



Florida**Medical**

A S S O C I A T I O N

Helping Physicians Practice Medicine

Medical Marijuana in Florida

Agenda



- **Federal Law Overview**
- **History of the Compassionate Medical Cannabis Act of 2014**
- **History of the Right to Try Act**
- **Amendment 2 - The Florida Medical Marijuana Legalization Initiative**
- **Discipline**



Federal Law

- Since 1996, 29 states and Washington, DC have passed laws allowing medical marijuana.
- These state marijuana laws do not change the fact that using marijuana continues to be an offense under Federal law.



Federal Law

However...

- On August 29, 2013 the Justice Department announced that the Department would not challenge state laws that allow for the medical and recreational use of marijuana.



Federal Law

However again...

- Effective Jan 2017, the DEA created a new Code Number for “Marijuana Extract.” This allows the DEA to track CBD oil separately from marijuana.
- **The Trump Administration ?????**



Compassionate Medical Cannabis Act of 2014

- In 2014, the Florida Legislature passed the “Compassionate Medical Cannabis Act”
- Only authorized low-THC cannabis. “Charlotte’s Web”
- Cancer and epilepsy
- The Act authorized the DOH to establish the Office of Compassionate Use (OCU) in order to implement and manage the various aspects of the program.



Compassionate Medical Cannabis Act of 2014

- **Legal Challenges**
- **Regulatory frustrations led to more legislation**



Right to Try Act

- **2015 - Right to Try Act, §499.0295, F.S.**
 - Allowed terminally-ill patients (death within 1 yr of diagnosis) to receive experimental medications that passed Phase 1 of a clinical trial.
- **2016 – Added Low-THC cannabis and medical cannabis to Right to Try Act**



Amendment 2

- **The Florida Medical Marijuana Legalization Initiative**
- **November 8, 2016**
- **Approved by 71% of Florida voters**



Amendment 2

Qualifying Medical Conditions:

- Cancer
- Epilepsy
- Glaucoma
- HIV/AIDS
- PTSD
- ALS
- Crohn's disease
- Parkinson's disease
- Multiple Sclerosis
- Medical conditions of the same type or class or as comparable to these conditions.

*Additionally – chronic nonmalignant pain caused by a qualifying condition and terminal conditions



Amendment 2

**Medical conditions of the
same type or class or as
comparable to these
conditions
????????**



Amendment 2

Initial Problems

- Short time frame for implementation
- Confusion over effective date
- Did not repeal existing laws
- Legislature in gridlock



Amendment 2

Notable Differences

- Office of Compassionate Use = Office of Medical Marijuana Use.
- No 90-day waiting requirement, qualified physicians may now issue a physician certification after initial in-person visit.
- Edibles are permitted but smoking is banned*
- Added an additional 10 medical marijuana treatment centers (MMTC) that may operate up to 25 dispensing facilities.



Definitions – Qualified Physician

To become a qualified physician you must:

- Hold an unrestricted, active license under Ch. 458 or 459
- Complete a 2-hour course offered by the FMA/FOMA before being approved as a qualified physician and before each license renewal.
 - Physicians who took the 8-hour course will be in compliance until 90 days after the 2-hour course becomes available.
- Register with the Medical Marijuana Use Registry



The Medical Marijuana Use Registry

The Medical Marijuana Use Registry will be accessible to:

- Law enforcement
- Qualified physicians
- MMTCs
- Practitioners licensed to prescribe prescription drugs

The Registry will not allow an active registration of a patient by multiple physicians.



What's in a Certification?

In order to issue a physician certification, a qualified physician must:

- Conduct an in-person physical exam & review patient medical history
- Diagnose the patient with a qualifying medical condition
- Determine that the use of medical marijuana would outweigh potential health risks
- Determine whether the patient is pregnant. A pregnant patient may only be issued a certification for low-THC cannabis.
- Review the patient's history of controlled substance use in the PDMP.
- Obtain a voluntary and informed written consent **each time** the qualified physician issues a physician certification.*



What's in a Certification?



Oh, is that all?



What's in a Certification?

And...

- Register as the issuer of the certification for the qualified patient in the Registry. Other information that must be documented in the Registry include:
 - The patient's qualifying condition and dosage
 - The amount and forms of marijuana authorized
 - Any types of marijuana delivery devices needed
- Update the registry within 7 days of any change
- The physician must deactivate that registration when the physician no longer recommends medical marijuana.



What's in a Certification?



But wait, there's more!





What's in a Certification?

If a physician issues a certification for a medical condition of the same type or class or as comparable to the listed conditions, the physician must submit within 14 days:

- Documentation supporting the opinion that the medical condition is of the same kind or class as those enumerated.
- Documentation that establishes the efficacy of marijuana as treatment for the condition.
- Documentation supporting the opinion that the benefits of using medical marijuana would likely outweigh the potential health risks.
- Any other documentation that the board may require by rule.



What's in a Certification?

A qualified physician may not issue a physician certification for more than three 70-day supply limits of marijuana.

So what happens when the patient runs out?



What's in a Certification?

A qualified patient must be seen at least every 30 weeks. Before issuing a new certification, a physician must:

- Determine if the patient still meets the requirements to be issued a physician certification.
- Identify and document whether the qualified patient experienced an adverse drug interaction with medical marijuana and any prescription/nonprescription medication or a reduction in the use of, or dependence on, other types of controlled substances.
- Submit a report with the findings required to the Department.



Restrictions for Qualified Patients

There is no right to medical marijuana

- Employers may enforce a drug-free workplace policy
- With the exception of low-THC cannabis, qualified patients may not use marijuana:
 - On public transportation, in a school bus, vehicle, aircraft or motorboat, or in any public place.
- Qualified patients may not use any form of medical marijuana in a state correctional institute or on any school grounds.



Penalties

A **first degree misdemeanor** if the qualified physician issues a certification for marijuana without a reasonable belief that the patient is suffering from a qualifying medical condition



Discipline

DRAFT Rule 64B8-8.001, F.A.C., Disciplinary Guidelines

Issuing a physician certification in a manner out of compliance with the requirements of the statute:

- **First offense** - From probation to revocation or denial of the license and an administrative fine ranging from \$1,000 to \$5,000
- **Second offense** - From suspension to revocation or denial of the license and an administrative fine ranging from \$5,000 to \$10,000



Other Considerations

- Informed Consent Form
- Additional Rulemaking
- Litigation: To Smoke or Not To Smoke?

Medical Marijuana remains illegal under federal law



Resources

Office of Medical Marijuana Use:

850-245-4657

CompassionateUse@flhealth.gov

<http://www.floridahealth.gov/programs-and-services/office-of-medical-marijuana-use/>

Florida Statute §381.986



Q&A

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