualifying patient or designated provider may take their authorization to an endorsed outlet to be entered into the data base.

(1) Only a consultant employed by an endorsed outlet is allowed to enter a qualifying patient's or designated provider's information into the data base.

(2) Consultants must register with the department to receive credentials to access the data base. The process for registration will be established by the department.

(3) The department shall verify the consultant's identity and certificate status before providing credentials to access the data base.

(4) The consultant shall access the data base using the credentials issued by the department or the department's designee. If the credentials are lost or missing, or the security of the credentials is compromised, the consultant shall notify the department by telephone and in writing within one business day.

(5) The consultant shall ensure that the authorization form provided is valid, complete, unaltered, and meets all requirements specified in RCW 69.51A.030 and complies with the instructions on the form. If any requirement is not met, or the form is altered or incomplete, the person cannot be entered into the data base.

(6) The consultant shall verify the identity of every patient age eighteen and older and every designated provider by inspecting the patient's or designated provider's valid photographic identification. Except for patients under the age of eighteen, a person cannot be entered into the data base without valid photographic identification.

(7) In the event of an inexact match of names on the identification and the authorization, the consultant shall ensure that the patient or designated provider named on the authorization form is the same person presenting the authorization for entry into the data base.

(8) The consultant shall check the data base to ensure that a designated provider is not currently associated with a different patient in the data base before associating the designated provider with a new patient in the data base. If a designated provider is still associated with a different patient, the consultant cannot enter the designated provider into the data base as associated with the new patient.

(9) The consultant shall enter the following information into the data base for each patient and designated provider (unless specified below):

(a) The type of valid photographic identification verified and the unique number from the identification;

(b) Full legal name, as it appears on the valid photographic identification, including first name, middle initial, last name, and generational suffixes, if any;

(c) Date of birth;

(d) Actual address if different from the address on the identification;

(e) Gender;

(f) Name of the authorizing health care practitioner;

(g) Authorizing health care practitioner's full license number;

(h) Business address of the authorizing health care practitioner;

(i) Telephone number of the authorizing health care practitioner, as listed on the authorization form;

(j) The patient's qualifying condition(s);

(k) For the designated provider only, the patient the designated provider is authorized to assist;

(l) The date the authorization was issued;

(m) The date the authorization expires; and

(n) The number of plants the patient is allowed to grow. If the authorizing health care practitioner does not indicate a specific number, the presumptive number is six plants. The health care practitioner cannot authorize more than fifteen plants. An authorization for more than fifteen plants is invalid.

(10) All requests for, uses of, and disclosures of information from the data base by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

NEW SECTION

WAC 246-71-030 Renewing qualifying patients and designated providers in the data base. (1) Recognition cards expire on the expiration date indicated on the patient's or designated provider's authorization. To be valid, an authorization must expire no later than:

(a) Twelve months after the date it was issued for patients age eighteen and over;

(b) Twelve months after the date it was issued for designated providers; or

(c) Six months after the date it was issued for patients under the age of eighteen.

(2) To renew a recognition card a patient or designated provider must receive a new authorization following reexamination of the patient by a health care practitioner. The qualifying patient or designated provider may take their new authorization to an endorsed outlet to be entered into the data base.

(3) The procedures in WAC 246-71-020 must be used to enter the patient's or designated provider's new authorization into the data base.

(4) The consultant shall ensure that the information required by WAC 246-71-020(9) is updated and accurate at the time of renewal.

NEW SECTION

WAC 246-71-040 Requirements for recognition cards. (1) An endorsed outlet must have the following equipment readily available and maintained in good working order:

(a) A computer with internet access and capability of running a supported version of a common web browser;

(b) A digital camera with at least 10 megapixel resolution;

(c) A standard color printer able to print at least 300 dots per inch;

(d) A laminator that can laminate 8 inch by 11 1/2 inch card stock paper; and

(e) A solid white backdrop to use as the background for each picture.

(2) When issuing a recognition card to a qualifying patient or designated provider, an endorsed outlet must comply with the following requirements:

(a) Only a consultant employed by the endorsed outlet is allowed to print and create a card;

(b) The consultant shall take a picture of the face of the patient or designated provider at the same time they are entered into the data base following the process specified by the department;

(c) The consultant shall create, print and laminate the card, and issue it to the patient or designated provider following the process specified by the department; and

(d) The consultant shall return the authorization to the patient or designated provider. The endorsed outlet shall not retain a copy of the authorization.

(3) The data base vendor shall ensure recognition cards contain the following:

(a) A randomly generated and unique identification number;

(b) The name of the patient or designated provider;

(c) For designated providers, the unique identification number of the patient they are assisting;

(d) A photograph of the patient or designated provider;

(e) The amounts of marijuana concentrates, usable marijuana, or marijuana-infused products the patient or designated provider is authorized to purchase or obtain at an endorsed outlet;

(f) The number of plants the patient or designated provider is authorized to grow;

(g) The effective date and expiration date of the card;

(h) The name of the health care professional who issued the authorization; and

(i) Additional security features required by the department to ensure the validity of the card.

NEW SECTION

WAC 246-71-050 Data base access by marijuana retailers with medical endorsements. Employees of an endorsed outlet may access the data base to confirm the validity of a recognition card presented by a patient or designated provider.

(1) An employee of an endorsed outlet must register with the department to receive credentials for access. The registration process shall be established by the department.

(2) The department shall verify the employee's identity and employment status before providing credentials to access the data base.

(3) The employee shall access the data base using the credentials issued by the department or the department's designee. If the credentials issued are lost or missing, or the security of the credentials is compromised, the employee shall notify the department by telephone and in writing within one business day.

(4) An endorsed outlet owner or manager shall inform the department and the data base vendor in writing immediately upon the termination of employment of an employee with access.

(5) All requests for, uses of, and disclosures of information from the data base by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

NEW SECTION

WAC 246-71-060 Data base access by qualifying patients or designated providers. Qualifying patients and designated providers may request and receive their own authorization information from the data base or information about any person or entity that has queried their name or information.

(1) A patient or designated provider may submit a request using a process and format established by the department for requesting and receiving information from the data base.

(2) The department shall require proof of identity including, but not limited to, valid photographic identification prior to releasing any information to a patient or designated provider.

(3) The information will be delivered using a process and format established by the department.

NEW SECTION

WAC 246-71-070 Data base access by prescribers and dispensers. Prescribers and dispensers may access patient information in the data base for the purpose of providing medical or pharmaceutical care for their patients.

(1) Prescribers and dispensers who want access to the data base shall register with the department in order to receive credentials for access. The registration process shall be established by the department.

(2) The department shall verify the prescriber's or dispenser's identity and health care practitioner license(s) before providing credentials to access the data base.

(3) Prescribers and dispensers shall access the data base using the credentials issued by the department or the department's designee. If the credentials issued are lost or missing, or the security of the credentials is compromised, the prescriber or dispenser shall notify the department by telephone and in writing within one business day.

(4) Prescribers and dispensers registered to access the data base must inform the department and the data base vendor immediately in writing when they no longer have the authority to prescribe or dispense controlled substances.

(5) All requests for, uses of, and disclosures of information from the data base by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

NEW SECTION

WAC 246-71-080 Data base access by local, state, tribal, and federal law enforcement and prosecutorial officials. Officials who are engaged in a bona fide specific investigation of suspected marijuana-related activity that may be illegal under Washington state law may access the data base to confirm the validity of the recognition card of a patient or designated provider.

(1) Officials who want access to the data base shall register with the department in order to receive credentials for access. The registration process shall be established by the department.

(2) The department or the department's designee shall verify the official's identity and position before providing credentials to access the data base.

(3) Officials shall access the data base using the credentials issued by the department or the department's designee. If the credentials issued are lost or missing, or the security of the credentials is compromised, the official shall notify the department or its designee by telephone and in writing within one business day.

(4) Officials with an active data base account must inform the department and the data base vendor in writing immediately when they no longer hold a position as a law enforcement or prosecutorial official.

(5) All requests for, uses of, and disclosures of information from the data base by authorized persons must be consistent with chapter 69.51A RCW and this chapter.

NEW SECTION

WAC 246-71-090 Data base access by the department of revenue. The Washington department of revenue may access information in the da-

ta base to verify tax exemptions under chapters 82.08 and 82.12 RCW. The process and format for request and receiving the information shall be established by the department and the data base vendor in coordination with the Washington department of revenue.

NEW SECTION

WAC 246-71-100 Confidentiality. (1) Under RCW 42.56.625, records in the data base containing names and other personally identifiable information of qualifying patients and designated providers are exempt from public disclosure, inspection, or copying.

(2) The vendor must retain data base records for at least five calendar years to permit the WSLCB and Washington department of revenue to verify eligibility for tax exemptions.

NEW SECTION

WAC 246-71-110 Penalties and sanctions. (1) Pursuant to RCW 69.51A.240, unlawful access to the data base is a class C felony.

(2) If the department or vendor determines a person or entity has intentionally, knowingly, or negligently accessed, used or disclosed data base information in violation of chapter 69.51A RCW or this chapter, the department may take action including, but not limited to:

(a) Terminating access to the data base;

(b) Filing a complaint with appropriate health profession disciplining authority; or

(c) Reporting the violation to the appropriate government agency, including WSLCB or law enforcement.

NEW SECTION

WAC 246-71-120 Process to obtain a replacement recognition card.

A patient or designated provider may request a replacement recognition card at an endorsed outlet if the original recognition card is lost or stolen.

(1) The replacement recognition card will expire on the same date as the original recognition card unless the patient is reexamined by a health care practitioner and a new authorization is provided.

(2) Only consultants shall issue a replacement recognition card to the patient or designated provider. The consultant shall issue the replacement recognition card in compliance with the procedure in WAC 246-71-030.

(3) Information regarding the issuance of a replacement recognition card must be entered into the data base as determined by the department prior to the card being printed and given to the patient or designated provider.

NEW SECTION

WAC 246-71-130 Removal of a qualifying patient or designated provider from the data base. (1) The vendor must automatically deactivate patient and designated provider records in the data base upon expiration of a recognition card.

(2) Patients and designated providers may request to be removed from the data base before the expiration of their recognition card using the process established by the department.

(3) The authorizing health care practitioner may request removal of a patient or designated provider from the data base if the patient no longer qualifies for the medical use of marijuana. This request must be made using the process established by the department.

NEW SECTION

WAC 246-71-140 Revocation of a designated provider. (1) Patients may revoke their designation of a specific designated provider. The revocation must be in writing using a form developed by the department. The patient must send the revocation to the vendor and give a copy to the designated provider. The vendor must verify the form's authenticity prior to revoking the designated provider and deactivating the designated provider's recognition card.

(2) A patient may designate a new designated provider after revoking a prior designated provider. The new designated provider must receive an authorization form from the patient's authorizing health care practitioner. The new designated provider may then go to a retail outlet to be entered into the data base and receive a recognition card.

(3) A person may stop serving as a designated provider by providing a letter to the patient. If the person is currently in the data base as a designated provider for the patient, the person shall also submit a form established by the department to the vendor. The vendor shall verify the form's authenticity prior to revoking the designated provider in the data base and deactivating the designated provider's recognition card.

NEW SECTION

WAC 246-71-150 Release of aggregate information from the data base. (1) The department may provide aggregate information from the data base, with all personally identifiable information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(2) To obtain information from the program a person or public or private entity must submit a request on a form established by the department.

(3) All requests for, uses of, and disclosures of information from the authorization data base must be consistent with chapter 69.51A RCW and this chapter.

NEW SECTION

WAC 246-71-990 Recognition card fees. (1) Endorsed outlets must collect a one dollar fee for each initial, replacement, and renewal recognition card. The fee shall be collected by the endorsed outlet from the patient or designated provider when the card is issued.

(2) Endorsed outlets must periodically remit fees collected using the process established by the department.

(3) Failure by an endorsed outlet to promptly remit fee revenue when due will result in notice to the WSLCB and any other action necessary to ensure compliance.