

# Practice Alert



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by:

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## **MEDICAL MARIJUANA**

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 the right to use medical marijuana for treatment under the supervision of a physician.

All household members who are qualifying patients, as defined in 19 CSR 30-95.010(36), for medical marijuana use must obtain a new physician certification annually and obtain identification cards from the Department of Health and Senior Services in accordance with 19 CSR 30-95.030 in order to use and/or cultivate marijuana for medical use.

### **Non-Emancipated Patients Under 18**

- In order for a physician to issue a certificate for the use of medical marijuana to a non-emancipated qualifying patient under 18, written consent from the qualifying patient's parent or guardian must be provided. The medical marijuana card is not issued directly to the patient but to the parent or guardian.
- Only a parent or guardian may serve as a primary caregiver for a non-emancipated qualifying patient under the age of 18.
- This person will hold a primary Caregiver Identification Card. Only the person who holds a primary caregiver identification card shall purchase or possess medical marijuana for the child.
- This parent or caregiver who holds the primary caregiver card shall supervise the administration of medical marijuana to a non-emancipated patient, under the age of 18.

### **Additional Information**

- There is no minimum age for medical marijuana use by non-emancipated minors, provided parental consent, medical certification, and compliant administration.
- The Patient and Caregiver Identification Cards can be in electronic or paper form.

### **Caregiver Capacity and Impairment**

Every child needs a safe and unimpaired caregiver – whether that is a parent, guardian, resource provider, or anyone with care, custody, and control of the child. The caregiver must be able to provide appropriate supervision, nutrition, emotional support, and respond in emergency situations to reasonably ensure the child's health, safety, and well-being. Staff must assess a caregiver's use of substances, both legal and illegal, to assess the potential safety risks that could lead to abuse and neglect.

## Things to Consider when a Report is Received Involving the Use of Medical Marijuana

- **Child using marijuana:**
  - Was a medical marijuana card issued to the child's parent/caregiver on behalf of the child?
  - Which parent/caretaker is listed as the primary caregiver to administer the medical marijuana?
  - How is the parent/caregiver administering the drug?
  - Is the parent/caregiver appropriately administering the drug to the child?
    - If no,
      - Is there a pattern of inappropriately administering the drug?
      - Adverse effects to the child?
  - What is the child's qualifying diagnosis that is being treated by medical marijuana?
  - What is the name of the physician who issued the certification for medical use of marijuana?
  - Where is the caregiver obtaining the drug?
  - Has the caregiver provided or presented their Caregiver Identification Card?

**NOTE:** This card is required to be with the caregiver when possessing or purchasing.
- **Parent using marijuana:**
  - Was a medical marijuana card issued to the parent/caregiver?
  - How is the parent/caregiver behaving while using medical marijuana?
    - How is the parent/caregiver's behavior impacting the children? For example:
      - Are there any concerns for supervision?
      - Are the children's basic needs negatively impacted?
      - Have the children attempted to consume/access or consumed/accessed the drug?
  - How is the marijuana used by the caregiver?
- **Marijuana in the home:**
  - Where is marijuana located in house?
    - In what form is the medical marijuana? (flower, edible, topical cream, etc.)
    - Is it accessible to child(ren)?
      - If yes,
        - Has the child(ren) gotten a hold of the drug?
          - Adverse effects?
  - Are the adults in the home an authorized medical marijuana cultivator or dispenser?
    - Where is the medical marijuana cultivated in the home?
    - Is there a lock on the entrance to the location where the medical marijuana is being cultivated?
    - **NOTE:** All qualifying patient cultivation shall take place in an enclosed, locked facility, as defined in 19 CSR 30-95.010.

For further information regarding assessing safety of a child and caregiver impairment, refer to Section 1, Chapter 5 of the Child Welfare Manual.

### Medical Marijuana Definitions

- Enclosed, locked facility
  - (A) An *indoor* stationary closet, room, garage, greenhouse, or other comparable fully enclosed space equipped with locks or other functioning security devices that permit access to only the qualifying patient(s) or primary caregiver(s) who have informed the department that this is the space where they will cultivate marijuana; or
  - (B) An *outdoor* stationary structure—
    1. That is enclosed on all sides, except at the base, by chain-link fencing, wooden slats, or a similar material that is anchored, attached, or affixed to the ground and that cannot be accessed from the top;
    2. In which the plants are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure at any level; and
    3. That is equipped with locks or other security devices that restrict access to only the qualifying patient(s) or primary caregiver(s) who have informed the department of health and senior services that this is the space where they will cultivate marijuana.

- Marijuana-Infused Products- products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures, and concentrates.
- Physician Certification- a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.
- Qualifying Patient- a Missouri resident diagnosed with at least one (1) qualifying medical condition.

## Resources

- DHSS – Section for Medical Marijuana Regulation
  - PO Box 570, Jefferson City, MO 65102
  - Toll-Free Access Line: 866-219-0165 (9:00a.m.-3:00p.m. CT, Tuesday-Thursday)
  - General Inquiries: [medicalmarijuanainfo@health.mo.gov](mailto:medicalmarijuanainfo@health.mo.gov)
- Local Law Enforcement
  - <https://ago.mo.gov/civil-division/litigation/police-and-sheriffs-contacts>
- Primary Care Physician
- Board of Healing Arts
  - 3605 Missouri Boulevard, Jefferson City, MO 65109  
P.O. Box 4, Jefferson City, MO 65102
  - 573-751-0098-Phone
  - 573-751-3166 Fax

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