

Section 1004.2 - Practitioner issuance of certification

1004.2 Practitioner issuance of certification.

(a) Requirements for Patient Certification. A practitioner who is registered pursuant to 1004.1 of this part may issue a certification for the use of an approved medical marijuana product by a qualifying patient subject to completion of subpart (e) of this section. Such certification shall contain:

- (1) the practitioner's name, business address, telephone number and email address;
- (2) the practitioner's license number as issued by the New York State Department of Education;
- (3) the practitioner's Drug Enforcement Administration registration number;
- (4) a statement that the practitioner is licensed and in good standing in New York State and possesses an active registration with the Drug Enforcement Administration;
- (5) a statement that the practitioner is registered with the department to issue the certification;
- (6) a statement that the practitioner is caring for the patient in relation to the patient's serious condition;
- (7) the patient's name, date of birth, address, telephone number and email address if available;
- (8) the patient's diagnosis, limited solely to the specific severe debilitating or life-threatening condition(s) listed below:
 - (i) cancer;
 - (ii) positive status for human immunodeficiency virus or acquired immune deficiency syndrome, provided that the practitioner has obtained from the patient consent for disclosure of this information that meets the requirements set forth in sections twenty-seven hundred eighty and twenty-seven hundred eighty-two of the public health law;
 - (iii) amyotrophic lateral sclerosis;
 - (iv) Parkinson's disease;
 - (v) multiple sclerosis;
 - (vi) damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity;
 - (vii) epilepsy;
 - (viii) inflammatory bowel disease;
 - (ix) neuropathies;
 - (x) Huntington's disease;
 - (xi) any severe debilitating pain that the practitioner determines degrades health and functional capability; where the patient has contraindications, has experienced intolerable side effects, or has experienced failure of

one or more previously tried therapeutic options; and where there is documented medical evidence of such pain having lasted three months or more beyond onset, or the practitioner reasonably anticipates such pain to last three months or more beyond onset; or

(xii) any other condition added by the commissioner.

(9) The condition or symptom that is clinically associated with, or is a complication of the severe debilitating or life-threatening condition listed in paragraph (8) of this subdivision. Clinically associated conditions, symptoms or complications, as defined in subdivision seven of section thirty-three hundred sixty of the public health law are limited solely to:

(i) Cachexia or wasting syndrome;

(ii) severe or chronic pain resulting in substantial limitation of function;

(iii) severe nausea;

(iv) seizures;

(v) severe or persistent muscle spasms; or

(vi) such other conditions, symptoms or complications as added by the commissioner.

(10) a statement that by training or experience, the practitioner is qualified to treat the serious condition, which encompasses the severe debilitating or life-threatening condition listed pursuant to paragraph (8) and the clinically associated condition, symptom or complication listed pursuant to paragraph (9) of this subdivision;

(11) a statement that in the practitioner's professional opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from the primary or adjunctive treatment with medical marihuana for the serious condition;

(12) any recommendations or limitations the practitioner makes to the certified patient and/or the patient's designated caregiver concerning:

(i) the authorized brand, authorized form, administration method, dosage and any limitations in the use of the approved medical marihuana product; and

(ii) the total amount of usable approved medical marihuana product that may be dispensed to the patient, in measurable controlled doses, which shall not exceed a thirty (30) day supply, if used as directed;

(13) a statement that the practitioner has explained the potential risks and benefits of the use of medical marihuana to the qualifying patient and has documented in the patient's medical record that such explanation has been provided to the patient.

(14) to the extent that a practitioner is seeking to authorize the use of an approved medical marihuana product by a patient who is under the age of eighteen or a person who is otherwise incapable of consenting to medical treatment, the practitioner shall explain the potential risks and benefits of medical marihuana to the patient's parent or legal guardian, and if appropriate, to the minor patient. The practitioner shall document in the patient's medical record that such explanation has been provided as required herein; and

(15) a statement that the patient, or the patient's parent or legal guardian if applicable, has provided informed consent; and

(16) to the extent that a practitioner seeks to authorize the use of an approved medical marihuana product by a patient who temporarily resides in New York State for the purpose of receiving care and treatment from the

practitioner, the practitioner shall so state on the patient's certification.

(b) Expiration of Certification.

(1) The certification shall state the date upon which the certification shall expire, which shall be no longer than one year after the date it was issued, unless the patient is terminally ill.

(2) If the practitioner issues a certification to a patient who is terminally ill, the certification shall not expire until the patient's death or the practitioner revokes the certification.

(3) If the practitioner issues a certification to a patient who is not a resident of New York but is receiving care and treatment in this state, the certification shall be valid for a period of time which is no longer than the applicant is reasonably anticipated to be residing in New York State for the purposes of care and treatment, but in no event shall it be valid for more than one year after the date it was issued.

(c) Submission of Certification to the Department. Practitioners shall utilize a form, which may be in an electronic format, developed by the department for the certification required in subdivision (a) of this section. The practitioner shall submit to the department, the information required by subdivision (a) of this section, in a manner determined by the department, including by electronic transmission through a secure website. In the instance that a practitioner submits this information to the department electronically, the practitioner shall retain, for a period of 5 years, a printed copy of the electronic certification that shall contain the information required in subdivision (a).

(d) Medical Record Retention. The practitioner shall date and place his or her handwritten signature upon the printed certification, and provide the printed certification to the patient. The practitioner shall also maintain a copy of the signed certification in the patient's medical record.

(e) Consultation of Prescription Monitoring Program Registry. Prior to issuing, modifying or renewing a certification, the practitioner shall consult the prescription monitoring program registry pursuant to section 3343-a of the Public Health Law for the purpose of reviewing a patient's controlled substance history. Practitioners may authorize a designee to consult the prescription monitoring program registry on their behalf, provided that such designation is in accordance with section 3343-a of the Public Health Law.

Effective Date:

Wednesday, December 27, 2017

Doc Status:

Complete

Statutory Authority:

Public Health Law, Sections 3360 and 3369-a