

## OPTOMETRY CANNABIS CERTIFICATION RULES AND REGULATIONS

### Part 2901, Chapter 12 Cannabis Certification

#### Rule 12.1 Scope for Part 2901, Chapter 12

The rules contained in this Part 2901, Chapter 12 are promulgated by the Mississippi Board of Optometry (the “Board”) to implement the Mississippi Medical Cannabis Act, SB 2905, Mississippi Legislature Regular Session 2022 (the “Act”). These rules shall apply to all licensees who are registered as certifying practitioners; or who are applying, orre-applying, to register as certifying practitioners. Nothing in these rules shall be construed to require any licensee to issue any written certification pursuant to the Act.

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended)*

#### Rule 12.2 Definitions for Part 2901, Chapter 12.

For the purposes of Part 2901, Chapter 12 the following terms have the meanings indicated:

- A. “Bona-fide practitioner-patient relationship” means:
- 1) A certifying practitioner and patient have a treatment or consulting relationship, during the course of which the certifying practitioner, within his or her scope of practice, has completed an in-person assessment of the patient’s medical history and current mental health and medical condition and has documented their certification in the patient’s medical records;
  - 2) The certifying practitioner has consulted in person with the patient with respect to the patient’s debilitating medical condition; and
  - 3) The certifying practitioner is available to or offers to provide follow-up care and treatment to the patient.
- B. “Cannabis” means all parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts. Such term shall not mean cannabis-derived drug products approved by the federal Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act.
- C. “Certifying practitioner” means any Optometrist who is licensed to prescribe under the licensing requirements set forth in the Administrative Code and the laws of this state, who maintains a current and unrestricted Mississippi optometry license, has

satisfied all continuing education requirements, and who has registered with both the Mississippi Board of Optometry and the Mississippi State Department of Health to certify patients as qualifying patients.

- D. "Chronic pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated, and which in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts by the certifying practitioner.
- E. "Debilitating medical condition" means:
- 1) Cancer, Parkinson's disease, Huntington's disease, muscular dystrophy, glaucoma, spastic quadriplegia, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis, amyotrophic lateral sclerosis (ALS), Crohn's disease, ulcerative colitis, sickle-cell anemia, Alzheimer's disease, agitation of dementia, post-traumatic stress disorder (PTSD), autism, pain refractory to appropriate opioid management, diabetic/peripheral neuropathy, spinal cord disease or severe injury, or the treatment of these conditions;
  - 2) A chronic, terminal or debilitating disease or medical diagnosis, or its treatment, that produces one or more of the following: cachexia or wasting syndrome, chronic pain, severe or intractable nausea, seizures, or severe and persistent muscle spasms, including, but not limited to, those characteristics of multiple sclerosis; or
  - 3) Any other serious medical condition or its treatment added by the Mississippi Department of Health, as provided for in the act which shall be rational to the State Board of Optometry practice.
- F. "Medical use" includes the acquisition, administration, cultivation, processing, delivery, harvest, possession, preparation, transfer, transportation, or use of medical cannabis or equipment relating to the administration of medical cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition. The term "medical use" does not include:
- 1) The cultivation of cannabis unless the cultivation is done by a cannabis cultivation facility; or
  - 2) the extraction of resin from cannabis by mechanical or chemical extraction unless the extraction is done by a cannabis processing facility.
- G. "Qualifying Condition" means any condition as described in this chapter in R.12.2 (E).

- H. “Qualifying Patient” means a person who has been diagnosed by a certifying practitioner as having a debilitating medical condition and has been issued a written certification, or who is eligible to receive such certification, under the Act.
- I. “Scope of Practice” means the defined parameters of various duties, services or activities that may be provided or performed by a certifying practitioner under state law Miss. Code Ann. § 73-19-1 and the rules and regulations adopted by the Board.
- J. “Written Certification” means a form approved by the Mississippi State Department of Health, signed and dated by a certifying practitioner, certifying that a person has a debilitating medical condition, and that includes the following:
  - 1) The date of issue and the effective date of the recommendation;
  - 2) The patient's name, date of birth and address;
  - 3) The practitioner's name, address, and federal Drug Enforcement Agency number; and
  - 4) The practitioner's signature.

Source: Miss. Code Ann. § 73-19-9 (1972, as amended).

### Rule 12.3 Registration and Certification.

- A. Registration. Certifying practitioners must register with the Board within 30 days of receiving the unique identifier as assigned by the Mississippi Department of Health.
- B. General Certification. Certifying practitioners must be authorized and registered with both the Board and the Mississippi State Department of Health to certify patients to obtain cannabis for medical use.
  - 1) A practitioner shall not issue a written certification unless
    - (a) a bona fide certifying practitioner-patient relationship exists;
    - (b) the certifying practitioner has diagnosed the patient as having a qualifying condition after an in-person evaluation, including any necessary and appropriate diagnostic testing; and
    - (c) the certifying practitioner believes, in his or her professional opinion, that the patient would likely receive medical or palliative benefit from the medical use of cannabis to treat or alleviate the patient's qualifying condition or symptoms associated with that condition.
  - 2) A certifying practitioner shall conduct the evaluation, diagnosis, and certification processes in a manner consistent with all professional and medical standards of care, and document all information related to those processes in the patient's records.
  - 3) The diagnosis of a debilitating condition must be documented in a written certification that shall:

- a) Affirm that it is made in the course of a bona fide practitioner-patient relationship;
- b) Remain current for twelve (12) months, unless the certifying practitioner specifies a shorter period of time;
- c) Be issued only after an in-person assessment of the patient by the certifying practitioner;
- d) Only be issued on behalf of an adult, 18 years of age or older; and
- e) Be limited to the allowable amount of cannabis in a thirty-day period.

B. Treatment Plan. Prior to certifying a patient, certifying practitioners must document a written treatment plan that includes:

- 1) Review of other measures attempted to ease the suffering caused by the qualifying condition that do not involve the recommendation of cannabis.
- 2) Advice about other options for managing the qualifying condition.
- 3) Determination that the patient may benefit from cannabis.
- 4) Stated goals that include the reduction of, and optimally the elimination of, controlled substances used to treat the qualifying condition.
- 5) Advice about the potential risks of the medical use of cannabis, to include:
  - (a) The risk of cannabis use disorder;
  - (b) Exacerbation of psychotic disorders and adverse cognitive effects;
  - (c) Adverse events, including falls or fractures;
  - (d) Use of cannabis during pregnancy or breast feeding;
  - (e) The need to safeguard all cannabis and cannabis-infused products from children and pets; and
  - (f) Notification to the patient that the cannabis is for the patient's use only and the cannabis should not be donated or otherwise supplied to another individual (i.e., diverted).
- 6) Additional diagnostic evaluations or other planned treatments.
- 7) A specific duration for the cannabis authorization for a period no longer than twelve (12) months.
- 8) Patients with a history of substance use disorder or a co-occurring mental health disorder may require specialized assessment and treatment. The certifying practitioner should seek consultation with, or refer the patient to, a pain management, psychiatric, addiction, or mental health specialist as needed.
- 9) After a certifying practitioner has issued a written certification for a patient, the Act requires the patient to make a follow-up visit with the practitioner

not less than six (6) months after the date of issuance of the certification, for the practitioner to evaluate and determine the effectiveness of the patient's medical use of medical cannabis to treat or alleviate the patient's qualifying condition or symptoms associated with that condition. Should the patient fail to attend a follow-up visit as required, the certifying practitioner may not re-certify said patient until an in-person follow-up visit is conducted.

C. Pediatric and Young Adult Certifications. Only physicians (Medical Doctors [MD] or Doctor of Osteopathic Medicine [DO]) may issue written certifications to registered qualifying patients who are minors (younger than eighteen (18) years of age). Optometrists are not allowed to certify any patient under the age of eighteen (18).

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended).*

#### Rule 12.4 Patient Record.

- A. A practitioner who evaluates a patient for certification must maintain a complete medical record.
- 1) The record must contain a record of his or her examination, evaluation and treatment of the patient.
  - 2) The record required by this rule must be maintained in the patient's medical records, and said records must be available for inspection by the representatives of the Mississippi State Board of Optometry.
  - 3) Records shall be maintained for a minimum period of seven (7) years from the date of completion or the last certification occurred.

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended).*

#### Rule 12.5 Continuing Education (CE).

- A. Practitioners applying to register with the Board as a certifying practitioner must complete continuing education hours.
- 1) Practitioners applying to register with the Board as a certifying practitioner for the first time must complete a minimum of eight (8) hours of CE in the area of medical cannabis before initial registration shall be approved. by the Mississippi State Department of Health and the Mississippi State Board of Optometry.
  - 2) After the first year of registration, certifying practitioners shall complete at least five (5) hours of CE in the area of medical cannabis before a reapplication shall be approved.
  - 3) All CE hours in the area of medical cannabis must be earned in the courses approved by the Mississippi State Board of Optometry and the Mississippi State Department of Health. CE hours obtained under this

rule are in addition to the standard number of CE hours in Pt. 2901.

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended).*

#### Rule 12.6 Advertising.

Refer to Title 15: Mississippi State Department of Health Part 22: Medical Marijuana Advertising and Marketing Chapter 1, Subchapters 1-5 Regulations for Advertisement and Marketing.

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended).*

#### Rule 12.7 Freedom of Choice and Conflicts of Interest.

Patients are entitled to the same freedom of choice in selecting where to obtain their cannabis as they are in the choice of a certifying practitioner. The following conduct by any certifying practitioner is a direct violation of the Mississippi Medical Cannabis Act and is prohibited: (a) purposefully referring patients to a specific medical cannabis establishment or to a registered designated caregiver, (b) advertising in a medical cannabis establishment, or (c) issuing written certifications while holding a financial interest in a medical cannabis establishment.

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended).*

#### Rule 12.8 Mississippi Prescription Monitoring Program (MPMP) and Urine Drug Screening.

- A. Certifying Practitioners who certify patients for cannabis must review the MPMP at each patient encounter involving certification, re-certification, or follow-up related to medical cannabis.
  - 1) MPMP data reviewed shall include all information since the previous review.
  - 2) The certifying practitioner shall note in the patient's chart that the MPMP was reviewed and provide appropriate information regarding the findings of said review.
  
- B. Urine Drug Screening (UDS) and Other Diagnostic Tests.
  - 1) As part of the in-person evaluation of a patient for initial certification or for re-certification each year, certifying practitioners shall conduct urine

- drug screening (UDS) and other diagnostic tests necessary for full evaluation of the patient's eligibility for medical cannabis.
- 2) In the absence of urine, other testing methods may be used.
  - 3) Tests must include, at a minimum, assays for opioids, benzodiazepines, amphetamines, cocaine, and cannabis. Inconsistent UDS should be utilized as a tool to determine compliance with treatment.

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended).*

#### **Rule 12.9 Concomitant Prescribing of Controlled Substances and Cannabis Certification.**

##### **A. Concomitant Prescribing.**

- 1) The concomitant prescribing of controlled substances after certification for cannabis is generally discouraged and should be done with caution. There is a lack of data currently on the interactions between controlled substances and cannabis.
- 2) When considering certification or re-certification for cannabis, certifying practitioners should focus on improving their patient's quality of life while simultaneously assessing for contraindications to the concurrent use of controlled substances and cannabis, with the goal of greatly reducing or completely eliminating other mood-altering substances when possible.

*Source: Miss. Code Ann. §73-19-9 (1972, as amended).*

#### **Rule 12.10 Violations.**

Violation of any of the rules or requirements in this Part 2901, Chapter 12, or of any provision of the Mississippi Medical Cannabis Act, constitutes unprofessional conduct in violation of Miss. Code Ann. § 73-19-23 and may subject a licensee to discipline. Discipline under this Chapter and other provisions of the Administrative Code shall be in addition to any other civil, criminal, or administrative penalties available under state law.

*Source: Miss. Code Ann. § 73-19-9 (1972, as amended).*

**Effective <DATE>**