



Medical Marijuana for the Arkansas Clinician

Nathaniel Smith, MD, MPH
Director & State Health Officer
Arkansas Department of Health

Objectives

- Review key provisions of Amendment 98, the Arkansas Medical Marijuana Act of 2016, as they pertain to Arkansas physicians
- Discuss the roles and responsibilities of Arkansas physicians regarding physician certification of qualifying conditions for patients desiring registration for use of medical marijuana.
- Review some of the major risks and side effects of marijuana use.

Arkansas Medical Marijuana Act

- In November 2016 Arkansas voters approved medical marijuana through the passage of a constitutional amendment, known as Amendment 98, the Arkansas Medical Marijuana Act of 2016.
- The law allows qualifying patients to purchase and use medical marijuana from a licensed dispensary if certain criteria are met.
- One of the requirements is a physician certification of qualifying conditions.

Case 1

A 25-year-old man presents to clinic requesting an Arkansas Department of Health (ADH) Medical Marijuana Physician Written Certification (physician certification) in order to obtain a Medical Marijuana Registration Card.

- He is a new patient to your practice.
- He does not appear to be physically disabled.
- He reports a history of chronic low back pain, which he says is much relieved by the use of recreational marijuana.

Medical Marijuana Registration Card

- A valid registry identification card issued by the Arkansas Department of Health authorizes a qualifying patient to purchase and use medical marijuana from a licensed dispensary.
- There are a number of limitations on that use, especially in public settings.
- For example, smoking marijuana is prohibited:
 - anywhere where tobacco smoking is not allowed,
 - in the presence of children (under age 14), pregnant women, or inside a motorized vehicle

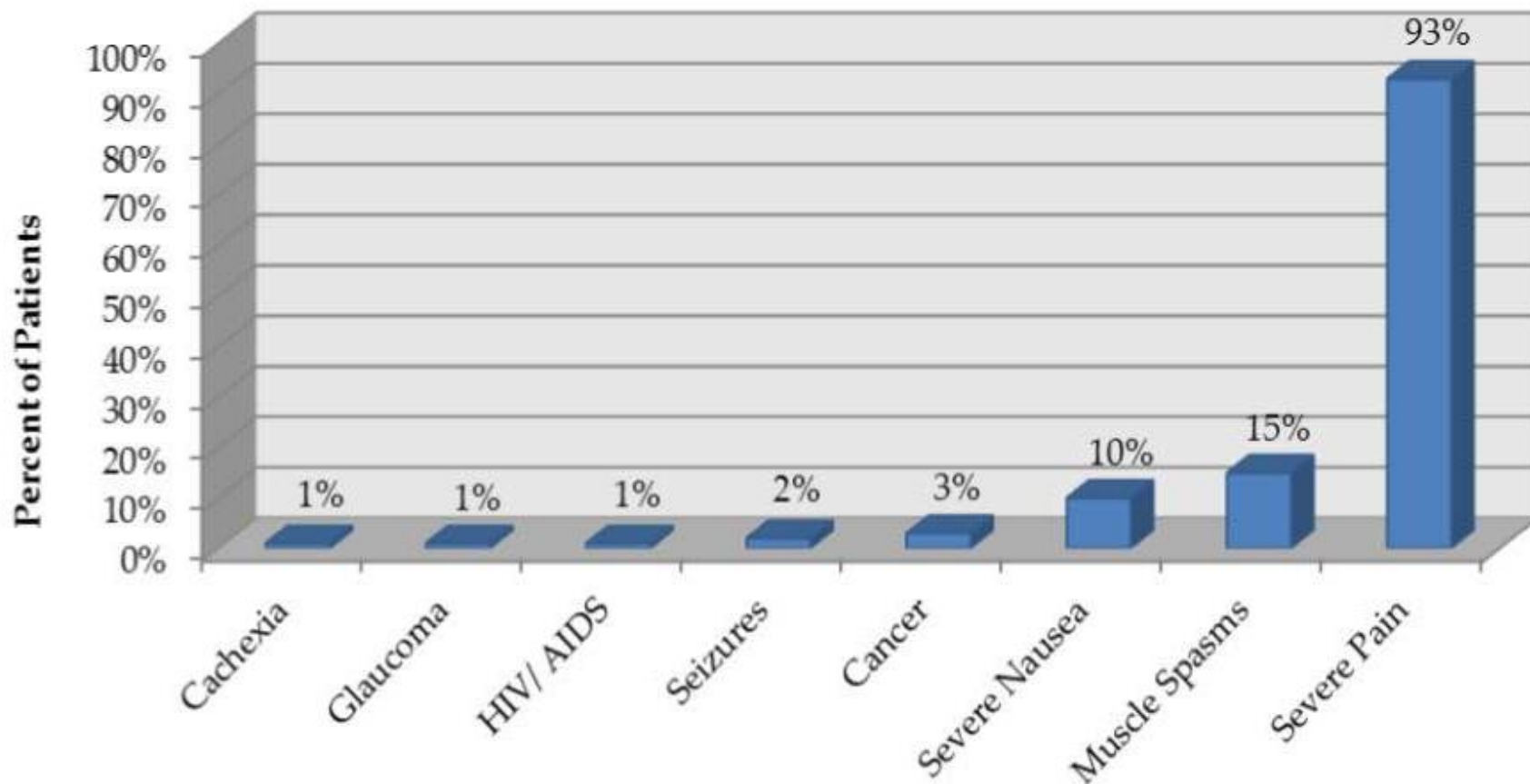
Physician Certification

- Physicians are **not required** to complete and sign the certification for a patient.
- If a physician chooses to complete and sign a physician certification form, he is certifying that:
 - he has completed an in-person patient assessment,
 - is licensed to practice medicine in Arkansas,
 - has a current DEA number,
 - the patient has one of the **qualifying conditions**

Qualifying Conditions

- Cancer
- Glaucoma
- HIV/AIDS
- Hepatitis C
- Amyotrophic lateral sclerosis
- Tourette's syndrome
- Crohn's disease
- Ulcerative colitis
- Post-traumatic stress disorder
- Severe arthritis
- Fibromyalgia
- Alzheimer's disease
- Cachexia or wasting syndrome
- Peripheral neuropathy
- **Intractable pain**, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than 6 months
- Severe nausea
- Seizures, including without limitation those characteristic of epilepsy
- Severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis

Percent of Medical Marijuana Patients Based on Reporting Condition



SOURCE: Colorado Department of Public Health and Environment, Medical Marijuana Statistics



Arkansas Department of Health
Medical Marijuana Physician Written Certification



Patient Information			
First Name	MI	Last Name	
Street Number and Street Name (or PO Box)			
Unit Number	Unit Type (Apt, Unit, Suite, etc.)		
City		State	Zip Code
Date of Birth (MM/DD/YYYY)	Under the age of 18? <input type="checkbox"/> Yes <input type="checkbox"/> No		Physically Disabled? <input type="checkbox"/> Yes <input type="checkbox"/> No

- _____ I hold a valid, unrestricted, existing license to practice as a medical physician or osteopathic physician in Arkansas.
- _____ It is my professional opinion, after having completed an in-person assessment of the patient's medical history and current medical condition in the course of a physician patient relationship, the patient has a qualifying medical condition identified below.

Select the qualifying medical condition(s):

- ☐ Cancer
- ☐ Glaucoma
- ☐ Positive status for human immunodeficiency virus/ acquired immune deficiency syndrome
- ☐ Hepatitis C
- ☐ Amyotrophic lateral sclerosis
- ☐ Tourette's syndrome
- ☐ Crohn's disease
- ☐ Ulcerative colitis
- ☐ Post-traumatic stress disorder
- ☐ Severe arthritis
- ☐ Fibromyalgia
- ☐ Alzheimer's disease
- ☐ Cachexia or wasting syndrome
- ☐ Peripheral neuropathy
- ☐ Intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than six (6) months
- ☐ Severe nausea
- ☐ Seizures, including without limitation those characteristic of epilepsy
- ☐ Severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis

Issue Registry Card for:

☐

12 Months

☐

Less than 12 months

___ Months

___ Weeks

Physician Information					
First Name	MI	Last Name		Suffix	
Arkansas Medical License Number			DEA Number		
Address					
Unit Number	Unit Type (Apt, Unit, Suite, etc.)				
City			State	Zip Code	
Phone	I do hereby attest that this information is true, accurate and complete.			Signature	Date
<p>The information in this certification is correct and as the patient or parent, custodian, legal guardian, by signing I indicate I am aware of this diagnosis and medical marijuana physician written certification and authorize the Arkansas Department of Health to verify as warranted</p>					
<input type="checkbox"/> Patient	<input type="checkbox"/> Parent	<input type="checkbox"/> Custodian	<input type="checkbox"/> Legal Guardian	Signature	Date
Print Name					



Arkansas Department of Health
Medical Marijuana Physician Written Certification



On the patient information portion, you will need to insure that you have checked the boxes for the patient's age and physical disability.

Please check these boxes to indicate your licensure and the verify that the patient does have one of the qualifying conditions.

Check the qualifying condition(s) for your patient.

Select the registry card time frame that is most appropriate for your patient.

Please fill out the physician information portion completely. You must be licensed to practice in Arkansas. It is imperative that your license number and DEA number are listed on this form. Those signing this form must be an MD or DO. Any other signatures such as those of an RN or APRN will not be accepted.

This section must be completed and signed by the patient or a parent or legal guardian if the patient is under 18.

Patient Information			
First Name	MI	Last Name	
Street Number and Street Name (or PO Box)			
Unit Number	Unit Type (Apt, Unit, Suite, etc.)		
City	State	Zip Code	
Date of Birth (MM/DD/YYYY)	Under the age of 18? <input type="checkbox"/> Yes <input type="checkbox"/> No		Physically Disabled? <input type="checkbox"/> Yes <input type="checkbox"/> No

☐ I hold a valid, unrestricted, existing license to practice as a medical physician or osteopathic physician in Arkansas.
☐ It is my professional opinion, after having completed an in person assessment of the patient's medical history and current medical condition in the course of a physician/patient relationship, the patient has a qualifying medical condition identified below.

Select the qualifying medical condition(s):

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- ☐ Ulcerative colitis
- ☐ Post-traumatic stress disorder
- ☐ Severe arthritis
- ☐ Fibromyalgia
- ☐ Alzheimer's disease
- ☐ Cachexia or wasting syndrome
- ☐ Peripheral neuropathy
- ☐ Intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than six (6) months
- ☐ Severe or intractable
- ☐ Seizures, including without limitation those characteristic of epilepsy
- ☐ Severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis

Issue Registry Card for: ☐ 12 Months ☐ Less than 12 months ☐ Months ☐ Weeks

Physician Information			
First Name	MI	Last Name	Suffix
Arkansas Medical License Number		DEA Number	
Address			
Unit Number	Unit Type (Apt, Unit, Suite, etc.)		
City	State	Zip Code	
Phone	I do hereby affirm that this information is true, accurate and complete.		Signature Date
The information in this certification is correct and as the patient or parent, custodian, legal guardian, by signing I indicate I am aware of this diagnosis and medical marijuana physician written certification and authorize the Arkansas Department of Health to verify as warranted			
<input type="checkbox"/> Patient	<input type="checkbox"/> Parent	<input type="checkbox"/> Custodian	<input type="checkbox"/> Legal Guardian
Signature			Date
Print Name			



What happens after I see the patient?

- The physician certification is valid for 30 days.
- If a patient obtains a certification and fails to submit the completed application to the ADH online or via mail (with the \$50 fee) within 30 days, he/she must get a new certification.
- The application is reviewed by the ADH and is either approved or denied; if all requirements are met, a registry card will be issued.
- The card will expire 1 (one) year from date of issuance unless a shorter timeframe is recommended on the physician certification.

Medical Records

- The physician certification form may be copied and placed in the patient's medical record as part of the physician's documentation.
- The patient encounter should be documented, including discussion of treatment alternatives; potential benefits, adverse effects, drug interactions; and special cautions (e.g., use of marijuana during pregnancy or breast-feeding).
- All aspects of this process are covered by HIPAA, but documents may be subject to discovery in litigation and accessible to the DEA.

Legal Status

- The DEA still classifies marijuana as a Schedule I drug with no accepted medical use and a high potential for abuse.
- Because medical marijuana cannot be prescribed, usage history will not be placed in the PMP database.
- Patients with a qualifying medical condition and valid registry card should not be considered in violation of their pain contracts if they test positive for marijuana without additional evidence of substance misuse (UAMS policy).

Ethical Responsibilities

- Physicians remain responsible for following the standard of care and informing patients of known risks and benefits (if any) of medical marijuana based on accepted scientific research.
- Patients who plan to use medical marijuana should be informed of alternative treatment options for their condition and any potential interactions with other medications the patient may be taking.

Additional Clarifications

- The physician certification is ***not*** a prescription for medical marijuana.
- Written certifications ***cannot*** be provided via telemedicine.
- Written certifications ***should not*** be provided by emergency department or urgent care physicians since they typically do not have ongoing physician-patient relationships (UAMS policy).

Case 2

A 57-year-old woman with a history of type 2 DM and HTN presents for her regular follow up appointment and asks your advice regarding medical marijuana for her 3-year-old grandson, who has a history of seizure disorder.

- She would like to know whether you think medical marijuana might help his seizures.
- She asks whether children can get medical marijuana under Arkansas law.
- She asks whether you could certify his condition.

Marijuana and Pediatric Epilepsy

- Marijuana contains >80 different cannabinoids in varying concentrations and proportions.
- Phase 3 clinical trials are currently underway by GW Pharmaceuticals testing the efficacy of **Epidiolex**, a purified cannabidiol (CBD) extract, for treatment of pediatric epilepsy.
- Unlike Δ -9-tetrahydrocannabinol (THC), the main psychoactive cannabinoid in marijuana, CBD does not produce euphoria or intoxication.



Medical Marijuana for Children

- Patients under the age of 18 must have consent of a parent or guardian to receive a written certification.
- The parent/guardian must be present when the written certification is completed and must also sign the document.
- Minors are **required** to have a parent/guardian as a designated caregiver.
- **No one under 21 years of age is permitted to smoke marijuana for medical use.**

Case 3

A 63-year-old man presents for follow up with multiple medical problems, including cirrhosis due to chronic hepatitis C and alcohol use, COPD, severe arthritis, and chronic depression. He is a Vietnam veteran and also suffers from PTSD. He has difficulty with ambulation due to his arthritis and severe peripheral neuropathy in his feet, and he uses an electric wheelchair to get around.

- He asks you to certify him for medical marijuana.
- He also asks you to certify his nephew as his designated caregiver for medical marijuana.

Potential Benefits

What are this patient's qualifying medical conditions?

- Hepatitis C
- Severe arthritis
- Post-traumatic stress disorder (PTSD)
- Peripheral neuropathy
- Intractable pain?

QUALIFYING CONDITION ≠ INDICATION

Potential Harms

- **Hepatitis C:** Cannabis use is not associated with acute hepatotoxicity, but daily cannabis use worsens the progression of chronic viral hepatitis C infection.
- **PTSD:** There is recent evidence suggesting poorer outcomes in PTSD patients who use marijuana (*J Clin Psychiatry*. 2015;76(9):1174).
- **Depression:** Cannabis use or cannabis use disorder is associated with subsequent development of depression or bipolar disorder.

Potential Concerns

- **COPD:** Cannabis smoking produces acute, transitory respiratory symptoms, but chronic cannabis use is not associated with impaired pulmonary function.
- **EtOH use:** Among adults with a history of alcohol use disorder, cannabis use is associated with increased likelihood of persistent alcohol use disorder. The sedating effect of marijuana decreases mental alertness, increases the risk of motor vehicle accidents, and has additive effects when combined with alcohol.

Designated Caregivers

- A designated caregiver is a person who may purchase and transport medical marijuana from an Arkansas dispensary for a qualified patient who is either a minor or is physically disabled.
- Minors are **required** to have a parent/ guardian as a designated caregiver. Physically disabled patients may have one if they so choose.
- Designations of age or physical disability must be marked on the physician certification form.

Qualifications for Designated Caregivers

- at least twenty-one (21) years of age,
- has not been convicted of an excluded felony offense,
- has agreed to assist a physically disabled qualifying patient with the medical use of marijuana,
- has registered with the Arkansas Department of Health (the physician does not certify caregivers)

Case 4

A 44-year-old man recently moved to Arkansas from California and has a Medical Marijuana Identification Card from that state.

- He requests medical evaluation and physician certification to purchase medical marijuana in Arkansas.
- His main symptom at this time is episodes of nausea that occur almost every day but get better when he takes a hot shower.

Visiting Patient

- A “visiting patient” is a patient with a qualifying medical condition who is **not a resident of Arkansas** or who has been a resident of Arkansas for **less than 30 days** and who is in actual possession of a registry identification card or its equivalent that is issued under the laws of another state.
- Dispensaries will require visiting patients to certify that they have been diagnosed by a physician to have one or more qualifying medical conditions.

Cannabinoid Hyperemesis Syndrome

- At low doses, THC is a potent antiemetic.
- At high dose, there is a paradoxical effect.
- Colorado observed a 1.92-fold increase in prevalence of cyclic vomiting in local EDs after legalization of marijuana.



Acad Emerg Med. June 2015.

Potential Risks to Discuss

- The variability of quality and concentration of marijuana;
- The risk of cannabis use disorder;
- Possible exacerbation of psychotic disorders;
- Adverse cognitive effects for children and young adults;
- The risk of falls and motor vehicle accidents;
- Use of marijuana during pregnancy or breastfeeding;
- The need to safeguard all marijuana and marijuana-infused products from children and pets or domestic animals

Case 5

A 52-year-old woman with well-controlled hyperlipidemia mentions to you during a routine follow-up visit that she and her husband are in the process of opening a medical marijuana dispensary in the area.

- She asks if they could refer patients to you for physician certification and suggests you might consider giving their patients a little discount.
- She knows you are very busy but asks if you would consider sending your APRN to their dispensary once a week to do certifications.

Certification Restrictions

- A written certification can be completed ***only by a physician*** with a valid, unrestricted Arkansas medical license and a current DEA registration.
- APRNs and PAs cannot complete a written certification.
- Unlicensed medical residents or licensed residents who do not have their own DEA registration cannot complete a written certification.

Conflicts of Interest

- The Medical Marijuana Amendment prohibits physicians from paying or receiving payment from a dispensary or cultivation facility.
- Certifying physicians are prohibited from affiliating financially with a dispensary and/or giving or receiving discounts related to a dispensary if they are assessing patients.
- A physician may not perform assessments for certification on the premises of a dispensary.

Case 6

A 33-year-old woman with stable ulcerative colitis presents for her annual wellness exam.

- She mentions that her GI specialist recently certified her for medical marijuana.
- Since her marijuana was certified by her physician, she assumes it will be okay to smoke it on her work breaks.
- She works as a receptionist for your group practice.

Employee Legal Protections

- For the purposes of medical care a qualifying patient's authorized use of marijuana is considered the equivalent of the authorized use of any other medication and does not constitute the use of an illicit substance.
- An employer shall not discriminate against an applicant or employee in hiring, termination, or any term or condition of employment, or otherwise penalize an applicant or employee, based upon the applicant's or employee's past or present status as a qualifying patient or designated caregiver.

Employer Legal Protections

- May establish and implement a **substance abuse or drug-free workplace policy** that may include a drug testing program that complies with state or federal law;
- **Take action** with respect to an applicant or employee under that policy based on the good faith belief that a qualifying patient:
 - Possessed or engaged in the use of marijuana while on the premises of the employer or during the hours of employment; or
 - Was under the influence of marijuana while on the premises of the employer or during the hours of employment, provided that a positive test result for marijuana cannot provide the sole basis for the employer's good faith belief

Permitted Employer Actions

- Implementing, monitoring, or taking measures to assess, supervise, or control the job performance of an employee
- Reassigning an employee to a different position or job duties
- Placing an employee on paid or unpaid leave
- Suspending or terminating an employee
- Requiring an employee to successfully complete a substance abuse program before returning to work
- Refusing to hire an applicant

Safety Sensitive Positions

- A “safety sensitive position” is any position (designated as such in writing by an employer) in which a person performing the position while under the influence of marijuana may constitute a threat to health or safety.
- A qualifying patient may be excluded from being employed in or performing a safety sensitive position based on the employer's good faith belief that the qualifying patient was engaged in the current use of marijuana.

Criteria for Safety Sensitive Positions

- Carrying a firearm;
- Performing life-threatening procedures;
- **Working with confidential information** or documents pertaining to criminal investigations;
- Working with hazardous or flammable materials, controlled substances, food, or **medicine**;
- A lapse of attention could result in injury, illness, or death (e.g., operating, repairing, maintaining, or monitoring heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles)

Review Question

- What does it mean when an Arkansas physician submits an Arkansas Department of Health Medical Marijuana Physician Written Certification form?
- A. The physician believes that the potential benefits of medical marijuana would likely outweigh the health risks for the patient.
 - B. The patient has a qualifying medical condition.
 - C. Medical marijuana is the most appropriate treatment for the patient's qualifying condition.
 - D. The patient can legally possess and use marijuana for medical purposes in public settings.