

FLORIDA DEPARTMENT OF HEALTH (DOH)

Office of Medical Marijuana Use

Low-THC Cannabis & Medical Marijuana

Caregiver Certification Study Guide

Florida's Official Source for Responsible Use.



Introduction

Welcome to the Florida Department of Health, Office of Medical Marijuana Use Caregiver Certification Study Guide. The Florida Department of Health (DOH) works to protect, promote and improve the health of all people in Florida through integrated state, county, and community efforts. In this course, you will learn about the Office of Medical Marijuana Use and the status of medical marijuana in Florida, the requirements for becoming a qualified patient and caregiver, the role and legal responsibilities of a caregiver, the physician recommendation process, what a medical marijuana treatment center is, and the criminal and civil penalties for violations of Florida law.



Medical Marijuana in Florida and Federal Enforcement

The use of medical marijuana was legalized in Florida under the Compassionate Medical Cannabis Act of 2014 (the “ACT”). The Act authorized a low tetrahydrocannabinol (low-THC) and high cannabidiol (CBD) form of marijuana (low-THC cannabis) for medical use by patients suffering from cancer or a medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms.

Under the Act, a licensed Florida allopathic or osteopathic physician who had completed the required training, had examined, and was treating a patient with a qualifying condition could order low-THC cannabis to treat that patient if no other satisfactory alternative treatment options existed.

Medical Marijuana in Florida and Federal Enforcement

Low-THC cannabis is different from medical marijuana because it contains very low amounts of the psychoactive component tetrahydrocannabinol (THC). Because of its low levels of THC, these products do not contain the euphoric effect of full-potency marijuana and typically do not result in patients experiencing the “high” commonly associated with marijuana.

In 2016, under the Right to Try Act (s. 499.0295, F.S.), Florida law allowed patients with terminal illnesses access to “full potency” medical cannabis.



Medical Marijuana in Florida and Federal Enforcement

On November 4, 2016, 71 percent of Florida voters voted yes on Amendment 2 in the general election. This created Article X, section 29 of the Florida Constitution. Amendment 2 expanded access to both low-THC and full-potency medical marijuana for a larger list of medical conditions.

- Qualifying medical conditions are:
 - Cancer
 - Epilepsy
 - Glaucoma
 - Positive status for human immunodeficiency virus (HIV)
 - Acquired immune deficiency syndrome (AIDS)
 - Posttraumatic stress disorder
 - Amyotrophic lateral sclerosis (ALS)
 - Crohn's disease
 - Parkinson's disease
 - Multiple sclerosis (MS)
 - Medical conditions of the same kind or class as or comparable to those list
 - Terminal conditions
 - Chronic nonmalignant pain that is caused by a qualifying medical condition or that originates from a qualifying medical condition and persists beyond the usual course of that qualifying medical condition

Medical Marijuana in Florida and Federal Enforcement

It is important to remember that while medical marijuana is available in Florida, it remains illegal under federal law.

The federal Controlled Substances Act lists marijuana as a Schedule 1 drug and provides no exceptions for medical uses. Possession, manufacturing, and distribution of marijuana is a crime under federal law. Although a state's medical marijuana laws may protect patients from prosecution for the use of marijuana under state law, state medical marijuana laws do not protect individuals from prosecution under federal law.

Qualified Patients and Caregivers

Under Florida law, a qualified patient is defined as a Florida resident who has been added to the Medical Marijuana Use Registry by a qualified physician to receive marijuana or a marijuana delivery device for a medical use and who has a qualified patient identification card.

- *See, Section 381.986(1)(l), Florida Statutes*

A caregiver is defined as a Florida resident who has agreed to assist with a qualified patient's medical use of marijuana and has a caregiver identification card.

- *See, Section 381.986(1)(a), Florida Statutes*



Qualified Patients and Caregivers

DOH must register an individual as a caregiver in the Medical Marijuana Use Registry and issue a caregiver identification card if an individual designated as a caregiver for a qualified patient meets the following requirements:

A caregiver must:

- Be 21 years of age or older and a Florida resident.
- Agree in writing to help with the qualified patient's use of medical marijuana.
- Be registered in the Medical Marijuana Use Registry as a caregiver for only one qualified patient, unless otherwise permitted.
- Successfully complete a caregiver certification course developed and administered by DOH, which must be renewed every two years.

Qualified Patients and Caregivers

Continued

- Pass a background screening pursuant to Florida law, unless the patient is a close relative of the caregiver.
- Purchase or give marijuana for medical use to the qualified patient if the qualified patient is under 18 years of age. The minor qualified patient may not purchase marijuana.
- Have his or her medical marijuana use registry identification card at all times when in possession of marijuana or a marijuana delivery device.
- Present his or her medical marijuana use registry identification card to a law enforcement officer when requested.



Qualified Patients and Caregivers

A caregiver must NOT:

- Be a qualified physician.
- Work for or have an economic interest in a medical marijuana treatment center or a marijuana testing laboratory.
- Be paid for any services provided to the qualified patient, except for actual expenses incurred.



Qualified Patients and Caregivers

A caregiver may not be registered in the Medical Marijuana Use Registry as a designated caregiver for more than one qualified patient, unless:

- The caregiver is a parent or legal guardian of more than one minor who is a qualified patient;
- The caregiver is a parent or legal guardian of more than one qualified adult patient with an intellectual or developmental disability that prevents the patient from being able to protect or care for himself or herself without help or supervision;
- All qualified patients the caregiver has agreed to help are admitted to a hospice program and have requested the assistance of that caregiver with the medical use of marijuana; the caregiver is an employee of that hospice; and the caregiver provides personal care or other services directly to hospice clients as part of their job; or
- All qualified patients the caregiver has agreed to assist are participating in a research program in a teaching nursing home pursuant to s. 1004.4351.

Qualified Patients and Caregivers

A qualified patient may designate only one caregiver to assist with their medical use of marijuana, unless:

- The qualified patient is a minor and the designated caregivers are parents or legal guardians of the qualified patient;
- The qualified patient is an adult who has an intellectual or developmental disability that prevents the patient from being able to protect or care for himself or herself without help or supervision and the designated caregivers are the parents or legal guardians of the qualified patient;
- The qualified patient is admitted to a hospice program; or
- The qualified patient is participating in a research program in a teaching nursing home pursuant to s. 1004.4351.



Patient and Caregiver Identification Card

Under Florida law, all patients and caregivers must be approved for a Medical Marijuana Use Registry Identification Card before filling an order for low-THC cannabis, medical marijuana or a marijuana delivery device at a medical marijuana treatment center.

DOH has a process for issuing and renewing Medical Marijuana Use Registry identification cards for patients and their caregivers. In combination with the Medical Marijuana Use Registry, identification cards allow patients and caregivers to quickly prove that they are registered in the Medical Marijuana Use Registry.



Patient and Caregiver Identification Card

Applications can be submitted to the Office of Medical Marijuana Use by mail or electronically through the Medical Marijuana Use Registry (Registry). Electronic applications only take a few minutes to complete, and take less time to process than paper applications.

The first step to beginning the online application process is to have your qualified physician enter your email address into the Registry. Both qualified patients and caregivers need to be entered into the Registry by a qualified physician. Once your email address is in the Registry, the system will instantly send you an email allowing you to start an application for an identification card by logging in with your email address.



Patient and Caregiver Identification Card

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All applications must be submitted to the Office of Medical Marijuana Use. You may submit a paper application or apply online at <https://mmuregistry.flhealth.gov/>.

If you complete a paper application, you must include a check or money order made payable to Department of Health for the \$75 application fee. When you mail a check or money order for a paper application submission, please make sure to include enough identifying information with the payment to allow DOH to match your check or money order to your application. This is especially important if the name on your check or money order is different from the name on your application.

Patient and Caregiver Identification Card

An adult patient or caregiver must prove residency by providing DOH with a copy of his or her valid Florida driver license or Florida identification card.

Seasonal residents who keep a temporary residence and live in Florida for at least 31 consecutive days, but return to their home state or jurisdiction at least once a year and are registered to vote or pay income taxes in their home state, may prove seasonal Florida residency by providing DOH with two of the following documents if they do not have a Florida driver license or Florida identification card:

- A deed, mortgage, monthly mortgage statement, mortgage payment booklet or residential rental or lease agreement.

Patient and Caregiver Identification Card

Continued

- One proof of residential address from the seasonal resident's parent, step-parent, legal guardian or other person with whom the seasonal resident lives and a statement from that person stating that the seasonal resident does live there.
- A utility hook up or work order dated within 60 days before registration in the medical use registry.
- A utility bill, not more than 2 months old.
- Mail from a bank, including checking, savings, or investment account statements, not more than 2 months old.
- Mail from a federal, state, county, or municipal government agency, not more than 2 months old.

Patient and Caregiver Identification Card

A minor patient must give DOH a certified copy of the minor's birth certificate or current record of registration from a Florida K-12 school **and** have a parent or legal guardian who is a Florida resident provide a copy of his or her valid Florida driver license or Florida identification card.

For all applications, the name and address on the document(s) provided to prove Florida residency must match the name and address provided in the application.



Patient and Caregiver Identification Card

Applications for qualified patients who are under the age of 18, must designate a caregiver in the qualified patient's application and in the Medical Marijuana Use Registry.

Designated caregivers must also submit a completed application to the Office of Medical Marijuana Use to obtain a Medical Marijuana Use Registry identification card.

Once an ID card application has been approved, the qualified patient and caregiver will receive a temporary card via email to use until the physical identification card is received. A qualified patient or caregiver must have an approved card application prior to filling an order at a licensed medical marijuana treatment center. Medical Marijuana Use Registry identification cards are valid for one year and a renewal application must be submitted 45 days before the expiration date.



Patient and Caregiver Identification Card

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A complete Medical Marijuana Registry User Guide for patients and caregivers can be found on our website at:

www.KnowTheFactsMMJ.com/Registry



Qualified Physicians and the Physician Certification Process

For a physician to qualify to issue physician certifications for medical marijuana for qualified patients, they must have an active, unrestricted license as a physician under Chapter 458, Florida Statutes, or an osteopathic physician license under Chapter 459, Florida Statutes. It is the qualified physician's responsibility to follow Florida law, diagnose patients, and determine if medical marijuana is the right treatment.

Physicians may gain access to the Medical Marijuana Use Registry and be qualified to order medical marijuana for qualified patients only after completing a required training course and examination. The training course and examination are provided by the Florida Medical Association and the Florida Osteopathic Medical Association. Qualified physicians must successfully complete the course every time they renew their license.



Qualified Physicians and the Physician Certification Process

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A list of Qualified Physicians can be found on the Office of Medical Marijuana Use website at:

<http://www.KnowTheFactsMMJ.com/physicians/list>

Patients and caregivers can also use the Medical Marijuana Qualified Physician Search tool to find a qualified physician by location and specialty. Access the search tool here:

<http://tinyurl.com/MQAsearch>



Qualified Physicians and the Physician Certification Process

- A qualified physician must update the registry within 7 days after any change is made to the original physician certification, and must deactivate the registration of the qualified patient and the patient's caregiver when the physician no longer recommends the medical use of marijuana for the patient.
- A qualified physician may not issue a physician certification for more than three 70-day supply limits of marijuana or more than six 35-day supply limits of marijuana in a form for smoking.
- A qualified physician must examine an existing qualified patient at least once every 30 weeks before issuing a new physician certification.



Qualified Physicians and the Physician Certification Process

Physician Certification

A qualified physician may issue a physician certification only if the qualified physician:

- Has conducted a physical examination while physically present in the same room as the patient and a full assessment of the medical history of the patient.
- Has diagnosed the patient with at least one qualifying medical condition.
- Has determined that the medical use of marijuana would likely outweigh the potential health risks for the patient and documented this determination in the patient's medical record. If a patient is younger than 18 years of age, a second physician must agree with this determination and the agreement must be documented in the patient's medical record.

Qualified Physicians and the Physician Certification Process

Continued

- Has determined if the patient is pregnant and documented this in the patient's medical record. A physician may not issue a physician certification, except for low-THC cannabis, to a patient who is pregnant.
- Has reviewed the patient's controlled drug prescription history in the Prescription Drug Monitoring Program database established pursuant to section 893.055, Florida Statutes.
- Has reviewed the Medical Marijuana Use Registry and confirmed that the patient does not have an active physician certification from another qualified physician.



Qualified Physicians and the Physician Certification Process

Continued

- Has registered as the issuer of the physician certification for the qualified patient in the Medical Marijuana Use Registry and:
 - Entered the contents of the physician certification into the registry, including the patient's qualifying condition and the dosage not to exceed the daily dose amount determined by DOH, the amount and forms of marijuana authorized for the patient, and any types of marijuana delivery devices needed by the patient for the medical use of marijuana.
- The physician must get the voluntary and informed written consent of the patient for medical use of marijuana every time the qualified physician issues a physician certification for the patient, which will be maintained in the patient's medical record. The patient, or the patient's parent or legal guardian, must sign the informed consent to prove that the qualified physician has fully explained its content.



Medical Marijuana Treatment Centers

- Medical Marijuana Treatment Centers (MMTC) are the only authorized entities in Florida that can grow, process, transport, and dispense medical marijuana. They are the only businesses in Florida that are legally allowed to dispense medical marijuana to qualified patients and caregivers. An MMTC can dispense marijuana at dispensaries located throughout the state or deliver medical marijuana products to patients through courier delivery.
- An MMTC may not dispense more than a 70-day supply of marijuana within any 70-day period to a qualified patient or caregiver, and may not dispense more than one 35-day supply of marijuana in a form for smoking within any 35-day period to a qualified patient or caregiver. A 35-day supply of marijuana in a form for smoking may not exceed 2.5 ounces unless an exception to this amount is approved by the department.

A list of the licensed Medical Marijuana Treatment Centers can be found here:

www.KnowTheFactsMMJ.com/MMTC

Medical Marijuana Treatment Centers

Qualified patients or caregivers must present their patient or caregiver Medical Marijuana Use Registry identification card to the MMTC to fill an order.

Unauthorized or Fraudulent Medical Marijuana Treatment Centers

The Florida Department of Health urges qualified patients and caregivers to use caution to avoid medical marijuana scams because some businesses may advertise free or reduced-cost access to medical marijuana.



Medical Marijuana Treatment Centers

DOH reports all incidents of possible fraud and scams to law enforcement, but you should be aware of **what to avoid**:

- DOH's Office of Medical Marijuana Use is the only entity issuing identification cards for medical marijuana in the State of Florida. Please use caution in providing any of your personal information and do not provide credit card information to any third party entity advertising the ability to obtain medical marijuana cards.
- Some businesses advertise that they are the "Office of Medical Marijuana Use" when asking for your credit card information. DOH will not ask for your credit card information unless you are submitting an online payment through the Medical Marijuana Use Registry.

Medical Marijuana Treatment Centers

Continued

- Once again, Medical Marijuana Treatment Centers are the **only** authorized entities in Florida that can grow, process, and dispense medical marijuana. They are the only businesses in Florida that are allowed to dispense medical marijuana to qualified patients and caregivers.
- The Office of Medical Marijuana Use keeps a list of physicians who have completed the required 2-hour education course. Only a qualified physician (as verified from our list) can order medical marijuana for qualified patients.

Medical Marijuana Treatment Centers

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The Office of Medical Marijuana Use's website is updated regularly. Qualified patients and caregivers are encouraged to visit the OMMU website for the most current and accurate information available.

www.KnowTheFactsMMJ.com

To report scams to the Florida Department of Agriculture and Consumer Services, call 1-800-HELP-FLA (1-800-435-7352).

To report fraud to the Attorney General's office, call 1-866-966-7226.



Suspension / Revocation

DOH will immediately suspend the registration of a qualified patient or caregiver charged with a violation of any drug related crime until final disposition of any alleged offense. After that, DOH may extend the suspension, revoke the registration or restore the registration for a qualified patient. If a caregiver no longer passes a background screening, the caregiver's registration will be revoked unless the caregiver is a close relative of the qualified patient.

DOH will revoke the registration of a qualified patient, and the patient's caregiver, if the patient no longer meets the criteria of a qualified patient.



Suspension / Revocation

DOH may suspend or revoke the registration of a qualified patient or caregiver if the qualified patient or caregiver:

- Provides misleading, incorrect, false or fraudulent information to DOH.
- Obtains a supply of marijuana in an amount greater than the amount authorized by the physician.
- Falsifies, alters or otherwise modifies an identification card.
- Does not notify DOH of any changes to his or her qualified patient status right away.
- Grows marijuana or acquires, possesses or delivers marijuana from any person or entity other than a medical marijuana treatment center.

Criminal Penalties and Unauthorized Activity

A qualified physician commits a misdemeanor of the first degree, punishable by up to 1 year in prison and a fine of \$1,000, as provided in section 775.082 or section 775.083, Florida Statutes, if the qualified physician issues a physician certification for the medical use of marijuana for a patient without a reasonable belief that the patient is suffering from a qualifying medical condition.

A person who fraudulently represents that he or she has a qualifying medical condition to a qualified physician for the purpose of being issued a physician certification commits a misdemeanor of the first degree, punishable by up to 1 year in prison and a fine of \$1,000, provided in section 775.082 or section 775.083, Florida Statutes.



Criminal Penalties and Unauthorized Activity

A qualified patient who uses marijuana, not including low-THC cannabis, or a caregiver who administers marijuana, not including low-THC cannabis, in plain view of or in a place open to the general public; in a school bus, a vehicle, an aircraft, or a boat; or on the grounds of a school except as provided in section 1006.062, Florida Statutes, commits a misdemeanor of the first degree, punishable by up to 1 year in prison and a fine of \$1,000, as provided in section 775.082 or section 775.083, Florida Statutes.

A qualified patient or caregiver who cultivates marijuana or who purchases or acquires marijuana from any person or entity other than a medical marijuana treatment center violates section 893.13, Florida Statutes, and is subject to the penalties provided.



Criminal Penalties and Unauthorized Activity

A qualified patient or caregiver in possession of marijuana or a marijuana delivery device who fails or refuses to present his or her marijuana use registry identification card upon the request of a law enforcement officer commits a misdemeanor of the second degree, punishable by up to 60 days in jail and a \$500 fine, as provided in section 775.082 or section 775.083, Florida Statutes, unless it can be determined through the medical marijuana use registry that the person is authorized to be in possession of that marijuana or marijuana delivery device.

- A person charged with a violation of the above may not be convicted if, before or at the time of his or her court or hearing appearance, the person produces in court or to the clerk of the court in which the charge is pending a medical marijuana use registry identification card issued to him or her which is valid at the time of his or her arrest. The clerk of the court is authorized to dismiss such a case at any time before the defendant's appearance in court. The clerk of the court may assess a fee of \$5 for dismissing the case under this paragraph.

Criminal Penalties and Unauthorized Activity

A caregiver who violates any of the applicable provisions of this section or applicable department rules, for the first offense, commits a misdemeanor of the second degree, punishable by up to 60 days in jail and a \$500 fine as provided in section 775.082 or section 775.083, Florida Statutes and, for a second or subsequent offense, commits a misdemeanor of the first degree, punishable by up to 1 year in prison and a fine of \$1,000, as provided in section 775.082 or section 775.083, Florida Statutes.

A person or entity that cultivates, processes, distributes, sells, or dispenses marijuana, as defined in section 29(b)(4), Article X of the Florida Constitution, and is not licensed as a medical marijuana treatment center violates section 893.13, Florida Statutes and is subject to the penalties provided.

Criminal Penalties and Unauthorized Activity

A person who manufactures, distributes, sells, gives, or possesses with the intent to manufacture, distribute, sell, or give marijuana or a marijuana delivery device that he or she holds out to have originated from a licensed medical marijuana treatment center but that is counterfeit commits a felony of the third degree, punishable by up to 5 years in prison and a \$5,000 fine, as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes. For the purposes of this paragraph, the term “counterfeit” means marijuana; a marijuana delivery device; or a marijuana or marijuana delivery device container, seal, or label which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a licensed medical marijuana treatment center and which thereby falsely purports or is represented to be the product of, or to have been distributed by, that licensed medical marijuana treatment facility.

Criminal Penalties and Unauthorized Activity

Any person who possesses or manufactures a blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued medical marijuana use registry identification card commits a felony of the third degree, punishable by up to 5 years in prison and a \$5,000 fine as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

In addition to any criminal penalties that may be imposed, a person or entity who is not registered or licensed with the DOH and who violates Florida law, may be subject to administrative penalties and fines or other civil remedies.



Conclusion

**You have now completed the Florida Department of Health
Office of Medical Marijuana Use Caregiver Certification Study Guide.
When you are ready, please go to the Medical Marijuana Use Registry
and take the Medical Marijuana Use Caregiver Certification Course.**

For more information, please visit our website at: www.KnowTheFactsMMJ.com

Conclusion

If you have additional questions or concerns, please contact the Office of Medical Marijuana Use at:

Phone: **800-888-9580** Open weekdays, 8 am – 5 pm, EST (excluding state holidays)

E-mail: MedicalMarijuanaUse@FLHealth.gov

Mailing Address:

ID Card Applications:

Office of Medical Marijuana Use
P.O. BOX 31313
Tampa, FL 33631-3313

All Other Mail:

Office of Medical Marijuana Use
4052 Bald Cypress Way, Bin M-01
Tallahassee, FL 32399

