

19 CSR 30-95.110 Physicians

PURPOSE: Under Article XIV, Section 1 of the Missouri Constitution, patients with qualifying medical conditions have the right to discuss freely with their physicians the possible benefits of medical marijuana use, and physicians have the right to provide professional advice concerning the same. This rule explains how the department will implement provisions of Article XIV, Section 1 related to Physicians.

(1) Physician Certification. Physicians will submit certifications electronically through a department-provided, web-based system. In the event of system unavailability, the department will arrange to accept physician certifications in an alternative, department-provided format and will notify the public of those arrangements through its website at <http://medicalmarijuana.mo.gov>.

(A) Physician certifications must be issued no earlier than thirty (30) days before the date the patient will apply for a patient identification card or renewal of a patient identification card.

(B) Physician certifications must include at least the following information:

1. The physician's name, as it appears in the records of the Missouri Division of Professional Registration;
2. The physician's licensee number;
3. Whether the physician is licensed to practice medicine or osteopathy;
4. The physician's business address, telephone number, and email address;
5. The qualifying patient's name, date of birth, and Social Security number;
6. The qualifying patient's qualifying condition;
7. The physician's recommendation for the amount of medical marijuana the qualifying patient should be allowed to purchase in a thirty- (30-) day period if the recommended amount is more than four (4) ounces of dried, unprocessed marijuana or its equivalent;

8. Statements confirming the following:

A. In the case of a non-emancipated qualifying patient under the age of eighteen (18), before certifying the qualifying patient for use of medical marijuana, the physician received the written consent of a parent or legal guardian who asserts he or she will serve as a primary caregiver for the qualifying patient;

B. The physician met with and examined the qualifying patient, reviewed the qualifying patient's medical records or medical history, reviewed the qualifying patient's current medications and allergies to medications, discussed the qualifying patient's current symptoms, and created a medical record for the qualifying patient regarding the meeting;

C. In the opinion of the physician, the qualifying patient suffers from the qualifying condition; and

D. The physician discussed with the qualifying patient risks associated with medical marijuana, including known contraindications applicable to the patient, risks of medical marijuana use to fetuses, and risks of medical marijuana use to breastfeeding infants; and

9. The signature of the physician and date on which the physician signed.

(2) The department may request to interview any physician who chooses to certify individuals as qualifying patients. If such a request is made, the physician shall arrange for the interview to occur as soon as possible but no later than thirty (30) days after the department makes the request.

(3) Physician Investigations. All complaints against physicians must be submitted through the department's website. Complaints shall include the name and address of the physician against whom the complaint is made and a clear description of what violation the complainant believes the physician has committed.

(A) Upon complaint against a physician, the director of the department's medical marijuana program will determine whether an investigation is warranted. Investigations may also be initiated by the department.

(B) If the department conducts an investigation pursuant to a complaint, the physician will receive a copy of the complaint. In the event the investigation is initiated by the department, the physician will receive a written description of the violation the department believes the physician has committed.

(C) Upon the completion of an investigation, the department shall notify the physician of any department action. The director of the department's medical marijuana program may conclude an investigation by taking any of the following actions:

1. Dismissing the complaint;
2. Referring the complaint to the Missouri State Board of Registration for the Healing Arts;
3. Referring the complaint to law enforcement; and
4. Refusing to accept any certifications from the physician for a reasonable period of time as determined by the director. The length of time the department shall refuse to accept the physician's certifications shall be based upon the following criteria:
 - A. Whether the physician acted recklessly or knowingly in violating a rule or law impacting the medical marijuana program;
 - B. The degree of imminent danger to the health of a qualifying patient the physician's actions caused;
 - C. The degree of falsification of a physician certification;
 - D. Whether the department has previously received substantiated complaints against the physician; and
 - F. Any aggravating circumstances.

(D) Any physician aggrieved by the department's actions taken pursuant to this section may file an application for a hearing with the department. The department shall grant the application within twelve days after receipt by the department and set the matter for hearing.

(E) The provisions of chapter 536 for a contested case, except those provisions or amendments that are in conflict with this section, shall apply to and govern the proceedings contained in this section and the rights and duties of the parties involved. The person requesting a hearing shall be entitled to present evidence, pursuant to the provisions of chapter 536, relevant to the allegations.

(F) Upon the record made at the hearing, the director of the department or the director's designee shall determine all questions presented and shall determine whether the decision of the director of the department's medical marijuana program shall stand. The director of the department or the director's designee shall clearly state the reasons for his or her decision.

(G) A person aggrieved by the decision following the hearing shall be informed of his or her right to seek judicial review as provided under chapter 536. If the person fails to appeal the director's findings, those findings shall constitute a final determination.

(H) A decision by the director shall be inadmissible in any civil or criminal action brought against a physician.

AUTHORITY: Sections 1.3.(1)(b) and 1.3.(2) of Article XIV, Mo. Const. Emergency rule filed May 24, 2019, effective June 3, 2019, expired Feb. 27, 2020. Original rule filed May 24, 2019, effective Jan. 30, 2020.