

Guidelines for Completing Medical Marijuana Physician Written Certification
Arkansas State Medical Board
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PREAMBLE

The Arkansas State Medical Board (Medical Board) developed these guidelines since physicians may complete written certifications for patients who have certain qualifying medical conditions. The Medical Board wants to assure physicians who choose to complete the Arkansas Department of Health’s Medical Marijuana Physician Written Certification as part of their regular practice of medicine, that they WILL NOT be subject to investigation or disciplinary action by the Medical Board if they arrive at the decision to complete this form in accordance with accepted standards of medical responsibility. Further, physicians who have an ownership interest in or affiliation with a cultivation center or dispensary WILL NOT be subject to investigation or disciplinary action by the Medical Board simply based on the ownership interest or affiliation.

BACKGROUND

On November 8, 2016, the people of Arkansas passed Amendment 98, the Arkansas Medical Marijuana Amendment of 2016 (“Amendment”). This Amendment allows the possession and use of no more than 2.5 ounces of medical marijuana for a patient who has a qualifying medical condition and whose physician has provided him/her with a written certification which has been provided to and approved by the Arkansas Department of Health.¹

The Amendment defines a physician as a “doctor of medicine or doctor of osteopathic medicine who holds a valid, unrestricted, and existing license to practice medicine in the state of Arkansas and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances.”

Act 438 of the 2017 Regular Session prohibited the use of telemedicine as a method by which a qualifying patient receives a written certification for medical marijuana.

GUIDELINES

These accepted standards are the same as any reasonable and prudent physician would follow when recommending or approving any other medication, and include the following:

1. History and an appropriate in-person examination of the patient.
2. Development of a treatment plan with objectives.
3. Provision of appropriate consent.
4. Periodic review of the treatment.
5. Consultation, as necessary.
6. Proper record keeping.

¹ Physicians are not required to complete and sign the certification for a patient.

In other words, if physicians use the same care in completing the Medical Marijuana Physician Written Certification, as they would in prescribing or recommending medications, they have nothing to fear from the Medical Board.

The following are guidelines to consider when completing the Medical Marijuana Physician Written Certification form:

1. A patient need not have failed on all standard medications in order for a physician to complete a written certification.
2. The physician should determine that marijuana use is not masking an acute or treatable progressive condition, or that such use will lead to a worsening of the patient's condition.
3. A physician who is not the primary treating physician may still complete written certifications for patients. However, it is incumbent upon that physician to consult with the patient's primary treating physician; obtain the appropriate patient records to confirm the patient's underlying diagnosis and prior treatment history; or conduct their own assessment/physical exam and request any needed tests to confirm the patient has a qualifying medical condition.
4. The physician should request that the Department of Health issue the registry card for the time necessary to appropriately monitor the patient. Periodic reviews should occur and be documented at least annually or more frequently as warranted.
5. If a physician completes a written certification for a minor, the parents or legal guardians must be fully informed of the diagnosis and the written certification.
6. Physicians must maintain proper records regarding the qualifying condition and the issuance of a written certification.
7. The Medical Board recommends that all physicians who complete the written certification take three hours of CME in courses which will provide physicians with information which will help as they evaluate their patients. Such courses may include the pharmacology of marijuana; contraindications; side effects; adverse reactions; overdose prevention; drug interactions; dosing; routes of administration; risks and benefits; warnings and precautions; and abuse and dependence.
8. If a physician has an ownership interest in or affiliation with a dispensary, the physician should not direct patients to the dispensary in which he/she has an ownership interest. Physicians who have an ownership interest or affiliation with a dispensary cannot complete the written certification on behalf of patients.

Although the Medical Marijuana Amendment allows physicians to complete written certifications for patients and there is no prohibition in the Amendment relating to physicians having an ownership interest in or affiliation with a cultivation center or dispensary, Arkansas physicians should bear in mind that marijuana is listed in Schedule I of the federal Controlled Substances Act, which means that it has no accepted medical use under federal law.