

PUBLICATION

Louisiana Rolls Out Regulatory Scheme for Medical Marijuana

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After enacting legislation in 2015 authorizing the recommendation of medical marijuana to qualifying patients, Louisiana has finally established a regulatory system that could make medical marijuana available late this summer. Providers should prepare for the day when an inpatient, resident, or employee notifies them that they have a recommendation for medical marijuana. Will the provider allow use of medical marijuana within the facility and if so, under what circumstances?

Louisiana's regulatory construct begins with the production of medical marijuana. Louisiana State University Agricultural Center (LSU) and Southern University Agricultural Center (Southern) hold the licenses to produce medical marijuana in Louisiana. The marijuana must be refined and may be recommended in the following forms only: oils, extracts, tinctures, sprays, capsules, pills, solutions, suspension, gelatin-based chewables, lotions, transdermal patches, and suppositories. Medical marijuana does not include the inhalation or vaping of marijuana, and Louisiana prohibits the recommendation of medical marijuana for inhalation – raw or crude. LSU has contracted with GB Sciences, LLC and Southern with Advanced Biomedics, LLC to operate their medical marijuana businesses.

The Louisiana State Board of Medical Examiners (LSBME) regulates physicians who recommend marijuana for therapeutic use. In order to recommend medical marijuana, a physician must register with the LSBME and comply with Louisiana laws and regulations. To be eligible to register, a physician must: hold a current unrestricted license to practice medicine in Louisiana, hold a current Schedule I authority from the Louisiana Board of Pharmacy (LBP), be domiciled in and practice at a physical location within the state, and complete an online educational activity available on the [LSBME web page](#). The registration must be renewed annually. A registered physician may not recommend medical marijuana for more than 100 patients absent an exception granted by the LSBME. Further, a registered physician may not have an ownership or investment interest, directly or indirectly, in a medical marijuana pharmacy or producer.

Physicians may recommend medical marijuana only for an approved list of debilitating conditions: cancer, positive status for HIV, AIDS, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, multiple sclerosis, glaucoma, Parkinson's disease, severe muscle spasms, intractable pain, post traumatic disorder, and four conditions associated with autism spectrum disorder. When recommending medical marijuana, physicians must follow a specific set of rules addressing: diagnosing the debilitating medical condition, reviewing the patient's information on the prescription monitoring program, taking into consideration the physician's independent medical judgment, creating a treatment plan, obtaining informed consent from the patient, monitoring the patient's continued use of the medical marijuana, and documenting the patient's medical record.

A physician must terminate or refuse to initiate the patient's use of medical marijuana if the physician becomes aware that the patient: is not a qualifying candidate for use of medical marijuana, has failed to show clinical benefit from the use of medical marijuana, or has engaged in diversion or misuse of or has abused the medical marijuana.

The Louisiana Department of Health maintains a list of registered physicians who may recommend medical marijuana. When the list was last updated on June 6, 2018, 16 such physicians had registered and were approved.

The LBP has developed a nontransferable license to allow a pharmacy to dispense marijuana for therapeutic purposes. Under the Board's rules, no more than ten marijuana pharmacy permits may be active at the same time. The legislature requires equitable distribution of the marijuana pharmacies across the state, and the Board allocated one permit to each of the nine regions of the state established by the Louisiana Department of Health. The nine permits were awarded in April 2018. The applicants awarded the permits must commence operations on the marijuana pharmacy within 310 days after notice of award of the permit, or the Board may rescind the permit. The tenth pharmacy permit may be issued at a future date following a determination of need.

Implications for Providers

The legalization of medical marijuana opens a host of issues for providers. Although Louisiana has approved the use of medical marijuana, it is still illegal under federal law. Also, medical marijuana has not been approved by the FDA. Hospitals and other providers will need to determine how to address medical marijuana use in their facilities and adopt appropriate policies and procedures in that regard. Providers may take any of a number of approaches to medical marijuana use by facility patients or residents, including: medical marijuana will not be allowed in the facility; medical marijuana will be allowed and self-administered by the patient/caregiver in accordance with state law; medical marijuana will be allowed and administered by nurses in accordance with state law. Facilities with employees who use medical marijuana may contend with issues such as managing use of the drug at work or addressing the drug's presence in drug testing. Regardless of the approach chosen, providers should be ready to face the question of whether and how patients and/or employees may take their recommended medical marijuana while on the provider's premises as an inpatient, resident, or employee.