

Welcome to this MHI Webinar

The presentation will begin shortly.

- All lines will be muted. This webinar is in “listen only” mode.
- To ask a question, type it into the question section of the GoToWebinar control panel.
 - The presenter will address questions at the end of the webinar.
- The presenter’s contact information will be provided during the webinar.
- Today’s webinar is being recorded and will be available on the MHA website.





Medical Marijuana: Hospitals as Providers Amendment 2 Implementation Challenges

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Amendment 2 Overview

Purpose statement:

- Intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions.
- Establishes the right of a physician to provide professional advice concerning the potential benefits of medical marijuana.

Amendment 2 Overview

Purpose statement:

- Establishes the right to use medical marijuana under the supervision of a physician.
- Intended to make only those changes to Missouri law necessary to protect patients and physicians from civil and criminal penalties.

Amendment 2 Overview

Physicians do not **prescribe** medical marijuana. They provide the patient a form certifying that they have a qualifying condition.

- Cancer
- Epilepsy
- Glaucoma
- Intractable migraines unresponsive to other treatment
- Chronic medical condition causing severe, persistent pain or muscle spasms

Amendment 2 Overview

Qualifying conditions (cont.)

- Debilitating psychiatric disorders
- Human immunodeficiency virus or AIDS
- Chronic medical condition normally treated with prescription that could lead to addiction, when a physician determines that marijuana could be effective in treating the condition and is a safer alternative
- Terminal illness
- Any other chronic, debilitating or other medical condition based on judgment of physician

Federal versus State Law (and Policy)

- Marijuana use is illegal under the federal Controlled Substances Act.
 - Schedule 1 – high potential for abuse, no accepted medical use
 - Providers may not prescribe, administer or dispense.
 - Providers may not aid or abet cultivation, distribution or possession.
- Federal enforcement
 - Obama era DOJ Memo versus Trump administration policy
 - Rohrabacher-Blumenauer Amendment

Federal versus State Law (and Policy)

- Medical marijuana is legal in 33 states, as well as the District of Columbia, Guam and Puerto Rico
- Ten states allow recreational use
- Majority approach is to decriminalize use
 - Some states add in protections against discrimination in employment, medical care, housing, etc.
- Missouri approach – relief from civil and criminal penalties

Amendment 2 and Patient Rights

- Patients may freely discuss possible benefits of marijuana with physician
- May apply to the Department of Health and Senior Services for an identification card to possess or use medical marijuana or to cultivate medical marijuana (up to 6 plants)
 - Must be accompanied by physician certification no more than 30 days old
 - Annual renewal
 - Primary caregiver ID cards

Amendment 2 and Patient Rights

- DHSS must make application forms for patient ID cards available by June 4, 2019 and begin accepting applications by July 4, 2019.
- DHSS must grant application within 30 days or issue written reasons for denial.
- If DHSS fails to act on application, physician certification serves as ID card for up to one year.

Amendment 2 and Patient Rights

- A Qualifying Patient or Primary Caregiver possessing medical marijuana up to legal limits and transporting such amounts from a dispensary to home is free from arrest, criminal or civil liability or sanctions under Missouri law.
 - Must have ID card or physician certification
- Patient cannot be denied access to or priority for organ transplant because he/she has an ID card or uses medical marijuana
 - May be medical contraindications

Amendment 2 and Patient Rights

DHSS rulemaking authority:

- Patient safety
- Ensure access is restricted to Qualifying Patients
- May not unreasonably restrict patient access to medical marijuana
- Shall issue rules that ensure the right to, availability and safe use of medical marijuana by Qualifying Patients
- Shall not have authority to apply or enforce any rule that would impose an undue burden on Qualifying Patients or undermine purposes of the law

Amendment 2 and Providers

Physicians who:

- Own, operate, invest in, work at or contract with a cultivation facility, marijuana-infused product manufacturing facility or dispensary or
- Issue a certification to a Qualifying Patient

May not be subject to criminal or civil liability or sanctions under Missouri law, or discipline by the Board of Healing Arts

- Could be subject to federal sanctions (DEA, CSA)

Amendment 2 and Providers

Health care providers who:

- Own, operate, invest in, work at or contract with a cultivation facility, marijuana-infused product manufacturing facility or dispensary or
- Provide health care services involving marijuana use as authorized and within legal standards of professional conduct

May not be subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or discipline by any accreditation or licensing board or commission

Amendment 2 and Providers

- Labs that serve as medical marijuana testing facilities are not subject to civil or criminal prosecution, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by an accreditation or licensing board or commission
- Health care providers are not mandated to report medical marijuana use by minor Qualifying Patients as long as the patient has consent of a parent or guardian

Medical Marijuana and Your Patients

- Amendment 2 does not require a physician to provide patient certifications.
- Amendment 2 does not require a health care provider to authorize marijuana use.
- Amendment 2 does not bar a hospital from prohibiting employed physicians from providing patient certifications.

Medical Marijuana and Your Patients

- Amendment 2 states that Qualifying Patients may not consume medical marijuana in a “public place” unless authorized by law.
 - Is a hospital a public place?
 - Amendment 2 doesn't alter general property rights
 - Remains illegal under federal law

Medical Marijuana and Your Patients

Existing hospital regulations

- Medication administration
 - Contraindications
 - Documentation of medication incidents
 - Who may administer controlled substances
 - Medications brought from home
 - Is medical marijuana a “medication” subject to regulation?
- Storage of controlled substances

Medical Marijuana and Your Patients

Additional Legal Issues

- Cost report certifications
- False Claims/Corporate Compliance
- Malpractice Insurance
- Mandated reports of child abuse/neglect

Medical Marijuana and Your Patients

Patients possessing medical marijuana

- With valid identification card
 - Request removal from premises
 - Secure and store
 - Not in pharmacy!
- Without valid identification card
 - Handle in accordance with existing policies on illicit substances

Medical Marijuana and Your Patients

- If patient use allowed, policies should mirror rights granted by Amendment 2
- May be subject to medical judgment
- Primary Caregivers
- Inpatient certification may = prescribing
- Impacted policies include:
 - Handling patient personal property
 - Medication use/self-administration
 - Security practices

Contact Information

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Thank you!