



Highlights of SB 3 – Medical Marijuana Legalization

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Legislation to legalize the use of medical marijuana was approved by Pennsylvania's General Assembly and was signed into law by Gov. Wolf on April 17, 2016. The 167-page Senate Bill 3 (now officially designated as Act 16-2016) addresses everything from who can sell and grow medical marijuana, where it can be sold, and for what medical conditions it can be legally recommended to treat. Senate Bill 3 identifies the Department of Health (DOH) as the lead state agency charged with overseeing Pennsylvania's medical marijuana program. It is expected that the program will not be fully operational until sometime in late 2017 or early 2018.

PHYSICIAN ELIGIBILITY

The legislation does not require physicians to participate in this program. For physicians who wish to recommend medical marijuana to their patients, they must meet certain requirements. First, a physician must apply to DOH to become a registered medical marijuana practitioner. To become registered, physicians must provide documentation to the DOH of credentials, training, or experience as required by DOH to show that they are able to treat patients with one or more of the 17 serious medical conditions required as a prerequisite for patients to obtain medical marijuana. Second, physicians will also be required to undergo a 4-hour training program approved by DOH that will include information regarding the latest scientific research on medical marijuana along with the drug's known risks and benefits which may count towards satisfying Pennsylvania's current CME requirements for licensure as determined by the respective Boards of Medicine and Osteopathic Medicine. Third, a physician must have an unexpired, unsuspended and unrevoked license to practice medicine within this Commonwealth. If a physician's license expires or is otherwise suspended or revoked, that physician will no longer be registered with DOH to certify patients for medical marijuana use.

PHYSICIAN REQUIREMENTS

A physician included in the registry has an ongoing responsibility to immediately notify DOH in writing if the physician knows, or has reason to know, of any of the following regarding a patient for whom the physician has issued a certification:

1. The patient no longer has a serious medical condition for which the certification was issued.
2. Medical marijuana would no longer be therapeutic or palliative.
3. The patient has died.

PHYSICIAN RESTRICTIONS

A physician may not accept, solicit or offer any form of remuneration from or to a prospective patient, patient, prospective caregiver, caregiver or medical marijuana organization, including an employee, financial backer or principal, to certify a patient, other than accepting a fee for service with respect to the examination of the prospective patient to determine if the prospective patient should be issued a certification to use medical marijuana.

A physician may not hold a direct or economic interest in a medical marijuana organization.

A physician may not advertise the physician's services as a practitioner who can certify a patient to receive medical marijuana.

A physician may not issue a certification for the physician's own use or for the use of a family or household member.

ISSUANCE OF CERTIFICATION

A physician may issue a certification to a patient to use medical marijuana only after certain conditions are met. First, as discussed above, the physician must have a valid license to practice medicine in the Commonwealth and be approved by DOH for inclusion in the medical marijuana registry. Second, the physician must determine that the patient has a serious medical condition and placed that condition in the patient's health care record. Third, the patient must be under the physician's continuing care for the serious medical condition. Fourth, the physician, in his or her professional opinion and review of past treatments, must determine that the patient is likely to receive a therapeutic or palliative benefit from the use of medical marijuana.

THE PRESCRIPTION DRUG MONITORING PROGRAM (PDMP)

A physician is required to review the PDMP to determine the controlled substance history of the patient prior to issuing a certification and in order to recommend a change of amount or form of medical marijuana.

A physician may access the PDMP to determine whether a patient may be under treatment with a controlled substance by another physician or person; to allow the physician to review the patient's controlled substance history as deemed necessary by the physician; and to provide to the patient, or caregiver on behalf of the patient if authorized by the patient, a copy of the patient's controlled substance history.

DUTIES OF THE PHYSICIAN RELATED TO THE CERTIFICATION

Once a physician determines that medical marijuana is suitable for a patient, the physician must provide a certification to the patient, provide a copy of the certification to DOH, and file a copy of the certification in the patient's health care record.

ADDITIONAL RESOURCES

On June 3, 2017, the Pennsylvania Department of Health (DOH) issued [temporary regulations](#) for physicians and other practitioners wishing to participate in the commonwealth's medical marijuana program. Get answers to FAQs on these regulations in PAMED's Quick Consult publication [here](#).