



# The Healthcare Facility Guide to Implementing Ryan's Law

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A guideline of policies  
and procedures adopted  
to adhere to the  
requirements of SB 311

**PREPARED FOR**

California Healthcare  
Facilities

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## **Healthcare Facility Guide to Implementing Ryan’s Law**

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### **I. Introduction**

On September 28, 2021, Governor Gavin Newsom signed SB 311, also known as “Ryan’s Law”, requiring healthcare facilities to allow the use of medical cannabis on their premises for terminally ill patients with a valid Medical Marijuana Identification Card (MMIC) or/ recommendation from an attending physician. The law was passed by the legislature with support from a diverse group of organizations including Americans for Safe Access (ASA). The law goes into effect January 1, 2022, and applies to all CA health care facilities including acute care hospitals, special hospitals, skilled nursing facilities, congregate living health facilities, or hospice providers (excluding to the emergency department of a health care facility, chemical dependency recovery hospitals and state hospitals).

Ryan’s law was passed in honor of Ryan Bartell who was diagnosed with pancreatic cancer at the age of 41. As his condition progressed, he was admitted to the palliative wing of a California hospital where he spent his first week in a fentanyl induced coma to treat his pain. A friend brought Ryan ingestible cannabis which not only treated his pain but also allowed him to spend meaningful time with his family free from the haze of opioids. Unfortunately, the California hospital could not allow Ryan to use cannabis in their facility and he was forced to go back to the fentanyl. He stayed on this medication for two weeks until his family could locate and move Ryan to a hospital in Washington State that would allow him to use cannabis. He spent his last days lucid with his family and friends. Following this experience, Ryan’s father Jim Bartell made it his mission to ensure that no other family would have to navigate this choice for palliative care, losing precious time with their loved one.

Ryan’s Law builds on the rights granted to patients through the voter initiative Proposition 215 in 1996, also known as the Compassionate Use Act. The law exempts patients and their designated caregivers from criminal penalties relating to the use, possession, and cultivation cannabis with an oral or written recommendation or approval from a physician. In 2003, the

California legislature passed the Medical Marijuana Program Act expanding rights for patients and establishing a voluntary ID card program that exempts patients from arrests.

The US Supreme Court confirmed in 2004 that medical professionals have a legal right to recommend cannabis as a treatment in any state due to protections afforded by the First Amendment to the US Constitution. The court upheld an earlier ruling in *Conant v. Walters* in which the Ninth Circuit Court of Appeals ruled that the federal government could neither punish nor threaten a doctor merely for recommending the use of cannabis to a patient.

While cannabis remains a Schedule I drug, for the past 7 years Congress has added restrictions on federal enforcement though the funding bill for the Commerce-Justice-Science (CJS) prohibiting Justice Department funds from being used to prevent states from implementing medical cannabis laws. Known as the Rohrabacher-Farr or CJS amendment, it first signed into law on December 16, 2014.

Ryan's Law also prohibits the smoking of cannabis in healthcare facilities and outlines a series of responsibilities for the facilities. Americans for Safe Access (ASA) created the following guide to help California health care facilities remain in compliance with this new law and offer tools for implementation.

Founded in 2002, ASA's mission is to ensure safe and legal access to cannabis for therapeutic use and research. With over 150,000 active supporters in all 50 states, ASA is the largest national member-based organization of patients, medical professionals, scientists and concerned citizens promoting safe and legal access to cannabis for therapeutic use and research. ASA works to overcome political, social, and legal barriers by creating policies that improve access to medical cannabis for patients and researchers through legislation, education, litigation, research, grassroots empowerment, advocacy and services for patients, governments, medical professionals, and medical cannabis providers.

## **II. Ryan's Law Summary**

On September 28, 2021, Governor Gavin Newsom signed SB 311, also known as "Ryan's Law", requiring healthcare facilities to allow the use of medical cannabis on their premises for terminally ill patients with a valid Medical Marijuana Identification Card (MMIC) or/ recommendation from a physician. The law goes into effect on January 1, 2022.

SB 311 defines "terminally ill patient" as a patient with a medical condition resulting in a prognosis of life of one year or less, if the disease follows its natural course. The bill defines "health care facility" as a licensed general acute care hospital, special hospital, skilled nursing facility, congregate living health facility, or hospice provider while excluding a chemical dependency recovery hospital or a state hospital.

SB 311 requires health care facilities to do ALL of the following:

1. Refrain from Interfering or Prohibiting a terminally ill patient from using medical cannabis within the health care facility,
2. Prohibit smoking or vaping methods on premises,
3. Include the use of medical cannabis within the patient's medical records,
4. Require patient to provide a copy of patient's medical cannabis physician's recommendation or a copy of their valid MMIC,
5. Develop and disseminate written guidelines for the use of medical cannabis within the health care facility, and
6. Reasonably restrict the manner in which a patient stores his/her medical cannabis, including the use of a locked container.

SB 311 includes the following provisions:

1. Emergency services are exempt,
2. Allows a waiver of liability of health care facility for lost or stolen medical cannabis,
3. Exempts provider from being required to provide patient with a physician's recommendation,
4. Directs California Department of Public Health (CDPH) to make accommodations for the law,
5. Prohibits a health care facility from suspending the law's requirements solely because cannabis is a Schedule I drug, and
6. Permits a health care facility to suspend compliance if a federal agency (Health and Human Services, Justice or Centers for Medicare, and Medicaid Services) initiates an enforcement action based on compliance with SB 311.

### **III. Health Care Facility Implementation Steps**

Administrators should take the following steps to ensure that health care facilities remain in compliance with the new law:

- Adopt a policy banning smoking or vaporizing cannabis on premises as required by HSC 1649.2 (a)(1),
- Train staff on verify the status of a patient's MMIC or doctor's recommendation (see sample SOP),
- Adopt policy to include the use of medicinal cannabis within the patient's medical records per HSC 1649.2(a)(2),
- Create a plan for cannabis storage as required by HSC 1649.2.(a)(4),
- Create a waiver of liability of health care facility for lost or stolen medical cannabis goods (optional), and
- Create written guidelines for dissemination to staff as required by HSC 1649.2(a)(5).

#### **IV. Sample Written Guideline for Dissemination to Health Care Facility Staff**

##### Notice of New Policies to Adhere to CA SB 311 “Ryan’s Law”

##### Background:

SB 311, also known as “Ryan’s Law,” becomes effective on January 1, 2022. The bill requires health care facilities to allow the use of medical cannabis on their premises for terminally ill patients with a valid Medical Marijuana Identification Card (MMIC) or/ recommendation from an attending physician. Ryan’s Law builds on the rights granted to patients through the voter initiative Proposition 215 in 1996, also known as the Compassionate Use Act which exempts patients and their designated caregivers from criminal penalties relating to the use, possession, and cultivation of cannabis with an oral or written recommendation or approval from a physician.

The following is a guideline of policies and procedures adopted to adhere to the requirements of SB 311 and is being disseminated to all staff in accordance with 1649.2.(a)(5).

##### Effective January 1, 2022:

- Smoking or vaporizing cannabis or cannabis goods is prohibited on hospital premises.
- Terminally ill patients with a valid medical cannabis card or/ recommendation from their physician may use non-inhalable forms of cannabis on the premises after following the protocols:
  1. Verify patient has a valid MMIC or/ recommendation from an attending physician by following the CA Medical Cannabis Card and Recommendations Verification SOP (Attachment 1).
  2. Give patient a copy of the facility’s SB 311 policy and put the completed signature page in patients file (Attachment 2).
  3. Give patient a lockbox to store their cannabis in their room.
  4. Note use of cannabis in patient’s records.

#### Additional Considerations:

1. Emergency services are exempt.
2. Attending physicians are not required to provide patients with a physician's recommendation for medical cannabis use.

#### V. Sample CA Medical Cannabis Card and Recommendations Verification SOP

The purpose of this procedure is to verify the legal qualification of individual patients to use cannabis for medicinal purpose per California Health and Safety Code (HSC) 11362.5, also known as the Compassionate Use Act of 1996.

The procedure describes the process for: (1) verifying the identity of the Qualified Patient requesting verification of their status or the designated Primary Caregiver requesting verification on behalf of the patient, (2) verifying the validity of a Medical Marijuana Identification Card (MMIC) issued per HSC 11362.71, and (3) verifying a letter of recommendation or approval from a California physician for the medical use of cannabis per HSC 11362.5.

Personnel completing the verification process are responsible for the implementation of the procedure and for the generation and retention of all records and documents associated with the process. The [\[Job Title\]](#) is responsible for oversight of this procedure, training personnel, and monitoring compliance.

#### Definitions

- **Qualified Patient** means an individual who possesses or cultivates cannabis for personal medicinal purposes upon the written or oral recommendation or approval of a physician licensed to practice medicine in California (HSC 11362.5(d)).
- A **Primary Caregiver** is the individual designated by the Qualified Patient who has consistently assumed responsibility for the housing, health, or safety of the Qualified Patient (HSC 11362.7(e) and 11362.7(d)).
- A **Medical Marijuana Identification Card (MMIC)** is a photo identification issued by the California Department of Public Health per HSC 11362.71 that verifies the validity and expiration date of the Qualified Patient's letter of recommendation for the medicinal use of cannabis.
- **Attending physician** means an individual who possesses a license in good standing to practice medicine, podiatry, or osteopathy issued by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis,

counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate (HSC 11362.7(a)).

### **Checking Government-Issued Photo Identification (ID)**

1. If the identity of the Qualified Patient or a designated Primary Caregiver presenting a MMIC or letter of recommendation has not already been established in the course of treatment, request and inspect government-issued photo ID from the Qualified Patient. The Primary Caregiver designated by the Qualified Patient may present ID in lieu of the patient if:
  - a. The Qualified Patient is under the age of eighteen (18), or
  - b. The Qualified Patient is incapable of presenting identification due to a physical or mental disability.
2. All government issued photo IDs presented by a Qualified Patient or a designated Primary Caregiver must be valid and unexpired. Acceptable forms of ID include:
  - a. The person's United States passport; other country's passport; or proper government-issued documentation for international travel provided it is lawful to use as identification in the United States;
  - b. The person's motor vehicle driver's license, whether issued by California or by any other state, territory, or possession of the United States, or the District of Columbia, provided the license displays a picture of the person;
  - c. A California identification card issued by the Department of Motor Vehicles; or
  - d. Any other identification card issued by a state, territory, or possession of the United States, the District of Columbia, or the United States that bears a picture of the person, the name of the person, the person's date of birth, and a physical description of the person.
3. Make a visual comparison of the picture and the individual presenting the ID to determine if the picture is similar in gender, race, and overall appearance. Remember that hairstyles, hair color, facial hair, and body weight can change over time.
4. Return the ID to the individual who presented it.

### **Verifying of MMIC**

1. If the verification of a MMIC cannot be completed immediately, make a copy of the MMIC and return the original card to the Qualified Patient or Primary Caregiver that presented the card.
2. Inspect the MMIC card by comparing it to the sample card (see Exhibit A). All valid MMIC cards will conform to the sample.
  - a. Except as described below, the MMIC should be unexpired.
    - i. Special Note: On January 21, 2021, Governor Newsom issued another executive order Executive Order N-01-21 (PDF), affecting the expiration

date of MMIC, which concerns current MMIC cardholders and their designated Primary Caregivers. Pursuant to this executive order, MMICs that would otherwise have expired on or after March 4, 2020, shall be valid until this Order is modified or rescinded, or until the State of Emergency is terminated, whichever occurs sooner.

- b. The picture on the MMIC should match the government-issued photo identification (ID) presented by the Qualified Patient or Primary Caregiver. Remember that hairstyles, hair color, facial hair, and body weight can change over time.
3. Visit [http://mmic.cdph.ca.gov/MMIC\\_Search.aspx](http://mmic.cdph.ca.gov/MMIC_Search.aspx) to verify the MMIC.
4. Enter the nine-digit Unique User Identification Number printed on the MMIC into the field indicated on the website. The website will return a result of verified or unverified.
5. Return the MMIC to the Qualified Patient or Primary Caregiver.
6. Record the results of the verification per the document retention and destruction procedure.
7. Transmit the results of the verification process to the designated personnel (e.g., attending physician).

### **Verifying a Letter of Recommendation**

1. Make a copy of the original letter of recommendation for medical cannabis use presented by the Qualified Patient or the Primary Caregiver designated by the Qualified Patient and return the original copy to the presenting individual.
2. Complete a Consent for Verification Form (CVF) for the patient (see Exhibit B). Be sure to collect and record the recommending physician's contact information on the form.
3. Have the Qualified Patient sign the CVF. The Primary Caregiver designated by the Qualified Patient must sign the form if:
  - a. The Qualified Patient is under the age of eighteen (18), or
  - b. The Qualified Patient is incapable of signing the form due to a physical or mental disability.
4. Make a copy of the government-issued photo ID presented by the individual who signed the CVF.
5. Verify that the attending physician who signed the letter of recommendation was licensed by the Medical Board of California, the California Board of Podiatric Medicine, or the Osteopathic Medical Board of California on the date on which the attending physician signed the letter of recommendation.
  - a. Visit the California Medical Board's license verification page at <https://www.mbc.ca.gov/License-Verification/default.aspx>
  - b. Enter the information for the attending physician requested on the website.
  - c. The web site will result results indicating the status of the attending physician's license or date of revocation.
6. Transmit the CVF and a copy of the letter of recommendation to the recommending physician using the contact method and information recorded on the form. A



recommending physician may request or require that recommendations be submitted for verification in a specific manner, including:

- a. A telephone call with the physician or the physician's authorized agent,
  - b. A fax or scanned copy of the Consent for Verification Form and letter of recommendation, or
  - c. A web-based verification system designated by the recommending physician.
7. If the letter of recommendation cannot be verified immediately, attach the CVF the copy of the letter of recommendation and file both documents in the place designated for pending verifications.
  8. Record the results of the verification per the document retention and destruction procedure.
  9. Transmit the results of the verification process to the designated personnel (e.g., attending physician).

Exhibit A – Sample MMIC

State of California  
Medical Marijuana Identification Card  
PATIENT



**ID# 583276182**

To Verify: [www.calmmp.ca.gov](http://www.calmmp.ca.gov)

**Date of Expiration:**  
**12-31-05**

Golden Grove County  
Department of Public Health  
(213) 555-3258



000001

CARD  
HOLDER  
PHOTO  
APPEARS  
HERE

## Exhibit B – Consent for Verification Form

Date

Patient Name

Address

Telephone Number

Email Address

Patient Identification Number if Any

Facility Requesting Verification

Contact Name

Address

Telephone Number

Fax if Any

Email Address

Recommending Physician Name

Address

Telephone Number

Fax if Any

Email Address

CA Medical License Number

Preferred Contact for Verification:

Telephone

Fax

Email

- Webform or Website (add a space for a URL here)

Sign and date this release to provide your consent for the verification of you letter of recommendation for medical cannabis use.

“I do hereby consent to the release of information to the facility named above for the sole purpose of verifying the letter of recommendation for medical cannabis use provided to me by you. A copy of the letter of recommendation is attached for you reference. My contact information is included above if needed.”

Print Name

Signature

Date

## VI. Sample Policy and Waiver Document for Qualified Patients

Beginning January 1, 2022, CA SB 311, also known as “Ryan’s Law” becomes effective. The bill requires health care facilities to allow the use of medical cannabis on their premises for terminally ill patients with a Medical Marijuana Identification Card (MMIC) or/ recommendation from their physician. Ryan’s Law builds on the rights granted to patients through the voter initiative Proposition 215 in 1996, also known as the Compassionate Use Act, which exempts patients and their designated caregivers from criminal penalties relating to the use, possession, and cultivation of cannabis with an oral or written recommendation or approval from a physician.

The following is a guideline of policies and procedures adopted to adhere to the requirements of SB 311. Please read and sign.

- Provide a valid MMIC or/ physician’s recommendation for validation by the facility’s personnel.
- For a written recommendation, sign **Consent for Verification Form**.
- Smoking or vaporizing cannabis or cannabis goods is prohibited on premises and violation of this policy will revoke rights to use cannabis.
- Cannabis must be stored in a lockbox provided by the facility at all times between use.

I understand these policies and hereby waive any liability of [name of facility] for lost or stolen medical cannabis I bring on to the premises.

Signature:

Date:

## VII. SB 311 Ryan’s Law

### Senate Bill No. 311

#### CHAPTER 384

An act to add Chapter 4.9 (commencing with Section 1649) to Division 2 of the Health and Safety Code, relating to health care facilities.

[ Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 311, Hueso. Compassionate Access to Medical Cannabis Act or Ryan's Law.

Existing law generally requires the licensure and regulation of various health care facilities, including, among others, a hospice facility. The Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, prohibits specified criminal penalties from being imposed on a patient or a patient's primary caregiver who possesses or cultivates cannabis for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician. Existing law, known as the Medical Marijuana Program, requires counties to administer an identification card program for qualified patients and provides immunity from arrest to qualified patients with a valid identification card or designated primary caregivers, within prescribed limits.

This bill, the Compassionate Access to Medical Cannabis Act or Ryan's Law, would require specified types of health care facilities to allow a terminally ill patient's use of medicinal cannabis within the health care facility, subject to certain restrictions. The bill would require a patient to provide the health care facility with a copy of their medical marijuana card or written documentation that the use of medicinal cannabis is recommended by a physician. The bill would require a health care facility to reasonably restrict the manner in which a patient stores and uses medicinal cannabis to ensure the safety of other patients, guests, and employees of the health care facility, compliance with other state laws, and the safe operations of the health care facility. The bill would provide that compliance with the bill would not be a condition for obtaining, retaining, or renewing a license as a health care facility. The bill would require that health care facilities permitting patient use of medical cannabis comply with other drug and medication requirements, as specified, and would make those facilities subject to enforcement actions by the State Department of Public Health. The bill would authorize a health care facility to suspend compliance with these provisions if a regulatory agency, the United States Department of Justice, or the federal Centers for Medicare and Medicaid Services takes specified actions, including initiating an enforcement action against a health care facility related to the facility's compliance with a state-regulated medical marijuana program.

#### DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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#### BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

## **SECTION 1.**

Chapter 4.9 (commencing with Section 1649) is added to Division 2 of the Health and Safety Code, to read:

### **CHAPTER 4.9. Compassionate Access to Medical Cannabis Act or Ryan’s Law**

#### **1649.**

(a) This chapter shall be known, and may be cited, as the “Compassionate Access to Medical Cannabis Act” or “Ryan’s Law.”

(b) It is the intent of the Legislature in enacting this chapter to support the ability of a terminally ill patient to safely use medicinal cannabis within specified health care facilities in compliance with the Compassionate Use Act of 1996 and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10.

#### **1649.1.**

Unless the context requires otherwise, the following definitions shall apply to this chapter:

(a) “Compassionate Use Act of 1996” means the initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election and found at Section 11362.5, and any amendments to that act.

(b) (1) Except as provided in paragraph (2), “health care facility” means a health facility specified in subdivision (a), (c), (f), (i), or (n) of Section 1250.

(2) The meaning of “health care facility” shall not include a chemical dependency recovery hospital or a state hospital.

(c) “Medicinal cannabis” means cannabis or a cannabis product used in compliance with the Compassionate Use Act of 1996 and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10.

(d) “Patient” means an individual who is terminally ill.

(e) “Terminally ill” means a medical condition resulting in a prognosis of life of one year or less, if the disease follows its natural course.

#### **1649.2.**

(a) A health care facility shall permit patient use of medical cannabis and shall do all of the following:

(1) Prohibit smoking or vaping as methods to use medicinal cannabis.

(2) Include the use of medicinal cannabis within the patient’s medical records.

(3) Require a patient to provide a copy of the patient’s valid identification card, as described in Section 11362.715, or a copy of that patient’s written documentation as defined in Section 11362.7.

(4) Reasonably restrict the manner in which a patient stores and uses medicinal cannabis, including requiring the medicinal cannabis to be stored in a locked container, to ensure the safety of other patients, guests, and employees of the health care facility, compliance with other state laws, and the safe operations of the health care facility.

(5) Develop and disseminate written guidelines for the use of medicinal cannabis within the health care facility pursuant to this chapter.

(b) This section does not apply to a patient receiving emergency services and care, as defined in Section 1317.1, or to the emergency department of a health care facility, as specified in subdivision (a) of Section 1250, while the patient is receiving emergency services and care.

**1649.3.**

Notwithstanding the classification of medicinal cannabis as a Schedule I drug and any other law, health facilities permitting patient use of medicinal cannabis shall comply with drug and medication requirements applicable to Schedule II, III, and IV drugs and shall be subject to enforcement actions by the State Department of Public Health.

**1649.4.**

This chapter does not require a health care facility to provide a patient with a recommendation to use medicinal cannabis in compliance with the Compassionate Use Act of 1996 and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 or include medicinal cannabis in a patient's discharge plan.

**1649.5.**

(a) Compliance with this chapter shall not be a condition for obtaining, retaining, or renewing a license as a health care facility.

(b) This chapter does not reduce, expand, or otherwise modify the laws restricting the cultivation, possession, distribution, or use of cannabis that may be otherwise applicable, including, but not limited to, the Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure enacted by the approval of Proposition 64 at the November 8, 2016, statewide general election, and any amendments to that act.

**1649.6.**

(a) If a federal regulatory agency, the United States Department of Justice (US DOJ), or the federal Centers for Medicare and Medicaid Services (CMS) takes one of the following actions, a health care facility may suspend compliance with Section 1649.2 until the regulatory agency, the US DOJ, or CMS notifies the health care facility that it may resume permitting the use of medicinal cannabis within the facility:

(1) A federal regulatory agency or the US DOJ initiates enforcement action against a health care facility related to the facility's compliance with a state-regulated medical marijuana program.

(2) A federal regulatory agency, the US DOJ, or CMS issues a rule or otherwise provides notification to the health care facility that expressly prohibits the use of medical marijuana in health care facilities or otherwise prohibits compliance with a state-regulated medical marijuana program.

(b) This section does not permit a health care facility to prohibit patient use of medicinal cannabis due solely to the fact that cannabis is a Schedule I drug pursuant to the federal Uniform Controlled Substances Act, or other federal constraints on the use of medicinal cannabis that were in existence prior to the enactment of this chapter

## **VIII. Resources for medical professionals**

Sample Written Recommendation

<https://www.cdph.ca.gov/CDPH%20Document%20Library/ControlledForms/cdph9044.pdf>

Recommending Cannabis in the state of CA

[www.safeaccessnow.org/recommending\\_cannabis\\_california](http://www.safeaccessnow.org/recommending_cannabis_california)

Medical cannabis and medical conditions

[www.safeaccessnow.org/conditions](http://www.safeaccessnow.org/conditions)

CME courses on the cannabis

[www.CannabisCareCertification.org](http://www.CannabisCareCertification.org)