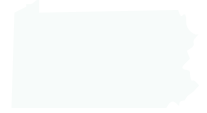


# Physician's Medical Cannabis Guide to Pennsylvania

Advancing Healthcare through  
Medical Cannabis

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The information provided herein is for educational and informational purposes only. You should always refer to the actual Pennsylvania statutes and regulations concerning its medical cannabis program, and you should not rely upon any information provided herein. You should also always consult with a licensed attorney regarding the application of Pennsylvania and federal law prior to taking any action with respect to Pennsylvania's medical cannabis program.



## Introduction

*On April 17, 2016, Governor Tom Wolf signed **SB 3** into Law, establishing Pennsylvania's compassionate medical cannabis law, after receiving final approval from the House on April 13, 2016, and initial Senate approval on May 12, 2015. The law took effect on May 17, 2016, and the **Department of Health** had six months from that date to issue temporary regulations.*

The House and Senate of Pennsylvania affirmed that scientific evidence proposes that medical cannabis is a potential therapy that may mitigate the suffering in some patients and also enhance their quality of life. The state government will create a carefully regulated program that prioritizes protecting patients, allowing access to medical cannabis to increase patient safety while the state continues research into the potential benefits. The intent of this law is to provide a program of access to medical cannabis that balances the needs of patients with the obligation to promote patient safety, providing a safe and effective method of delivery of medical cannabis to patients, and promoting high-quality research into the utility and effectiveness of medical cannabis. The state-based program providing access to medical cannabis will serve as a temporary measure pending federal approval of and access to medical cannabis through traditional pharmaceutical and medical channels.

# Program Overview



Following SB 3, the state of **Pennsylvania's Department of Health** shall establish, implement, and administer a medical cannabis program for patients suffering from serious medical conditions. The department shall:

Establish a regulatory program to develop all rules, process applications and issue patient and caregiver identification cards.

Create an advisory board established to make recommendations to the Department of Health, and two years after the law takes effect the board will issue a report, and the health department will then have eighteen months to establish rules based on the board's report. The Department of Health will launch the program by 2018.

Offer a four-hour training course for physicians, nurse practitioners, pharmacists, and physician assistants regarding medical cannabis. Successful completion of the course must be approved as continuing education credits, as determined by the State Board of Medicine and the State Board of Osteopathic Medicine, the State Board of Pharmacy, and the State Board of Nursing.

The Department will establish a program to authorize the use of medical cannabis to conduct medical research relating to the use of medical cannabis to treat serious medical conditions, including the collection of data and issuing research grants.



# Definitions

**Caregiver:** An individual designated to administer medical cannabis to a patient. This individual is designated by a patient or, if the patient is under 18 years of age, an individual who is a parent or legal guardian, an individual designated by a parent or legal guardian, or an appropriate individual approved by the Department of Health upon a sufficient showing that no parent or legal guardian is appropriate or available.

**Certified Medical Use:** The acquisition, possession, use or transportation of medical cannabis by a patient, or caregiver for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under the Pennsylvania Medical Cannabis Law.

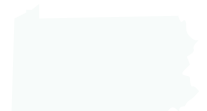
**Dispensary:** A person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit issued by the Department of Health to dispense medical cannabis.

**Form of Medical Cannabis:** The characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity or percentage of medical cannabis or particular active ingredient.

**Identification Card:** A document issued under Pennsylvania's medical cannabis law that authorizes access to medical cannabis.

**Patient:** An individual who has a serious medical condition, has met the requirements for certification under this act, and is a resident of Pennsylvania.

**Practitioner:** A Physician who is registered with the Department of Health to issue certifications for medical cannabis to patients with serious medical conditions.



# Physician Requirements

Physicians in the registry are authorized to issue medical cannabis certifications if they meet certain requirements for eligibility.

## Eligibility for entering the registry includes:

1. A physician must apply for registration through the Department of Health's online application.
2. The department must determine that the physician is, by training or experience, qualified to treat a serious medical condition. The physician must submit documentation of credentials, training, or experience as required by the Department of Health.
3. The Physician must have completed the 4-hour course on medical cannabis developed by the Department of Health including the risks and benefits of medical cannabis, the latest scientific research on medical cannabis, and other information deemed necessary by the Department of Health
4. The Physician must hold a valid, unexpired Pennsylvania license to practice medicine.

Once the department has reviewed an application, the approved inclusion of the physician in the registry shall last for one year, and requires an annual renewal application to continue inclusion. Any practitioner included in the registry holds the ongoing responsibility to notify the Department of Health in writing if the practitioner knows that a) the patient for whom the issued certification no longer has the serious medical condition for which the certification is issued, or b) medical cannabis would no longer be therapeutic or palliative.

## Restrictions:

A physician may not accept, solicit, or offer any form of remuneration to certify a patient, other than accepting a fee for service with respect to the examination of the prospective patient to determine if they should be issued a certificate to use medical cannabis. At this time, the Department of Health has put forth no policies regarding billing insurance companies for visits preceding or subsequent to the exam in which a medical cannabis certificate is issued.

A practitioner may not hold a direct or economic interest in a medical cannabis organization.

A practitioner may not advertise their services as a physician who can certify patients to receive medical cannabis.

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

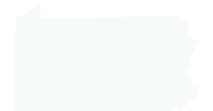
## Approved 4-hour Training Courses:

The Department of Health designated Approved Training Providers (ATP) through which physicians may complete the required 4-hour course. The three ATPs are TheAnswerPage Inc, Extra Step Assurance LLC, and The Lambert Center for the Study of Medicinal Cannabis and Hemp at Thomas Jefferson University.

# Issuing a Certification



1. Be approved by the Department of Health for inclusion in the Registry, and is licensed to practice medicine in Pennsylvania.
2. Determine that the patient has a serious medical condition and has included the condition in the patient's healthcare record.
3. The patient is under the practitioner's continuing care for the serious medical condition.
4. In the physician's opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from using medical cannabis.
5. The physician has reviewed the Prescription Drug Monitoring Program prior to issuing a certification so as to determine the controlled substance history of the patient or recommending a change of amount or form of medical cannabis.



# Issuing a Certification

(Continued)

When issuing a certification, the physician shall provide the certification to the patient and report certification on the patient's healthcare record, as well provide a copy to the Department of Health, which shall be included in the patient directory in the Department of Health's electronic database.

A certification shall include:

- the patient's name, date of birth, and address;
- the patient's specific serious medical condition;
- a statement from the physician that the patient has a serious medical condition and the patient is under their continuing care for their serious medical condition;
- the date of issuance;
- the name, address, telephone number and signature of the practitioner;
- and any requirement or limitation concerning the appropriate form of medical cannabis and limitation on the duration of use.

A physician may access the Prescription Drug Monitoring Program to determine whether a patient may be under treatment of a controlled substance by another physician, review the patient's controlled substance history, and provide the patient or caregiver a copy of the patient's controlled substance history.

The Department of Health shall create a standard certification form, available to practitioners electronically and upon request.

Note: A certification issued by a practitioner does not allow patients to use, obtain, or possess medical cannabis, but merely states on record that in the practitioner's professional opinion the patient should be allowed the use of medical cannabis. Once patient's obtain a certification, they must apply for an identification card from the Department of Health in order to access medical cannabis.





## Qualifying Conditions

**Patients may qualify for medical cannabis if diagnosed with “*Serious Medical Condition.*”**

The following are considered “*Serious Medical Conditions*” in the Pennsylvania Medical Cannabis Program:

- Cancer
- Positive Status for Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome
- Amyotrophic Lateral Sclerosis
- Parkinson’s Disease
- Multiple Sclerosis
- Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.
- Epilepsy
- Inflammatory Bowel Disease
- Neuropathies
- Huntington’s Disease
- Crohn’s Disease
- Post-Traumatic Stress Disorder
- Intractable Seizures
- Glaucoma
- Sickle Cell Anemia
- Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or ineffective.
- Autism

“Terminally Ill” is defined as a medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

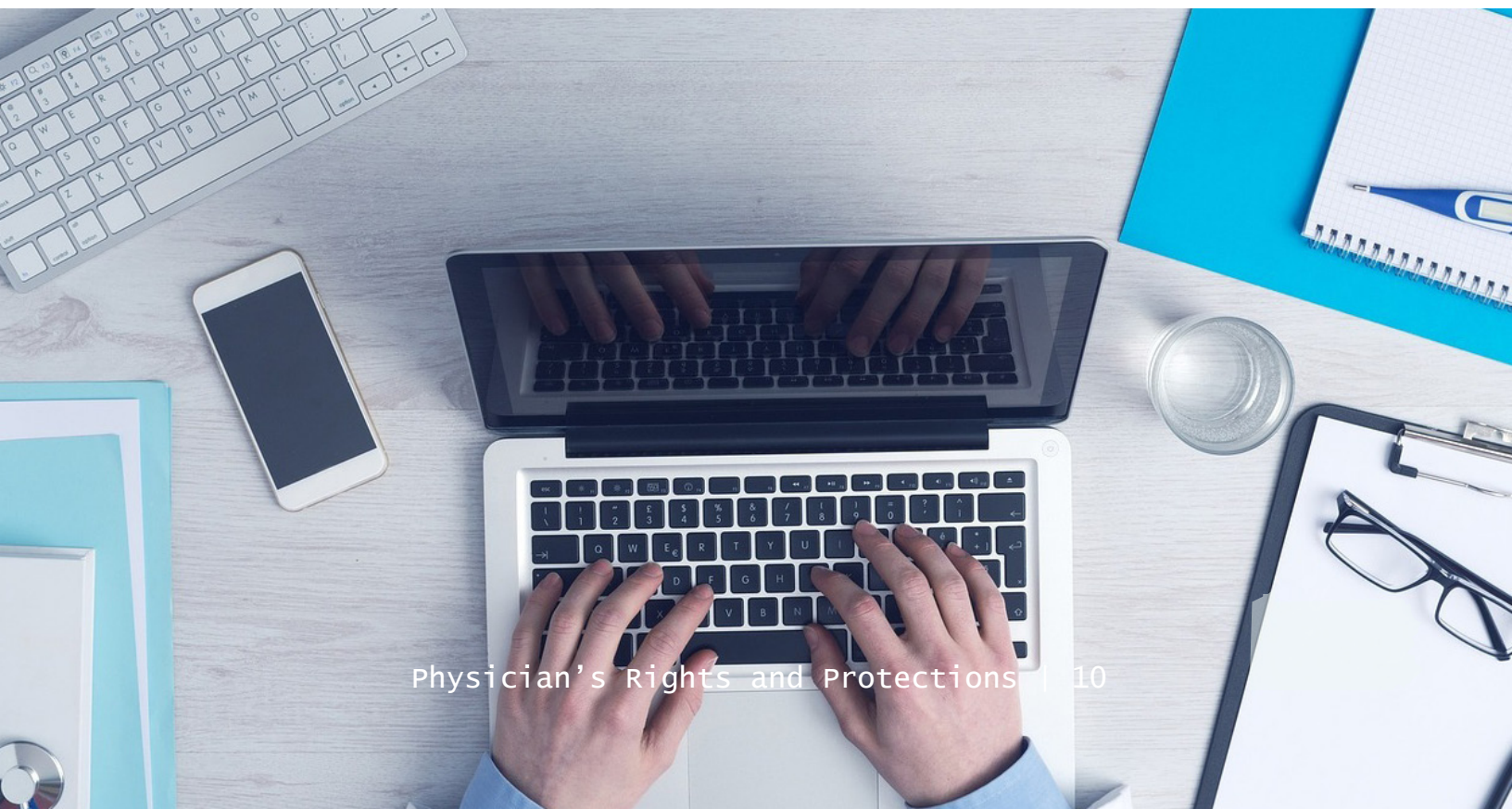
# Physician's Rights and Protections

Many doctors are hesitant to provide patients with certification for medical cannabis because the federal government has yet to reclassify it from Schedule 1 to Schedule 2. Thanks to the landmark *Conant v. Walters* case, on September 7th, 2000, the United States District Court for the Northern District of California affirmed the right of physicians to recommend medical cannabis.

The district court's decision acknowledged that the government has a legitimate concern that physicians could recommend cannabis in bad faith. However, physicians employing honest medical judgment in deciding if the benefits outweigh the risks should not fear DEA sanctions. The government cannot revoke a physician's DEA registration merely because the doctor certifies patients for medical cannabis use.

## **Furthermore, according to the court ruling:**

*The federal government cannot punish or threaten to punish a doctor for telling a patient that the use of medical cannabis is proper. However, it remains federally illegal for a doctor to aid a patient in obtaining medical cannabis. The physician may not prescribe or dispense cannabis to a patient or recommend it with the specific intent that the patient will use their recommendation as a prescription. The terminology prescription or prescribed cannot be used because it misleads patients into thinking that cannabis is regulated by the FDA.*



# Educating Patients

Medical cannabis may only be dispensed to patients who receive a certification from a practitioner and are in possession of a valid identification card or a caregiver in possession of a valid identification card issued by the state. In addition to issuing certification, practitioners must be medical cannabis educational resources for their patients. This means physicians must be aware of the forms cannabis comes in and the rules surrounding proper and legal use of medical cannabis.

Medical Cannabis may only be dispensed in the following forms:

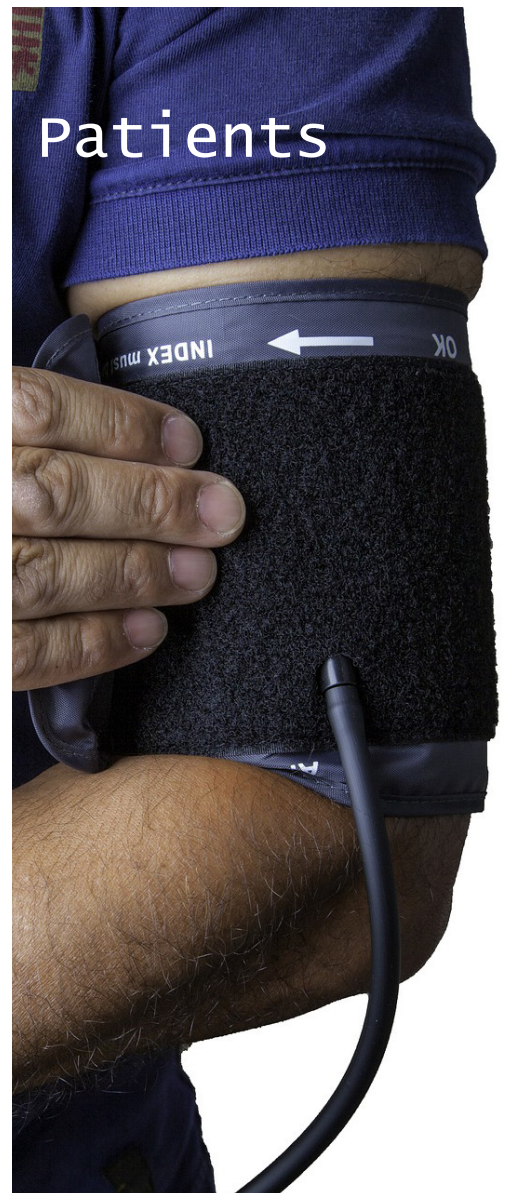
1. Pill
2. Oil
3. Topical forms, including creams, ointments or gels
4. A form medically appropriate for vaporization or nebulization, excluding dry leaf or plant form
5. Tincture
6. Liquid

Medical Cannabis may NOT be consumed by smoking or dispensed in dry leaf or plant form. Edible medical cannabis may be incorporated into edible form by a patient or a caregiver to aid ingestion of the medical cannabis by the patient.

A patient may designate up to two caregivers, and a patient or caregiver must possess an identification card whenever they are in possession of medical cannabis.

Medical cannabis amounts dispensed or received by a patient or caregiver with a valid identification card may not exceed a thirty-day supply, and will conform to any requirements set by the practitioner included on their identification card. During the last seven days of any 30-day period, a patient may obtain and possess a 30-day supply for the next 30-day period.

The Department of Health will establish and maintain public outreach programs regarding the medical cannabis program, including a dedicated phone number for patients, caregivers and members of the public to obtain basic information about the dispensing of medical cannabis and an internet website with similar information.



# Identification Cards



Patients and Caregivers must apply for an identification card through the state Department of Health. A certification alone does not allow possession or use of medical cannabis. The application includes:

- The name, address and date of birth of the patient or a caregiver.
- The certification issued by the practitioner.
- The name, address and telephone number of the practitioner and documentation from the practitioner that all of the requirements for certification have been met.
- A \$50 processing fee that may be waived or reduced if the applicant demonstrated financial need.
- The dated signature of the applicant.
- Any other information required by the Department of Health.

These forms will be made available on the Department of Health's website. Identification cards expire within one year of issuance, or on the earlier date specified by the physician.

All identification cards will include:

- the name of the caregiver or patient and their destination
- the date of issuance and expiration date
- an identification number for the patient or caregiver
- a photograph of the individual
- any requirement or limitation set by the practitioner as to the form of medical cannabis

## Caregivers

A caregiver must be over 21 years of age unless a sufficient showing is made to the Department of Health that the individual should be permitted to serve as a caregiver. Caregivers must undergo a criminal background check, apply for an identification card, and be registered with the department.

Caregivers may serve up to five patients. If a patient wishes to change or terminate the designation of a caregiver, they must notify the Department of Health as soon as possible.

# Patient Rights



A registered patient or caregiver is protected from any prosecution, arrest and discrimination in child custody proceedings, as long as they are possessing or using medical cannabis with a valid identification card and within the confines of Pennsylvania law.

No employer may discharge, threaten, refuse to hire or otherwise discriminate or retaliate against an employee based solely on such employee's status as an individual certified to use medical cannabis. However, employers are not required accommodate a patient's onsite use of medical cannabis.

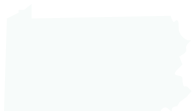
A patient may not perform any employment duties at heights or confined spaces while under the influence of medical cannabis

An employer may prohibit a patient from performing any task which they deem life threatening or could result in a public health or safety risk while under the influence of medical cannabis. The prohibition will not be deemed an adverse employment decision.

Health insurers and government medical assistance programs are not required to cover any costs regarding the use of medical cannabis or associated with an employer making accommodations for use of medical cannabis in the workplace.

## Privacy

The Department of Health shall maintain a confidential list of patients and caregivers to whom it has issued identification cards, and all information obtained shall be kept confidential and not suspect to public disclosure. (HIPAA Compliant) This includes individual information about patients and caregivers, certifications issued by practitioners, information on identification cards and information relating to a patient's serious medical condition.





## Additional Information

For more information and to stay up-to-date with the latest news regarding the Pennsylvania medical cannabis legislation or industry, please visit <http://www.governor.pa.gov/topic/medical-cannabis> or the Pennsylvania Department of Health's website for the medical cannabis program.

### Sources Cited:

"2016 Act 16." The Official Website for the Pennsylvania General Assembly. N.p., 17 Apr. 2016. Web. 31 Jan. 2017.

"Pennsylvania Medical Cannabis Program." Medical Cannabis. N.p., n.d. Web. Nov. 2016.

