



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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**Physician's Guideline for Completing Hawaii's
Written Certification / Registry Identification Forms
for the Medical Use of Marijuana**

All physicians wishing to recommend marijuana for medical purposes must be licensed under Chapters 453 and 460, Hawaii Revised Statutes, and licensed with authority to prescribe drugs and registered under section 329-32, Hawaii Revised Statutes. The term "Physician" does not include Physician's Assistant as described in Section 453-5.3, Hawaii Revised Statutes.

Physicians who authorize their patients to utilize marijuana for medical purposes shall submit the completed qualifying patient and primary caregiver written certification / registry identification forms and \$25 registration fee to:

Narcotics Enforcement Division
3375 Koapaka Street, Suite D-100
Honolulu, Hawaii 96819

The issued registry certificate signed by the qualifying patients physician and NED Administrator along with the completed written certification / registry identification forms shall serve as the physician's written certification that the qualifying patient has been diagnosed with a debilitating medical condition; and that the physician has certified that in the physician's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the particular qualifying patient. No person shall engage in the use of marijuana for medical purposes until they have completed the written certification / registry identification application forms with their physician, paid the required registration fees and is issued a signed registry certificate from his / her physician. Upon receipt of the completed written certification / registry identification forms from the qualifying patient's physician the Department will verify the information provided, and mail the registry certificates for the patient and his/her primary caregiver, if any, to the requesting physician. **The physician shall sign and issue the registry certificates to his/her patient and the patient's primary caregiver, if any.**

Physicians wishing to recommend the medical use of marijuana for their qualifying patients shall fill out section C of the Written Certification / Registry Identification Forms

(Registration Forms) and have their patient complete Section A, B, D and E. The patient and his primary caregiver, if any, shall provide a photocopy of their current Hawaii Driver's License, Hawaii State Identification Card or Passport with the completed registration form. A qualifying patient shall have only one primary caregiver and only one physician issuing a written certificate at any given time.

1. In the case of a patient who is under the age of eighteen years or an adult lacking legal capacity, the patient's parent, guardian, or person having legal custody shall fill out Section A, B, D and E of the registration form. The patient's parent, guardian, or person having legal custody shall act as the patient's primary caregiver.
2. All patients over the age of eighteen years that elect to have a primary caregiver must fill out Section D of the registration form. Every primary caregiver shall be responsible for the care of only one qualifying patient at any given time. The term "primary caregiver" means a person, other than the qualifying patient and the qualifying patient's physician, who is eighteen years of age or older, and who has agreed to undertake responsibility for managing the well-being of the qualifying patient with respect to the medical use of marijuana. In the case of a minor or an adult lacking legal capacity, the primary caregiver shall be a parent, guardian, or person having legal custody.
3. A patient or their primary caregiver that elects to grow the authorized amount of marijuana for medical purposes shall fill out Section E of the registration form.

Permissible amounts of medical marijuana. (a) A qualifying patient who possesses a registry identification certificate issued pursuant to section 329-123, Hawaii Revised Statutes, may engage in and a registered primary caregiver of the patient may assist in, the medical use of marijuana only as justified to mitigate the symptoms or effects of the qualifying patient's debilitating medical condition.

(b) The medical marijuana shall be grown only at the following locations:

- (1) The qualifying patient's home address; or
- (2) The primary caregiver's home address or other location owned or controlled by the qualifying patient or the primary caregiver that is approved by the administrator and designated on the registry certificate issued by the department.

(c) The qualifying patient and primary caregiver jointly may not possess more than an "adequate supply" which shall not exceed a total of three mature marijuana plants, four immature marijuana plants, and one ounce of usable marijuana per each mature plant.

(d) If any individuals described in subsection (a) possess, deliver, or produce marijuana in excess of the amounts allowed in subsection (c), such individuals are not exempted from the criminal laws of the State and shall be in violation of section 329-128(b) Hawaii Revised Statutes.

NOTE: Title 23 Chapter 202-2 Hawaii Administrative Rules states that the qualifying patient and primary caregiver jointly may not possess more than an "adequate supply" which shall not exceed a total of three mature marijuana plants, four immature marijuana plants, and one ounce of usable marijuana per each mature plant.

In the case of qualifying patient cohabitating with other qualifying patient, it is recommended that all marijuana plants shall be clearly marked utilizing the qualifying patients medical marijuana registration number to assist in the identification of authorized plants to law enforcement. This is also recommended for marijuana plants grown on property not next to a residence where an address can be verified.

PROHIBITED AREAS AND ACTIVITIES

The authorization for the medical use of marijuana shall **NOT** apply to:

- (1) The medical use of marijuana that endangers the health or well-being of another person;
- (2) The medical use of marijuana:
 - (A) In a school bus, public bus, or any moving vehicle;
 - (B) In the workplace of one's employment;
 - (C) On any school grounds;
 - (D) At any public park, public beach, public recreation center, recreation or youth center; or
 - (E) Any other place generally accessible to the public;
- (3) Any sale of marijuana; or
- (4) The use of marijuana by a qualifying patient, parent, or primary caregiver for purposes other than medical use permitted by this chapter.

In addition, although Hawaii law authorizes the medical use of marijuana, it does not authorize the distribution of marijuana other than the transfer from a qualifying patient's primary caregiver to the qualifying patient. Section 329-121, HRS (definition of "medical use"). State law provides no immunity from prosecution for any distribution of marijuana other than from the primary caregiver (defined in Section 329-121, HRS) to a qualifying patient ("a person who has been diagnosed by a physician as having a debilitating medical condition").

4. In order for the application to be complete, a registration fee of \$25 shall be paid at the time the written certification / registry identification forms are submitted to the Department. Payment shall be made in the form of a personal, certified, or cashier's check or money order payable to the Narcotics Enforcement Division. Registration fees paid by personal checks may be processed after the checks have cleared. Payment by a bank cashier's check, or money order will allow for faster processing. Payment made in the form of stamps, foreign currency, or third party endorsed checks will not be accepted. No refund will be issued once the written certification/registry identification forms have been received at the department.
5. All patients and their primary caregivers shall report any change in information required by the department within five working days. A qualifying patient shall have only one primary caregiver and only one physician issuing a written certificate at any given time.

NOTE: The registry identification certificate authorizes the possession, and use of

marijuana for medical purposes under State law only. Federal law prohibits the possession, use or distribution of marijuana within the State and to locations outside the State.

Revocation of registry identification certificate. (a) The department has the authority to revoke a registry identification certificate, with suspension of the registry identification certificate pending administrative hearing on the revocation. The department under one or more of the following conditions may revoke a registry identification certificate:

- (1) The applicant or physician has furnished false or fraudulent material information or omitted information in any of the written certification/registry forms submitted to the department under this chapter;
- (2) The written certificate issued to the qualifying patient was not based upon provisions set forth in section 329-126, Hawaii Revised Statutes;
- (3) Suspension or revocation of a physician's medical license or state controlled substance registration as designated under section 329-32, Hawaii Revised Statutes; or
- (4) For violations of section 23-202-3, 23-202-7, 23-202-13 or 23-202-14 Administrative Rules.

(b) When the department proposes to revoke a registration certificate of a qualifying patient or a designated primary caregiver, the department shall send a notice of proposed revocation by mail to the patient's address currently listed in the data file and a copy to the qualifying patient's primary caregiver and physician.

(c) A qualifying patient or designated primary caregiver may contest the proposed revocation of registration by submitting a request in writing within thirty days of the revocation for an administrative hearing in conformity with Chapter 91, Hawaii Revised Statutes. The request for hearing shall be addressed to: Narcotics Enforcement Division, Department of Public Safety, 3375 Koapaka Street, Suite D-100, Honolulu, HI 96819.

(d) The department may reinstate a registration certificate without reapplication.

Fraudulent misrepresentation; penalty. (a) Notwithstanding any law to the contrary, fraudulent misrepresentation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution under this part or Chapter 712, shall be a petty misdemeanor and subject to a fine of \$500.

WILL HAVING A PATIENT REGISTRY CERTIFICATE FOR THE MEDICAL USE OF MARIJUANA EXEMPT ME FROM U.S. DEPARTMENT OF TRANSPORTATION DRUG TESTING RULES?

No, employees who test positive for marijuana on a drug test, which is required under U.S. Department of Transportation (DOT) rules, will be reported positive whether or not an employee has a certificate issued by the State to utilize marijuana for medical purposes.

WILL THE DRUG TEST BE DECLARED NEGATIVE BECAUSE THE EMPLOYEE HAS A MEDICAL REASON FOR THE POSITIVE TEST RESULT?

If you are drug tested under a program required by the U.S. Department of Transportation (DOT), you will be deemed to have a positive test result even if you have followed all the medical marijuana requirements found in State rules. In addition, your employer will be

required under DOT rules to remove you from safety-sensitive functions. The DOT rules do not recognize medical marijuana as a medical explanation for a positive test result. Therefore, the test will be declared positive by the MRO. Other federal agencies and other employers, at their own discretion, may elect to take a similar position. Your employer may also elect to other actions, including termination. It is, therefore, imperative that you talk to your employer relating to the possible consequences of utilizing marijuana for medical purposes in regards to drug testing.

If you have any questions regarding this matter, please contact the Narcotics Enforcement Division at (808) 837-8470 or e-mail your questions to statenarcoticshi@hotmail.com.

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