



## Legal Protections for Physicians



By signing the certification, the physician is providing an opinion that the patient will receive therapeutic or palliative benefit from medical marijuana, and that its potential benefit would likely outweigh any health risks.

If the physician notifies the MMP in writing either that the patient has ceased to suffer from a qualifying condition or that the physician no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the MMP will nullify the patient's registration card and the patient has 15 days to dispose of the marijuana.

The MMP will not maintain a list of "marijuana-friendly" physicians nor will the MMP refer patients to a physician. As with any other medical care, the physician/patient relationship is confidential.

Finally, the law provides liability protection for the physician: [16 Del. C. § 4903A(g)]

*"A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Delaware Medical Board or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition or for refusing to provide such written certifications or statements, provided that nothing in this chapter shall be deemed to release a physician from the duty to exercise a professional standard of care for evaluating or treating a patient's medical condition."*



**Delaware Office of Medical Marijuana**  
[www.dhss.delaware.gov/dhss/dph/hsp/medmarhome.html](http://www.dhss.delaware.gov/dhss/dph/hsp/medmarhome.html)



## History of the Delaware Medical Marijuana Program

*The Division of Public Health (DPH), authorized by 16 Del. C. Ch. 49A - Delaware's Medical Marijuana Act, regulates the state's Medical Marijuana Program (MMP). The Office of Medical Marijuana (OMM), began accepting patient applications for registration in the program in July 2012.*

*The State of Delaware has issued three (3) licenses for marijuana distribution centers, known as compassion centers in Delaware. Delaware opened a pilot compassion center in Wilmington (37 Germay Dr) on 26 June 2015, that organization's name is First State Compassion Center (FSCC). The Office of Medical Marijuana has contracted with Columbia Care compassion center to begin growing medical marijuana in Kent County. The Kent County center should be open fall 2017. In Sussex County, FSCC will open a retail location just west of Lewes, Delaware all growing and processing will happen at the Wilmington location.*

*The OMM has authority to inspect compassion center operations, including the facility itself, to ensure conformity to the requirements established by the law, regulations, and other documents associated with the contract. These include the not-for-profit operation and tightly regulated compliance with personnel, security, documentation, inventory, training, and quality of marijuana grown, packaged and distributed by the centers.*



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**Prevent Diversion  
For Medical Use Only**



**DELAWARE HEALTH AND SOCIAL SERVICES**  
 Division of Public Health  
 Office of Medical Marijuana



# Delaware Office of Medical Marijuana

**MEDICAL PROFESSIONALS  
INFORMATION**

## QUALIFICATIONS FOR THE PROGRAM

To qualify for medical marijuana, a patient must:

- Possess a current State of Delaware driver's license or identification card;
- Be 18 years of age or older;
- Be under the care of a physician currently licensed to practice in Delaware; and
- Possess a physician's certification indicating a qualifying debilitating medical condition.

## QUALIFYING MEDICAL CONDITIONS

A "debilitating medical condition" means one or more of the following:

- Terminal illness, cancer, HIV, AIDS, decompensated cirrhosis, amyotrophic lateral sclerosis, agitation of Alzheimer's disease, autism with aggressive or self-injurious behavior, intractable epilepsy;
- Post-traumatic stress disorder qualifies when it manifests itself in severe physical suffering, such as severe or chronic pain or severe nausea and vomiting, or otherwise severely impairs the patient's physical ability to carry on the activities of daily living; or
- A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects; intractable nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis

## CARD APPROVAL PROCESS

The patient will be issued a registry card by the Medical Marijuana Program (MMP). The application for a card can be downloaded from the Division of Public Health (DPH) website. It is the patient's responsibility, not the physician's, to submit a fully completed application. It is also the patient's responsibility to inform the MMP of any changes to the application.

The patient, by signature, must give permission for the MMP to contact the physician to verify the physician's credentials and the doctor-patient relationship.

The card must be renewed annually. The law provides for revocation of the card and penalties when a patient fails to comply with the requirements of the program, re-distributes the marijuana, or makes false statements.

## PHYSICIAN'S ROLE IN THE MEDICAL MARIJUANA PROGRAM

To obtain medical marijuana for a patient, the physician does not write a prescription, and need not sign-up to be part of this program. Instead, the patient will identify the physician on his or her application and include the state certification, which is completed and signed by the physician. The physician only completes the certification and no other part of the application. Nothing in the law compels a physician to sign the certification.

- Only physicians licensed in Delaware can submit a physician certification.
- The physician must have a bona fide relationship with the patient and care for the patient's qualifying condition.

Bona fide relationship means:

- The relationship between the physician and patient cannot not be limited to just the authorization for the use of medical marijuana, or consultation for that purpose.
- The patient must be under the physician's continued care for primary medical care or the condition that qualifies him or her for medical marijuana.
- The physician must have a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marijuana as a treatment of his or her qualifying condition.
- The physician must, in the 90 days preceding the completion of the certification, complete an in-person assessment of the patient's medical history, including a review of the medical records of other treating physicians within the past 12 months;
- The physician must, in the 90 days preceding the completion of the certification, complete an in-person assessment of the patient's current medical condition; and
- The physician must create and maintain current records of the patient's condition in accord with the medically accepted standards.
- If the patient's debilitating medical condition is post-traumatic stress disorder, the physician certifying must be a licensed psychiatrist.