

1 **Title 28—HEALTH AND SAFETY**

2 **DEPARTMENT OF HEALTH**

3 **[28 PA. CODE CH. 1181]**

4 **Medical Marijuana; Physicians and Practitioners; Temporary Regulations**

5 Sec.

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20 **§ 1181.21. Definitions.**

21 *Continuing care*—Treating a patient, in the course of which the practitioner has completed a full
22 assessment of the patient's medical history and current medical condition, including a patient
23 consultation.

24 *Medical board*—The State Board of Medicine as defined in section 2 of the act of December 20,
25 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985 or the State Board of
26 Osteopathic Medicine as defined in section 2 of the act of October 5, 1978 (P.L.1109, No.261),
27 known as the Osteopathic Medical Practice Act.

28 *Medical marijuana cardholder*—A patient or caregiver who possesses a valid identification card.

1 *Medical professional*—A physician, pharmacist, physician assistant or certified registered nurse
2 practitioner that is employed by a dispensary.

3 *Patient certification*—The form provided by the Department that is issued by a practitioner to
4 certify that a patient has one or more serious medical conditions.

5 *Patient consultation*—A complete, in-person examination of a patient and the patient’s health care
6 records at the time a patient certification is issued by a practitioner.

7 *Practitioner registry*—A list of practitioners established and maintained by the Department.

8 *Prescription Drug Monitoring Program*—The Achieving Better Care by Monitoring All
9 Prescriptions Program (ABC-MAP) Act (35 P.S. §§ 872.1—872.40), *as amended*.

10 *Professional disciplinary action*—Any disciplinary proceeding taken by the Medical Board
11 against a physician that results in a corrective action or measure.

12
13 **§ 1181.22. Practitioners generally.**

14
15 (a) The qualifications that a physician shall meet to be registered with the Department and
16 approved as a practitioner are continuing qualifications.

17 (b) A physician may not issue a patient certification without being registered by the
18 Department as a practitioner in accordance with § 1181.24 (relating to physician registration).

19 (c) A practitioner shall notify a dispensary of a patient’s adverse reaction to medical marijuana
20 dispensed by that dispensary immediately upon becoming aware of such reaction.

21
22 **§ 1181.23. Medical professionals generally.**

23
24 (a) The qualifications that a medical professional shall meet to be employed by a dispensary
25 are continuing qualifications.

1 (b) A medical professional shall not assume any duties at a dispensary until the training
2 required under § 1181.32 (relating to training) and any other requirements for medical
3 professionals under the act and this part are complete.

4 (c) A medical professional shall notify the practitioner listed on a patient certification of a
5 patient's adverse reaction to medical marijuana dispensed by that dispensary immediately upon
6 become aware of such reaction.

7
8 **§ 1181.24. Physician registration.**

9
10 (a) A physician may file an application for registration with the Department as a practitioner
11 on a form prescribed by the Department if the physician:

12 (1) Has an active medical license in Pennsylvania in accordance with the Medical
13 Practice Act of 1985 (63 P.S. §§ 422.1-422.51a) or the Osteopathic Medical Practice Act
14 (63 P.S. §§ 271.1-271.18) applicable to the physician.

15 (2) Is qualified, as determined by the Department, to treat patients with one or more
16 serious medical conditions.

17 (b) An application for registration shall include, at a minimum:

18 (1) The physician's full name, business address, professional email address, telephone
19 numbers, and if the physician owns or is affiliated with a medical practice, the name of the
20 medical practice.

21 (2) The physician's education, specialty, training and experience and supporting
22 documentation where available.

23 (3) A copy of the physician's medical license.

1 (4) A certification by the physician that states:

2 (i) If the physician's Pennsylvania license to practice medicine is active and in
3 good standing.

4 (ii) If the physician has been subject to any type of professional disciplinary
5 action that would prevent the physician from carrying out the responsibilities under
6 the act and this part, together with, if applicable, an explanation of the professional
7 disciplinary action.

8 (iii) That the physician does not hold a direct or economic interest in a medical
9 marijuana organization.

10 (5) A false statement made by a physician in an application for registration is
11 punishable under the applicable provisions of 18 Pa.C.S. Ch. 49 (relating to falsification
12 and intimidation).

13 (c) The Department may list a physician on the practitioner registry only after the physician
14 has successfully completed the training course required under § 1181.32 (relating to training) and
15 any other requirements for registration under the act and this part.

16 **§ 1181.25. Practitioner registry.**

17 (a) The Department will maintain a practitioner registry on its publicly accessible Internet
18 website listing practitioners who are approved by the Department to issue patient certifications.

19 (b) The practitioner registry shall include only the practitioners' name, business address,
20 professional email address, and telephone numbers.

1 (c) The inclusion of a physician in the practitioner registry shall be subject to annual review
2 by the Department to determine if the physician's license is inactive, expired, suspended, revoked,
3 limited or otherwise restricted by the applicable Medical Board or if the physician has been subject
4 to professional disciplinary action.

5 **§ 1181.26. Removal of a practitioner from the practitioner registry.**

6 (a) A practitioner shall be removed from the practitioner registry if the practitioner's medical
7 license is inactive, expired, suspended, revoked, limited or otherwise restricted by the applicable
8 Medical Board or if the physician has been subject to professional disciplinary action, including
9 an immediate, temporary action.

10 (b) A practitioner may be removed from the practitioner registry if the practitioner has been
11 the subject of any professional disciplinary action.

12 (c) A physician who has been removed from the practitioner registry may re-apply to the
13 Department for inclusion in the practitioner registry in accordance with § 1181.24 (relating to
14 physician registration) when the event that led to the physician's removal has been resolved to the
15 Department's satisfaction. The physician's application for registration under this subsection shall
16 include evidence of such resolution.

17 (d) A physician who has been removed from the practitioner registry may not do any of the
18 following:

- 19 (1) Have electronic access to a patient certification.
- 20 (2) Issue or modify a patient certification.
- 21 (3) Provide a copy of an existing patient certification to any person, including a patient
22 or a caregiver, except in accordance with applicable law.

23 **§ 1181.27. Issuing patient certifications.**

1 (a) A practitioner may issue a patient certification to a patient if each of the following
2 conditions are met:

3 (1) The practitioner has determined, based upon a patient consultation and any other
4 factor deemed relevant by the practitioner, the patient has a serious medical condition and
5 has included that condition in the patient's health care record.

6 (2) The practitioner has determined the patient is likely to receive therapeutic or
7 palliative medical benefit from the use of medical marijuana based upon the practitioner's
8 professional opinion and review of the following:

9 (i) The patient's prior medical history as documented in the patient's health care
10 records if such records are available for review.

11 (ii) The patient's controlled substance history if such records are available in the
12 Prescription Drug Monitoring Program.

13 (b) A patient certification that is issued by a practitioner shall include, at a minimum, the
14 following:

15 (1) The patient's name, home address, telephone number, date of birth and email
16 address, if available.

17 (2) The practitioner's name, business address, telephone numbers, professional email
18 address, medical license number, area of specialty, if any, and signature.

19 (3) The date of the patient consultation for which the patient certification is being
20 issued.

21 (4) The patient's specific serious medical condition.

- 1 (5) A statement by the practitioner that the patient has a serious medical condition, and
2 the patient is under the practitioner's continuing care for the condition.
- 3 (6) The length of time the patient has been under the continuing care of the practitioner.
- 4 (7) A statement by the practitioner that includes one of the following:
- 5 (i) The form of medical marijuana.
- 6 (ii) A recommendation by the practitioner that the patient discuss the form of
7 medical marijuana with the physician or pharmacist at a dispensary.
- 8 (8) A statement by the practitioner that the patient is terminally ill, if applicable.
- 9 (9) Any other information that the practitioner believes may be relevant to the patient's
10 use of medical marijuana.
- 11 (10) A statement that the patient will be homebound or an inpatient during the time for
12 which the patient certification is issued due to the patient's medical and physical condition
13 and is unable to visit a dispensary to obtain medical marijuana.
- 14 (11) A statement that the practitioner has explained the potential risks and benefits of
15 the use of medical marijuana to the patient and has documented in the patient's health care
16 record that such explanation has been provided to the patient and informed consent has
17 been obtained.
- 18 (12) A statement that a false statement made by the practitioner in the patient
19 certification is punishable under the applicable provisions of 18 Pa.C.S. Ch. 49 (relating to
20 falsification and intimidation).
- 21 (c) Upon completion of a patient certification, a practitioner shall:

1 (1) Provide a copy of the patient certification to the patient or the patient's caregiver,
2 if the patient is a minor, and to an adult patient's caregiver if authorized by the patient.

3 (2) Provide the original patient certification to the Department, which may be
4 submitted electronically.

5 (3) File a copy of the patient certification in the patient's health care record.

6 **§ 1181.28. Modifying a patient certification.**

7 (a) A practitioner may not modify the form of medical marijuana on a patient certification for
8 a period of 30-days from the date the receipt is entered into the electronic tracking system by the
9 dispensary unless the practitioner notifies the Department of the intent to modify the patient
10 certification.

11 (b) After modifying a patient certification, a practitioner shall:

12 (1) Provide a copy of the patient certification to the patient or the patient's caregiver,
13 if the patient is a minor, and to an adult patient's caregiver if authorized by the patient.

14 (2) Provide the original patient certification to the Department, which may be
15 submitted electronically.

16 (3) File a copy of the patient certification in the patient's health care record.

17 **§ 1181.29. Revocation of a patient certification.**

18 (a) A practitioner shall immediately notify the Department in writing if the practitioner knows
19 or has reason to know that any of the following events are true with respect to a patient for whom
20 the practitioner issued a patient certification:

21 (1) The patient no longer has the serious medical condition for which the patient
22 certification was issued.

1 (2) The use of medical marijuana by the patient would no longer be therapeutic or
2 palliative.

3 (3) The patient has died.

4 (b) The Department will revoke a patient certification upon receiving notification of the
5 occurrence of any of the events listed in subsection (a) or (c).

6 (c) Notwithstanding subsection (a), a practitioner may withdraw the issuance of a patient
7 certification at any time by notifying, in writing, both the patient and the Department.

8 (d) The Department will immediately notify a medical marijuana cardholder upon the
9 revocation of a patient certification and such information shall be entered into the electronic
10 tracking system.

11 **§ 1181.30. Prescription Drug Monitoring Program.**

12 (a) A practitioner shall review the Prescription Drug Monitoring Program prior to issuing or
13 modifying a patient certification to determine the controlled substance history of the patient to
14 determine whether the controlled substance history of the patient would impact the patient's use
15 of medical marijuana.

16 (b) A practitioner may access the Prescription Drug Monitoring Program to do any of the
17 following:

18 (1) Determine whether a patient may be under treatment with a controlled substance
19 by another physician or other person.

20 (2) Allow the practitioner to review the patient's controlled substance history as
21 deemed necessary by the practitioner.

1 (3) Provide to the patient, or caregiver if authorized by the patient, a copy of the
2 patient's controlled substance history.

3 **§ 1181.31. Practitioner prohibitions.**

4 (a) A practitioner may not accept, solicit or offer any form of remuneration from or to any
5 individual, prospective patient, patient, prospective caregiver, caregiver or medical marijuana
6 organization, including an employee, financial backer or principal, to certify a patient, other than
7 accepting a fee for service with respect to a patient consultation of the prospective patient to
8 determine if the prospective patient should be issued a patient certification to use medical
9 marijuana.

10 (b) A practitioner may not hold a direct or economic interest in a medical marijuana
11 organization.

12 (c) A practitioner may not advertise the practitioner's services as a practitioner who can certify
13 a patient to receive medical marijuana.

14 (d) A practitioner may not issue a patient certification for the practitioner's own use or for the
15 use of a family or household member.

16 **§ 1181.32. Training.**

17 (a) The following individuals shall complete a 4-hour training course within the times
18 specified:

19 (1) A physician prior to being included in the practitioner registry under § 1181.24
20 (relating to physician registration).

21 (2) A medical professional prior to assuming any duties at a dispensary under §
22 1161.25 (relating to licensed medical professionals at facility).

1 (b) The requirements of the training course required under subsection (a) shall include, at a
2 minimum:

3 (1) The provisions of the act and this part relevant to the responsibilities of a
4 practitioner or medical professional.

5 (2) General information about medical marijuana under Federal and State law.

6 (3) The latest scientific research on medical marijuana, including the risks and benefits
7 of medical marijuana.

8 (4) Recommendations for medical marijuana as it relates to the continuing care of a
9 patient in the following areas:

10 (i) Pain management.

11 (ii) Risk management.

12 (iii) Palliative care.

13 (iv) Opioid addiction and overdosing on medical marijuana.

14 (v) Recommendations and obtaining informed consent from a patient.

15 (vi) Any other area determined by the Department.

16 (5) Use of the Prescription Drug Monitoring Program.

17 (6) Best practices for recommending the form of medical marijuana and dosage based
18 on the patient's serious medical condition and the practitioner's or medical professional's
19 medical specialty and training.

20 (c) Successful completion of the course required under subsection (a) shall be approved as
21 continuing education credits as determined by:

22 (1) The State Board of Medicine and the State Board of Osteopathic Medicine.

23 (2) The State Board of Pharmacy.

- 1 (3) The State Board of Nursing.
- 2 (d) The individuals in subsection (a) shall submit documentation of the completion of the 4-
- 3 hour training course to the Department.

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