

Issue Brief: Medical Cannabis and Non-Certified Health Care Providers

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DISCLAIMER OF LEGAL ADVICE: The following is provided by the Minnesota Department of Health for informational purposes only. This information is not legal advice, and should not be relied upon as legal advice. Readers are directed to consult with a lawyer of their own choosing for legal advice.

Background

On May 29, 2014, Governor Dayton signed the Minnesota Medical Cannabis Act into law (Minn. Stat. Sec. §§152.22 to 152.37). This law allows those with a qualifying medical condition (certified by a health care practitioner) to enroll in the patient registry program established by MDH and, if certain conditions are met, be eligible to receive certain designated forms of smoke-free medical cannabis. The intent of the law is designed to enable Minnesota patients to engage in the therapeutic use of cannabis while preventing it from being misused or diverted from its medical purpose.

This document is intended for health care providers who are licensed by the Minnesota Department of Health and who are not federally certified by the Centers for Medicare and Medicaid Services (CMS).

For providers who are federally certified by CMS, please refer to the Issue Brief titled “Medical Cannabis in Health Care Facilities”.

State Definition

Medical cannabis is defined in Minn. Stat. §152.22, subd. 6. Medical cannabis does not

meet any other definitions, such as a medication, treatment, herbal or dietary supplement under:

- MN Chapter 144A (for all providers licensed under this chapter, including Home Care Providers)
- MN Rules 4640 for Hospitals
- MN Rules 4655 for Boarding Care Homes
- MN Rules 4658 for Nursing Homes
- MN Rules 4664 for Hospice
- MN Rules 4665 for Supervised Living Facilities
- MN Rules 4675 for Freestanding Outpatient Surgical Centers

If licensed health care providers (who are not federally certified by the Centers of Medicare and Medicaid Services) choose to provide any services related to or involving medical cannabis, then they must do so in accordance with the Minnesota Medical Cannabis Act, and all other applicable state and local laws.

Reasonable Restrictions – Use and Storage

While medical cannabis use is legal for qualified Minnesota residents, health care providers may choose to elect policies reflecting reasonable restrictions on use and storage. The restrictions may include a provision that the provider will not store or maintain the patient's supply of medical cannabis, that the provider is not responsible for providing the medical cannabis for patients, and that medical cannabis be used only in a place specified by the provider. Under Minnesota state law, employees of these facilities may be in possession of medical cannabis *while carrying out employment duties*, such as providing or supervising care to a registered patient, or distribution of medical cannabis to a registered patient (refer to Minn. Stat. Sec. §152.34).

However, it should be noted that while health care providers may adopt reasonable restrictions on use and storage, no provider shall unreasonably limit a patient's access to or use of medical cannabis to the extent that use is authorized by the patient under Minn. Stat. sections §§152.22 to 152.37.

Conclusion

Eligible Minnesota residents¹ are permitted under state law to use medical cannabis. Licensed health care providers who choose to offer services related to medical cannabis use should follow the Minnesota Medical Cannabis Act. Licensed health care facilities and providers must also remain in compliance with all other state licensing and local laws. Medical cannabis is not considered a

medication, treatment, or herbal or dietary supplement under MDH health provider licensure laws. No provider shall unreasonably limit a patient's access to or use of medical cannabis to the extent that use is authorized by the patient under law.

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¹ Refer to Minn. Stat. Sec. §§152.22 to 152.37 for who may be qualified to receive medical cannabis