

§2423-B. Authorized conduct by a medical provider

A medical provider may provide a written certification in accordance with this section for the medical use of cannabis under this chapter and, after having done so, may otherwise state that in the medical provider's professional opinion a qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's medical diagnosis. [PL 2017, c. 452, §5 (AMD); PL 2021, c. 669, §5 (REV).]

1. Adult qualifying patient. Prior to providing written certification for the medical use of cannabis under this section, a medical provider shall inform an adult qualifying patient or the patient's legal guardian or representative of the risks and benefits of the medical use of cannabis and that the patient may benefit from the medical use of cannabis.
[PL 2017, c. 452, §5 (AMD); PL 2021, c. 669, §5 (REV).]

2. Minor qualifying patient.
[PL 2017, c. 452, §5 (RP).]

2-A. Minor qualifying patient. A medical provider who provides a written certification to a patient who has not attained 18 years of age shall:

- A. Prior to providing written certification, inform the qualifying patient and the parent, legal guardian or person having legal custody of the patient of the risks and benefits of the medical use of cannabis and that the patient may benefit from the medical use of cannabis; and [PL 2021, c. 662, §18 (AMD); PL 2021, c. 669, §5 (REV).]
- B. [PL 2021, c. 662, §18 (RP).]
- C. [PL 2021, c. 662, §18 (RP).]
- D. [PL 2021, c. 662, §18 (RP).]
- E. Provide the parent, legal guardian or person having legal custody of the qualifying patient with a reliable method of communicating with the medical provider at all times, including when the medical provider's office is closed, regarding the proper dosage of and mitigation of any side effects caused by cannabis used by the qualifying patient for medical purposes. [PL 2021, c. 662, §18 (NEW); PL 2021, c. 669, §5 (REV).]

The department shall adopt major substantive rules as defined in Title 5, chapter 375, subchapter 2-A as necessary to implement the requirements of this subsection.
[PL 2021, c. 662, §18 (AMD); PL 2021, c. 669, §5 (REV).]

2-B. Adult and minor patients with substance use disorder. Prior to providing written certification for the medical use of cannabis under this section for a medical diagnosis of substance use disorder that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of cannabis, the medical provider shall develop a recovery plan with the patient. For purposes of this subsection, "substance use disorder" means a diagnosis related to alcohol or drug abuse covered by Title 5, chapter 521.
[PL 2017, c. 452, §5 (NEW); PL 2021, c. 669, §5 (REV).]

2-C. Bona fide provider-patient relationship. A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the patient's medical history. If a patient has not provided a medical provider who is not the patient's primary care provider with the name and contact information of the patient's primary care provider, a medical provider shall conduct an in-person consultation with the patient prior to providing a written certification.
[PL 2017, c. 452, §5 (NEW).]

3. Expiration. A written certification form for the medical use of cannabis under this section is valid for the term provided by the qualifying patient's medical provider, which must be included in the written certification and which may not exceed one year.

[PL 2021, c. 662, §19 (AMD); PL 2021, c. 669, §5 (REV).]

4. Form; content; digital image. A written certification under this section must be issued on tamper-resistant paper provided by the department in the form required by rule adopted by the department and may not require a qualifying patient's medical provider to state the patient's specific medical diagnosis. A medical provider may also provide to a qualifying patient a digital image of the patient's written certification document as long as the document portrayed in the digital image is identical to the document issued by the medical provider and the information contained in the document is legible in the digital image.

[PL 2021, c. 662, §20 (AMD).]

5. Possible sanctions. Nothing in this chapter prevents a professional licensing board from sanctioning a medical provider for failing to properly evaluate or treat a patient's medical diagnosis or otherwise violating the applicable standard of care for evaluating or treating medical diagnoses.

[PL 2017, c. 452, §5 (AMD).]

6. Certification issued based on medical diagnosis. A medical provider may not condition the issuance of a written certification for the medical use of cannabis on any requirements other than that the patient's medical diagnosis may be alleviated by the therapeutic or palliative medical use of cannabis. Nothing in this section may be construed to prevent a medical provider from exercising professional judgment in declining to issue a certification for the medical use of cannabis.

[PL 2017, c. 452, §5 (AMD); PL 2021, c. 669, §5 (REV).]

7. Patient referral disclosure of interest. Prior to providing a referral to a qualifying patient for goods and services associated with a certification for the medical use of cannabis to an entity in which the medical provider has a direct or indirect financial interest, a medical provider shall provide written disclosure to the qualifying patient regarding any direct or indirect financial interest the medical provider has or may have in the resulting referral and shall maintain a copy of this disclosure in the qualifying patient's record.

[PL 2015, c. 475, §15 (NEW); PL 2021, c. 669, §5 (REV).]

8. Continuing medical education. A medical provider who has not previously provided a written certification to a qualifying patient for the medical use of cannabis shall, prior to providing a written certification to a qualifying patient, submit evidence, satisfactory to the department, of successful completion of a one-hour course of continuing medical education relating to medical cannabis within the preceding 24 months.

[PL 2017, c. 452, §5 (NEW); PL 2021, c. 669, §5 (REV).]

9. Telehealth. A medical provider who provides written certifications for the medical use of cannabis under this section may use telehealth services to consult with a patient subject to the following conditions:

A. A medical provider using telehealth services to consult with a patient seeking a written certification for the medical use of cannabis under this section shall engage in a synchronous encounter with a patient before providing a written certification or renewal of a written certification; and [PL 2021, c. 662, §21 (NEW); PL 2021, c. 669, §5 (REV).]

B. A medical provider who provides written certifications for the medical use of cannabis and uses telehealth services to consult with patients shall operate within the standards of practice determined by the licensing board for that medical provider. [PL 2021, c. 662, §21 (NEW); PL 2021, c. 669, §5 (REV).]

[PL 2021, c. 662, §21 (NEW); PL 2021, c. 669, §5 (REV).]

SECTION HISTORY

PL 2009, c. 631, §22 (NEW). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. B, §17 (RPR). PL 2013, c. 516, §8 (AMD). PL 2015, c. 475, §15 (AMD). PL 2017, c. 409, Pt. E, §4 (AMD). PL 2017, c. 452, §5 (AMD). PL 2021, c. 387, §4 (AMD). PL 2021, c. 662, §§18-21 (AMD). PL 2021, c. 669, §5 (REV).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.