

§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 marijuana 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 marijuana to treat or alleviate the patient's medical diagnosis. [PL 2017, c. 452, §5 (AMD).]

1. Adult qualifying patient. Prior to providing written certification for the medical use of marijuana 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 marijuana and that the patient may benefit from the medical use of marijuana.
[PL 2017, c. 452, §5 (AMD).]

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:

A. Shall 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 marijuana and that the patient may benefit from the medical use of marijuana; [PL 2017, c. 452, §5 (NEW).]

B. May provide a written certification to a qualifying patient if the patient is eligible for hospice services and has a medical diagnosis that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana; [PL 2017, c. 452, §5 (NEW).]

C. May provide a written certification to a qualifying patient if the patient has a medical diagnosis of epilepsy, cancer, a developmental disability or an intellectual disability that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana; and [PL 2017, c. 452, §5 (NEW).]

D. If a patient does not satisfy the requirements of paragraphs B and C, may provide a written certification to a qualifying patient after consulting with a physician from a list of physicians who may be willing to consult with a medical provider maintained by the department that is compiled by the department after consultation with the Department of Health and Human Services and statewide associations representing licensed medical professionals. The consultation between the medical provider and the consulting physician may consist of examination of the patient or review of the patient's medical file. The consulting physician shall provide an advisory opinion to the medical provider and the parent, legal guardian or person having legal custody of the qualifying patient concerning whether the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis. If the department or the consulting physician does not respond to a request by the medical provider within 10 days of receipt of the request, the medical provider may provide a written certification without consultation with a physician.

The parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age may submit a request to the department for reimbursement of the costs associated with obtaining a 2nd opinion required by this paragraph. Requests must be submitted on a form developed by the department. The department shall review the family's annual income and expenses in determining whether to reimburse the family from the Medical Use of Marijuana Fund under section 2430 for the cost of the required 2nd consultation.

The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the reimbursement request under this paragraph, except that, beginning July 1,

2021, rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 387, §4 (AMD).]
[PL 2021, c. 387, §4 (AMD).]

2-B. Adult and minor patients with substance use disorder. Prior to providing written certification for the medical use of marijuana 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 marijuana, 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).]

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 marijuana under this section is valid for the term provided by the qualifying patient's medical provider.
[PL 2017, c. 452, §5 (AMD).]

4. Form; content. A written certification under this section must be 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.
[PL 2017, c. 452, §5 (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 marijuana on any requirements other than that the patient's medical diagnosis may be alleviated by the therapeutic or palliative medical use of marijuana. 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 marijuana.
[PL 2017, c. 452, §5 (AMD).]

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 marijuana 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).]

8. Continuing medical education. A medical provider who has not previously provided a written certification to a qualifying patient for the medical use of marijuana 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 marijuana within the preceding 24 months.
[PL 2017, c. 452, §5 (NEW).]

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).

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