



ILLINOIS SOCIETY OF EYE PHYSICIANS & SURGEONS

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Compassionate Use of Medical Cannabis Pilot Program Public Act 98-0122 - effective January 1, 2014

Summary of the Law

Updated February 4, 2014

The Illinois General Assembly has passed, and the Governor signed, a law creating a four-year “pilot program” providing for prescription and use of cannabis (marijuana) for certain “debilitating conditions.” This summary of the statute is provided to ISEPS members for informational purposes only. It is not intended to be legal advice.

Once the relevant state agencies have adopted their rules to implement this new law, we will provide a summary and access to those documents, as well.

- The statute is called the “Compassionate Use of Medical Cannabis Pilot Program”
 - Effective date of the statute is January 1, 2014
 - Establishes a 4-year pilot program
 - State agencies must adopt rules to implement the program, including licensing of dispensaries, certification of patients, etc.
- General provisions of the law
 - “Qualified” patients or caregivers may not purchase more than 2.5 ounces of medical cannabis during a 14-day period
 - To become “qualified,” a person must have a written certificate from a physician that he/she has one or more of the “debilitating conditions” listed in the law.
 - The statute lists 40 different diseases or conditions¹ which fall under the law, including glaucoma.
 - The list does not include certain conditions such as nausea or chronic pain. However, citizens can ask the Department of Public Health (IDPH) to add conditions to the list, and there is a procedure for the Department to either accept or deny the request.
 - The Act also sets forth a number of requirements and definitions, including what constitutes a “designated caregiver,” cultivation center registrations, dispensing organizations and tracking of distribution of medical cannabis.²
 - Several state agencies have responsibility for adopting rules to implement the program, including the Department of Public Health, the Department of Agriculture and the Department of Financial and Professional Regulation.
 - The law also includes numerous restrictions as to where or under what circumstances medical cannabis can be possessed or used.³
- Impact on physicians – Doctors should keep in mind that the regulations for implementation of this new law have not yet been adopted. Therefore, physicians *should not yet* be “writing prescriptions” or issuing certifications to patients for medical cannabis.⁴
 - A patient must have a written certification from a physician in order to obtain medical cannabis
 - The doctor must be licensed to practice medicine in Illinois and must have a controlled substance license
 - Written certification means is a document signed by a physician that includes:
 - statement that in the physician’s opinion, the patient is likely to receive therapeutic or palliative benefit;
 - the qualifying patient has a debilitating medical condition, and specifying which one
 - and the patient is under the physician’s care for that condition
 - Doctors can give a certification only in the course of a bona fide physician-patient relationship. There are a number of details in the law which describe what constitutes a physician-patient relationship.

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Impact on physicians, continued

- The physical examination required by the Act may not be performed by remote means, including telemedicine.
- The physician must maintain a record-keeping system for all patients for whom the physician has recommended the medical use of cannabis.
- The Act includes immunity provisions for physicians stating they will not be subject to arrest, prosecution, penalty or denied any right or privilege solely for providing written certifications.
- A physician could, however, be subject to sanctions if: (1) issuing a written certification to a patient who is not under the physician's care for a debilitating medical condition; or (2) failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.
- Nothing in this law requires a physician to certify a particular patient for medical cannabis
- Limitations on physicians:
 - No “remote” physical examinations when certifying a patient; nor can physical examinations be given at a premises of a seller or distributor of medical cannabis, or at the address of a principal officer, agent, employee or at a medical cannabis organization.
 - Doctors must not have any remuneration agreement with a cultivation center or dispensing organization
 - No direct or indirect economic interest in a cultivation center or dispensing organization, nor can there be any partnership or fee-sharing agreement with any person who has any ownership in a dispensing organization or cultivation center.
 - Physicians are prohibited from serving on the board of directors or as an employee of a cultivation center or dispensing organization.
 - Doctors may not advertising at a dispensing organization or cultivation center.
 - Physicians may not offer a discount to qualifying patient who uses a particular dispensing organization or primary caregiver.
- A note about Federal Law –
 - Physicians should keep in mind that Federal Law currently classifies marijuana as a Schedule I drug. As such, “medical” marijuana is not allowable under federal statutes.

Endnote

1. Debilitating conditions listed in the Act include: cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, cachexia/wasting syndrome, muscular dystrophy, severe fibromyalgia, spinal cord disease, including but not limited to arachnoiditis, Tarlov cysts, hydromyelia, syringomyelia, Rheumatoid arthritis, fibrous dysplasia, spinal cord injury, traumatic brain injury and post-concussion syndrome, Multiple Sclerosis, Arnold-Chiari malformation and Syringomyelia, Spinocerebellar Ataxia (SCA), Parkinson's, Tourette's, Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD (Complex Regional Pain Syndromes Type I), Causalgia, CRPS (Complex Regional Pain Syndromes Type II), Neurofibromatosis, Chronic Inflammatory Demyelinating Polyneuropathy, Sjogren's syndrome, Lupus, Interstitial Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella syndrome, residual limb pain, or the treatment of these conditions. In addition, any other debilitating medical condition or its treatment that is added by the Department of Public Health by rule.
2. Refer to Section 10 of the Act for a complete list of definitions.
3. Refer to Section 30 of the Act.
4. See Section 35 of the Act for specifics about requirements pertaining to physicians.