

CERTIFYING PHYSICIANS

Authority: Health General Article, §§ 13-3301, 13-3302, and 13-3307, Annotated Code of

Maryland

.01 Physician Application for Approval

A. A physician seeking an approval as a certifying physician shall submit an application provided by the Commission that includes:

(1) The physician's:

(a) Full name;

(b) All office addresses and phone numbers;

(c) Current email address;

(d) Maryland Board of Physicians license number;

(e) Representation that the physician's Maryland license to practice medicine is active and in good standing;

(f) Representation that the physician is authorized to prescribe controlled substances by the State of Maryland;

(2) The medical conditions for which the physician will issue written certifications for medical marijuana as set forth in regulation .03 of this chapter;

(3) The reasons the physician will deny written certification of medical marijuana;

(4) The physician's plan to screen patients for dependence on substances of abuse before and after a patient is issued a written certification;

(5) The physician's plan to assess patient outcomes, provide follow-up care, and to collect and analyze data;

(6) *Representation that the physician has completed a Commission-approved training course;*
and

(7) *Demonstration of the capacity of the physician to prepare the annual report*

(8) *Any other criteria deemed necessary by the Commission.*

B. *A Certifying Physician may apply to amend the approval at any time.*

C. *The Commission may deny an incomplete or unsatisfactory application.*

.02 Physician Compensation from a Medical Marijuana Grower or Dispensary

A certifying physician may not receive compensation, including promotion, recommendation, advertising, subsidized rent, or anything of value, from a medical marijuana grower or dispensary unless the physician submits an application to the Commission for the approval for the compensation. The application must disclose the specific type of compensation and specific amount or value of compensation.

.03 Terms of Certifying Physician Practice

A. *A Certifying Physician may be approved to treat patients who have:*

(1) *A chronic or debilitating disease or medical condition that results in the patient being admitted into hospice or receiving palliative care;*

(2) *A chronic or debilitating disease or medical condition, or who are receiving treatment thereof, that causes:*

(a) *Cachexia;*

(b) *Anorexia;*

(c) *Wasting syndrome;*

(d) *Severe pain;*

(e) *Severe nausea;*

(f) Seizures or severe or persistent muscle spasms;

(3) The following diseases and conditions:

(a) Glaucoma; or

(b) Post traumatic stress disorder (PTSD), if the certifying physician is a psychiatrist who is a diplomate of the American Board of Psychiatry and Neurology; or

(4) Any other condition which is approved by the commission

B. A certifying physician may provide written certification to a patient or caregiver, only:

(1) With whom the physician has a bona fide physician-patient relationship;

(2) After a full, in person assessment of the patient's medical history and current medical condition;

(3) Who meets the physician's inclusion criteria;

(4) Who does not meet the physician's exclusion criteria;

(5) Who has been screened for dependence on substances of abuse and has been determined by the physician to be of low risk for addiction, dependence, and diversion; and

(6) For whom the physician has determined that the potential benefits of the medical use of marijuana likely outweigh the health risks for the patient.

C. As routine standard of care, except for patients in hospice or receiving palliative care, a certifying physician shall require a drug screen for substances of abuse for qualifying patients prior to making a written certification and randomly thereafter no less than twice per year.

.04 Written Certification for Qualifying Patient.

A. The certifying physician shall provide a copy of each written certification to the patient and to the Commission in the manner it provides.

B. A written certification shall include the:

- (1) Physician's name, Maryland Board of Physicians license number, and office phone number;
- (2) Qualifying patient's name, date of birth, address, county of residence;
- (3) Medical condition requiring medical marijuana; and
- (4) The date of certification as a qualifying patient.

C. A written certification shall expire after 1 year, unless terminated earlier.

D. A written certification may be renewed by the certifying physician in the manner required by Regulation .03 of this Chapter if the qualifying patient continues to require medical marijuana for the condition stated in the original certification.

E. A certifying physician shall terminate care of a qualifying patient with medical marijuana if:

- (1) The qualifying patient meets the physician's exclusion criteria;
- (2) Treatment with medical marijuana is no longer necessary for the patient;
- (3) If adverse effects of medical marijuana outweigh the benefits to the qualifying patient's health; or
- (4) If there is evidence that the qualifying patient engaged in diversion of medical marijuana or demonstrates abuse of any substance of abuse.

F. Upon termination of care, a certifying physician shall notify the Commission in a manner the Commission provides within 1 business day of the termination of care.

G. A patient shall only have 1 certifying physician at any time.

.05 Medical Marijuana Recommendation.

A. *A certifying physician's recommendation shall be directly communicated by the certifying physician to the dispensary of the qualifying patient's choice in the manner the Commission provides.*

B. *A recommendation shall include the:*

- (1) Patient's name, date of birth, home address, and phone number;*
- (2) Physician's name, office address, office phone number, and Maryland Board of Physicians license number;*
- (3) Recommended dosage;*
- (4) Total amount of medical marijuana to be dispensed;*
- (5) Instructions for patient use; and*
- (6) Any specific strain or type of medical marijuana to be used by the patient, if known.*

.06 Annual Report

A. *A certifying physician shall submit an annual report to the Commission in the manner and at the time provided by the Commission.*

B. *The annual report shall include:*

- (1) The number of qualifying patients issued written certification by the certifying physician; categorized by county of residence or Baltimore City;*
- (3) The medical conditions for which certification was issued;*
- (4) A summary of the clinical outcomes of the qualifying patients' use of medical marijuana;*
- (5) A summary of any adverse effects in the use of medical marijuana experienced by any patient of the certifying physician; and*

(6) *A summary of steps taken in response to instances of suspected diversion of medical marijuana; and*

(7) *Any other data required by the Commission.*

C. The annual report may not include any patient personally identifiable information.

.07 Physician Training

A. Prior to approval as a certifying physician, a physician shall complete a training course approved by the Commission.

B. A certifying physician shall complete continuing education requirements as determined by the Commission.

.08 Renewal of Approval to Certify

A. A certifying physician shall apply to renew an approval to certify at the time of renewal of the physician's license to practice medicine by the Maryland Board of Physicians.

B. The Commission shall provide notice of renewal 90 days prior to expiration of the approval.

C. The Commission shall grant approval of the application for renewal if:

(1) The physician's license to practice medicine in Maryland is active and in good standing;

(2) The physician's registration to prescribe controlled dangerous substances by the State of Maryland is valid;

(3) The physician has completed the continuing education requirements determined by the Commission; and

(4) The physician has submitted annual reports when and in the manner determined by the Commission.

D. If a physician fails to renew an approval to issue written certifications, the physician shall not be permitted to issue written certifications.

.09 Enforcement Action against a Physician

A. The Commission may revoke or suspend a physician's approval to issue written certifications to qualifying patients.

B. Each of the following constitutes adequate grounds for revocation or suspension:

- (1) The physician fraudulently applied for approval;*
 - (2) The physician fraudulently issued a written certification;*
 - (3) The physician failed to comply with the requirements set forth in these Regulations;*
- or*
- (4) Any other ground that serves the purpose of these Regulations.*

C. The Commission may report any instance of enforcement against a physician to the Maryland Board of Physicians.

.10 New Condition Approval Process.

A. At least twice per year, the Commission shall conduct a public hearing to evaluate any petitions to consider other medical conditions, medical treatments or diseases that may be included in certifying physician applications or that the Commission, on its own initiative, believes should be reviewed for inclusion on the list of debilitating medical conditions.

B. Persons seeking to add a medical condition, medical treatment or disease to the list of debilitating medical conditions shall submit a written petition to the Commission.

C. The Commission shall consider petitions that include:

- (1) A medical condition, medical treatment or disease which is generally accepted by the medical community and other experts as a valid;*
- (2) The extent to which the condition or the treatments thereof cause severe or chronic pain, severe nausea, spasticity or otherwise severely impair the patient's ability to carry on activities of daily living;*

- (3) *The degree to which other medical treatments have been ineffective to alleviate pain, suffering, disability or symptoms of the condition or the treatment thereof;*
 - (4) *The extent to which evidence that is generally accepted among the medical community and other experts supports a finding that the use of marijuana alleviates pain, suffering, disability or symptoms of the condition or the treatment thereof;*
 - (5) *Any information or studies known to the petitioner regarding any beneficial or adverse effects from the use of marijuana in patients with the medical condition, medical treatment or disease that is the subject of the petition; and*
 - (6) *Letters of support from physicians or other licensed health care professionals knowledgeable about the condition, treatment or disease.*
- D. If a medical condition, medical treatment, or disease in a petition has been previously considered and rejected by the Commission, the Commission may deny the petition without submitting it for public comment unless new scientific research supporting the request is included in the petition.*
- F. In addition to information provided in a petition, the Commission may examine scientific, medical or other evidence and research pertaining to the petition, and may gather information, in person or in writing, from other persons knowledgeable about the medical condition, medical treatment or disease being considered.*
- G. Following the public hearing, the Commission shall consider the public comments and any additional information or expertise available to the Commission for each proposed debilitating medical condition considered at the hearing.*
- H. The Commission may conclude that the medical condition, medical treatment, or disease under consideration shall be added to the list of debilitating medical conditions upon a determination that:*
- (1) The medical condition, medical treatment or disease is debilitating;*
 - (2) Medical marijuana can reasonably be expected to relieve the pain, suffering and disability of the medical condition or therapy thereof; and*
 - (3) Other medical treatments have been ineffective in doing so.*
- I. If the Commission concludes that the medical condition, medical treatment, or disease that was under consideration should be added to the list of debilitating medical conditions, the Commission shall proceed to promulgate regulations to expand the list of debilitating medical conditions accordingly.*