

**CHAPTER 1181. PHYSICIANS AND PRACTITIONERS—
TEMPORARY REGULATIONS**

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Authority

The temporary provisions of this Chapter 1181 issued and amended under the Medical Marijuana Act (35 P.S. §§ 10231.101—10231.2110), unless otherwise noted.

Source

The temporary provisions of this Chapter 1181 adopted June 2, 2017, effective June 3, 2017, expire on June 3, 2019, 47 Pa.B. 3096; amended May 11, 2018, effective May 17, 2018, expire on May 12, 2020, 48 Pa.B. 2806, unless otherwise noted. Immediately preceding text appears at serial pages (388993) to (389000).

§ 1181.21. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Continuing care—Treating a patient, in the course of which the practitioner has completed a full assessment of the patient’s medical history and current medical condition.

Medical Board—Either of the following:

(i) The State Board of Medicine as defined in section 2 of the Medical Practice Act of 1985 (63 P.S. § 422.2).

(ii) The State Board of Osteopathic Medicine as defined in section 2 of the Osteopathic Medical Practice Act (63 P.S. § 271.2).

Medical marijuana cardholder—An adult patient or caregiver who possesses a valid identification card.

Medical professional—A physician, pharmacist, physician assistant or certified registered nurse practitioner employed by a dispensary.

Minor patient—A patient who is under 18 years of age.

Patient certification—The document issued by a practitioner under § 1181.27 (relating to issuing patient certifications) certifying that a patient has one or more serious medical conditions.

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

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

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

Professional disciplinary action—A disciplinary proceeding taken by the applicable Medical Board against a physician that results in a corrective action or measure.

§ 1181.22. Practitioners generally.

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

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

(c) A practitioner shall notify a dispensary by telephone of a patient's adverse reaction to medical marijuana products dispensed by that dispensary immediately upon becoming aware of the reaction.

(d) Under section 1201(j)(5)(iv) of the act (35 P.S. § 10231.1201(j)(5)(iv)), a practitioner may petition the Medical Marijuana Advisory Board (Board) for the Board to review on a continuing basis, and recommend to the Secretary for approval, that serious medical conditions be changed, reduced or added to those conditions for which medical marijuana is likely to provide therapeutic or palliative benefit to a patient. The Board will establish a procedure to effectuate this subsection.

§ 1181.23. Medical professionals generally.

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

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

(c) A medical professional shall notify by telephone the practitioner listed on a patient certification of a patient's adverse reaction to medical marijuana products dispensed by that dispensary immediately upon becoming aware of the reaction.

§ 1181.24. Physician registration.

(a) A physician may file an application for registration with the Department as a practitioner on a form prescribed by the Department if the physician meets both of the following qualifications:

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

(2) Is qualified, as determined by the Department from information provided by the physician under subsection (b), to treat patients with one or more serious medical conditions.

(b) An application for registration must include, at a minimum, the following requirements:

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

(2) The physician's credentials, education, specialty, training and experience, and supporting documentation when available.

(3) The physician's medical license number.

(4) A certification by the physician that states:

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

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

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

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

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

Cross References

This section cited in 28 Pa. Code § 1181.22 (relating to practitioners generally); 28 Pa. Code § 1181.26 (relating to denial, revocation or suspension of a practitioner registration); and 28 Pa. Code § 1181.32 (relating to training).

§ 1181.25. Practitioner registry.

(a) The Department will maintain a practitioner registry for use by a patient or caregiver registered by the Department.

(b) The practitioner registry will include only the practitioner's name, business address and medical credentials.

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

§ 1181.26. Denial, revocation or suspension of a practitioner registration.

(a) A practitioner registration will be denied, revoked or suspended if the practitioner's medical license is inactive, expired, suspended, revoked, limited or otherwise restricted by the applicable Medical Board, or if the physician has been subject to professional disciplinary action, including an immediate temporary action.

(b) A practitioner registration may be denied, revoked or suspended if the practitioner has been the subject of professional disciplinary action, including an immediate temporary action.

(c) A physician who has been denied registration or whose practitioner registration has been revoked or suspended may reapply to the Department for inclusion in the practitioner registry in accordance with § 1181.24 (relating to physician registration) if the event that led to the physician's denial, revocation or suspension has been resolved and the physician's medical license is designated as active without limitation by the applicable Medical Board. The physician's application for registration under this subsection must include evidence of the resolution.

(d) A physician who has been denied registration or whose practitioner registration has been revoked or suspended may not do any of the following:

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

(e) The Department may revoke or suspend the registration of a practitioner for any of the following:

- (1) A violation of the act or this part.
- (2) A violation of an order issued under the act or this part.
- (3) A violation of a regulation promulgated under the act.
- (4) For conduct or activity that would have disqualified the practitioner from receiving a registration.

(5) Pending the outcome of a hearing in a case which the practitioner's registration could be suspended or revoked.

Cross References

This section cited in 28 Pa. Code § 1191.30 (relating to revocation or suspension of identification card).

§ 1181.27. Issuing patient certifications.

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

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

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

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

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

(b) Notwithstanding subsection (a), the following requirements apply:

(1) A practitioner who is not board-eligible or board-certified in pediatrics or a pediatric specialty, neurology with special qualifications in child neurology, child and adolescent psychiatry, or adolescent medicine (whether through pediatrics, internal medicine or family practice) may not issue a patient certification to a minor patient.

(2) Paragraph (1) will be effective upon the registration of a sufficient number of eligible practitioners to ensure adequate access for minor patients needing services under the act and this part based on location, serious medical condition and number of patients, specialty, and number and availability of practitioners. The Department will publish a notice in the *Pennsylvania Bulletin* 1 month before paragraph (1) becomes effective, stating that a sufficient number of eligible practitioners have registered to effectuate this subsection.

(c) A patient certification that is issued by a practitioner must include, at a minimum, all of the following:

(1) The patient's name, home address, telephone number, date of birth and e-mail address, if available.

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

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

- (4) The patient's specific serious medical condition.
 - (5) A statement by the practitioner that the patient has a serious medical condition, and the patient is under the practitioner's continuing care for the condition.
 - (6) A statement as to the length of time, not to exceed 1 year, for which the practitioner believes the use of medical marijuana by the patient would be therapeutic or palliative.
 - (7) A statement by the practitioner that includes one of the following:
 - (i) The recommendations, requirements or limitations as to the form or dosage of medical marijuana product.
 - (ii) The recommendation that only a medical professional employed by the dispensary and working at the dispensary facility consult with the patient or the caregiver regarding the appropriate form and dosage of the medical marijuana product to be dispensed.
 - (8) A statement by the practitioner that the patient is terminally ill, if applicable.
 - (9) Any other information that the practitioner believes may be relevant to the patient's use of medical marijuana products.
 - (10) A statement that the patient is homebound or an inpatient during the time for which the patient certification is issued due to the patient's medical and physical condition and is unable to visit a dispensary to obtain medical marijuana products.
 - (11) A statement that the practitioner has explained the potential risks and benefits of the use of medical marijuana products to the patient and has documented in the patient's health care record that the explanation has been provided to the patient and informed consent has been obtained.
 - (12) A statement that a false statement made by the practitioner in the patient certification is punishable under the applicable provisions of 18 Pa.C.S. Chapter 49 (relating to falsification and intimidation).
- (d) Upon completion of a patient certification, a practitioner shall:
- (1) Provide a copy of the patient certification to the patient or the patient's caregiver, if the patient is a minor, and to an adult patient's caregiver if authorized by the patient.
 - (2) Provide the patient certification with the original signature to the Department, which may be submitted electronically.
 - (3) File a copy of the patient certification in the patient's health care record.

Cross References

This section cited in 28 Pa. Code § 1181.21 (relating to definitions); 28 Pa. Code § 1191.21 (relating to definitions); 28 Pa. Code § 1191.25 (relating to application for, and issuance or denial of, identification cards); and 28 Pa. Code § 1191.29 (relating to renewing an identification card).

§ 1181.28. Modifying a patient certification.

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

(b) After modifying a patient certification, a practitioner shall do the following:

- (1) Provide a copy of the patient certification to the patient or the patient's caregiver, if the patient is a minor, and to an adult patient's caregiver if authorized by the patient.
- (2) Provide the patient certification with the original signature to the Department, which may be submitted electronically.
- (3) File a copy of the patient certification in the patient's health care record.

§ 1181.29. Revocation of a patient certification.

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

- (1) The patient no longer has the serious medical condition for which the patient certification was issued.
- (2) The use of medical marijuana products by the patient would no longer be therapeutic or palliative.
- (3) The patient has died.

(b) The Department will revoke a patient certification upon receiving notification of the occurrence of an event listed in subsection (a).

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

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

Cross References

This section cited in 28 Pa. Code § 1191.24 (relating to medical marijuana cardholder responsibilities); 28 Pa. Code § 1191.30 (relating to revocation or suspension of identification card); and 28 Pa. Code § 1191.31 (relating to obtaining medical marijuana products from a dispensary).

§ 1181.30. Prescription Drug Monitoring Program.

(a) A practitioner shall review the Prescription Drug Monitoring Program prior to issuing or modifying a patient certification to determine the controlled

substance history of the patient to determine whether the controlled substance history of the patient would impact the patient's use of medical marijuana products.

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

- (1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.
- (2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner.
- (3) Provide to the patient, or caregiver if authorized by the patient, a copy of the patient's controlled substance history.

§ 1181.31. Practitioner prohibitions.

(a) A practitioner may not accept, solicit or offer any form of remuneration from or to any individual, 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 a patient consultation of the prospective patient to determine if the prospective patient should be issued a patient certification to use medical marijuana products.

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

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

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

(e) A practitioner may not be a designated caregiver for a patient that has been issued a patient certification by that practitioner.

(f) A practitioner may not receive or provide medical marijuana product samples.

§ 1181.32. Training.

(a) Within the time specified, the following individuals shall complete a 4-hour training course approved by the Department:

- (1) A physician prior to being included in the practitioner registry under § 1181.24 (relating to physician registration).
- (2) A medical professional prior to assuming any duties at a dispensary under § 1161.25 (relating to licensed medical professionals at facility).

(b) The requirements of the training course required under subsection (a) must include, at a minimum, all of the following:

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

- (2) General information about medical marijuana under Federal and State law.
- (3) The latest scientific research on the endocannabinoid system and medical marijuana, including the risks and benefits of medical marijuana.
- (4) Recommendations for medical marijuana as it relates to the continuing care of a patient in the following areas:
 - (i) Pain management, including opioid use in conjunction with medical marijuana.
 - (ii) Risk management, including drug interactions, side effects and potential addiction from medical marijuana use.
 - (iii) Palliative care.
 - (iv) The misuse of opioids and medical marijuana.
 - (v) Recommendations for use of medical marijuana and obtaining informed consent from a patient.
 - (vi) Any other area determined by the Department.
- (5) Use of the Prescription Drug Monitoring Program.
- (6) Best practices for recommending the form and dosage of medical marijuana products based on the patient's serious medical condition and the practitioner's or medical professional's medical specialty and training.
- (c) Successful completion of the course required under subsection (a) shall be approved as continuing education credits as determined by:
 - (1) The State Board of Medicine and the State Board of Osteopathic Medicine.
 - (2) The State Board of Pharmacy.
 - (3) The State Board of Nursing.
- (d) The individuals listed in subsection (a) shall submit documentation of the completion of the 4-hour training course to the Department.
- (e) The Department will maintain on its publicly-accessible web site a list of approved training providers that offer the 4-hour training course.

Cross References

This section cited in 28 Pa. Code § 1181.23 (relating to medical professionals generally); and 28 Pa. Code § 1181.24 (relating to physician registration).

§ 1181.33. Appeals.

Chapter 5, Subchapter A of 2 Pa.C.S. (relating to practice and procedure of Commonwealth agencies) and the accompanying regulations, as modified by Chapter 1230 (relating to practice and procedure—temporary regulations), apply to all actions of the Department under this chapter constituting an adjudication as defined in 2 Pa.C.S. § 101 (relating to definitions).

Source

The temporary provisions of this § 1181.33 adopted May 11, 2018, effective May 17, 2018, expire on May 12, 2020, 48 Pa.B. 2806.

§ 1181.34. Effective date and applicability.

(a) The amended temporary regulations in this chapter take effect on May 17, 2018.

(b) The amended temporary regulations in this chapter do not apply to the evaluation or scoring of a Medical Marijuana Organization Permit Application submitted to the Department from April 5, 2018, through May 17, 2018, as part of the implementation of Phase II of the Medical Marijuana Program.

Source

The temporary provisions of this § 1181.34 adopted May 11, 2018, effective May 17, 2018, expire on May 12, 2020, 48 Pa.B. 2806.

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