

Michigan's Medical Marihuana Program

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What is permitted?

- **Acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation** of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition

Implementation Challenge

- How to implement the MMP in a department that:
 - Opposes smoking
 - Advocates for prevention and management of chronic disease
 - Enforces compliance with federal Controlled Substances Act
 - Marihuana is still illegal under Controlled Substances Act as a Schedule 1 Controlled Substance

[Implementation Challenge]

- Regulates health professionals
- Oversees the Controlled Substance Advisory Commission
- Manages the Health Professional Recovery Program for health professionals with substance abuse and mental health issues.
- Manages Drug Control Policy

[Clarification of Intent]

Regulatory program?
Clinical program?
Support program?
Administrative program?

“Debilitating” Medical Condition vs.
“Debilating Medical Condition”

[Primary Role of DCH]

- Create a registry of individuals who:
 - Meet the definition of a qualified patient who can use marihuana for medical purposes, or
 - Are designated as the primary caregiver for a qualified patient
- Approve additions to the list of qualifying medical conditions

Confidentiality

- List of qualified patients and approved caregivers holding registry ID cards is confidential
- Information can be disclosed to:
 - Authorized DCH employees as part of their job
 - Authorized employees of state or local law enforcement agencies, only as necessary to verify that a person legally possesses a registry ID card
 - At the written request of the patient

Registration Process

- Submits approved application, fee, and physician certification to BHP
- DCH has 15 days to approve or deny application and an additional 5 days to issue the card
- Registration is good for only one year
- Must reapply each year by submitting a completed application form, fee and physician certification form

Minor Registration Cards

- A person under 18 can be registered if:
- 2 physicians certify medical condition
 - Parent or guardian consents to allow use
 - Parent or guardian agrees to serve as primary caregiver
 - Parent or guardian agrees to control acquisition, dosage and frequency of use

Caregiver Requirements

- Patient identifies individual as the primary caregiver on the registration application form
- The primary caregiver must:
 - be 21 years old
 - have no felony convictions involving illegal drugs
 - agree to assist patient with medical use of marihuana
- Note: The caregiver may also be a registered qualified patient

Qualifying Medical Condition Review Panel

- Includes no more than 15 members; majority must be physicians
- Review petitions for additional medical conditions or treatments to be added to the list of approved conditions or treatments
- Provide recommendations to DCH regarding whether petitions should be approved or denied
- Process must be completed within 180 days

Petitions Received

- Depression
- Anxiety
- Bi-polar disorder
- Other mental illness
- All hospital admissions
- All patients in hospice who are terminal
- Tourette's

Role of the Physician

- Participation is voluntary
- Primary role is to complete the Physician's Certification
 - Patient was evaluated
 - Patient has 1 or more qualifying medical conditions
 - Potential for therapeutic or palliative benefit
- **Physician is NOT prescribing marihuana**

Impact of Non-Participation

- Patient leaves physician's practice
- Patient seeks alternate way to obtain registration card resulting in
 - Treatment without knowledge
 - Ineffective/inappropriate treatment regimens
 - Potential for drug interactions

Possession Limits



- How much marihuana can a qualifying patient possess?
 - 2.5 ounces of usable marihuana (excludes seeds, stalks and roots)
 - 12 marihuana plants kept in an enclosed, locked facility

Rules for Caregivers

- Caregiver can only possess marihuana if designated to do so by qualifying patient
- Limits per patient are:
 - 2.5 ounces of usable marihuana (excludes seeds, stalks and roots)
 - 12 marihuana plants kept in an enclosed, locked facility
- No more than 5 patients per caregiver

How does one “acquire” marihuana?

- Act is silent on this issue
- State is not authorized to regulate growing sites or quality of product under the Act
- State and federal restrictions on selling marihuana

Areas of Concern

- Medical concerns and issues affecting delivery of patient care
 - Lack of clinical research on therapeutic properties
 - Lack of standardization of ingredients or potency
 - Limited information on dosing or routes of delivery
 - Potential drug-disease and drug-drug interactions

Areas of Concern

- Limited data to support use of marihuana for most conditions
 - *Note: There is clinical data to support use for:*
 - *HIV Wasting - Appetite stimulation*
 - *Chemotherapy-induced nausea and vomiting*
- Potential liability since quantity and quality may be outside physician's control and there may be adverse cumulative effects

Protection under the MMA

- Good faith protection for physicians against medical board or law enforcement action if compliant with intent of the Act
 - Presence of a medical record
 - Evidence of an evaluation
 - Document supporting the presence of a qualifying medical condition

Physician Concerns

- Possible disciplinary action by a medical board for:
 - Failure to properly evaluate the patient
 - Failure to establish a qualifying medical condition
 - Falsifying a certification
- Impact of practicing "under the influence"
- Potential for discipline in other states where medical use is not legal

Employment related issues

- Permit/prohibit employment of permit holders?
- Obligation to accommodate ingestion in the workplace or working while under the influence?
- Obligation to accommodate employees under ADA?

Unanswered questions

- Is there a standard of care that a physician could potentially violate?
- Who must make the initial diagnosis of a debilitating medical condition?
- Does the certifying physician need to make the diagnosis?

Unanswered questions

- A physician is immune from prosecution and discipline if certification is provided in the course of a "bona fide" physician-patient relationship after completing a "full assessment" of the medical history
 - What constitutes a "bona fide" relationship?
 - What's a "full assessment?"
 - Does there need to be a continuing relationship between the physician and the patient?

[Unanswered questions]

- What is a “public place?”
- What is a locked enclosed facility?
- What does it mean to be in the “presence” or “vicinity” of the medical use of marihuana?
- What about exposure to second-hand smoke?
- When is someone “under the influence”?
 - Is there a clear standard?

[What MMP Doesn't Do]

- Legalize sales of marihuana
- Legalize use outside state
- Allow certification by anyone other than an MD or DO
- Require trial of other medical therapy first
- Prohibit concurrent use of other prescribed controlled substances

[Physician Involvement with MMP]

- As a provider
- As a regulator
- As an employer
- As a patient
- As a caregiver

Program Statistics

- As of January 7, 2010
- Received 13,192 applications
- Issued 10,352 registration cards
 - 7,295 patients
 - 3,057 caregivers
- Averaging 71 applications a day

Program Statistics

- Top qualifying medical conditions
 - Severe nausea
 - Severe and chronic pain
 - Severe and persistent muscle spasms
- Experiencing increase in the number of physicians completing certifications

Additional Information

- www.michigan.gov/mmp
 - Updates on program including statistics
 - Act and Administrative Rules
 - Forms for permits and record updates
 - Frequently Asked Questions
 - Contact information
 - Annual Program Report (First report scheduled for late spring 2010)

[Contact Information]

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