Frequently Asked Questions:  
Medical Cannabis Provider and Practitioner Q and A

Is it accurate that practitioners are not "prescribers" of marijuana but only make a clinical recommendation to the medical cannabis program based in the New Mexico Department of Health?

That is correct. Practitioners certify that patients are eligible to participate in the New Mexico Medical Cannabis Program because they have one of the conditions eligible for program participation and have not been helped by other treatments. They do not prescribe marijuana.

Who was responsible for creating the list of eligible indications for use of medical cannabis in New Mexico?

The state law that created our program established seven initial eligible medical conditions for the program, including cancer, glaucoma, multiple sclerosis, epilepsy, HIV, damage to the nervous tissue of the spinal cord with intractable spasticity, and persons in hospice care. The law also requires the Department of Health to accept petitions for adding conditions. An advisory board of eight physicians reviews the petitions in a public hearing and makes recommendations to the Secretary of Health. The Secretary of Health makes the final decision on which conditions are added to the program.

Which additional diagnoses are included in the New Mexico list of indications for marijuana use?

There are 20 current qualifying conditions for medical cannabis: painful peripheral neuropathy, intractable nausea/vomiting, severe anorexia/cachexia, hepatitis C infection currently receiving antiviral treatment, Crohn’s disease, Post-traumatic Stress Disorder, Inflammatory Autoimmune-mediated Arthritis, Amyotrophic Lateral Sclerosis (Lou Gehrig’s disease), cancer, glaucoma, multiple sclerosis, damage to the nervous tissue of the spinal cord with intractable spasticity, epilepsy, HIV/AIDS, severe chronic pain, hospice patients, cervical dystonia, Huntington’s disease, Parkinson’s disease and Ulcerative Colitis.

Is there any requirement that a licensed New Mexico practitioner participate in evaluation of patients for marijuana use?

No, there is no requirement that practitioners participate in the certification of patients for the medical cannabis program.

If a practitioner does choose to certify a patient for the program, what are the requirements for the provider?

Certifying providers must meet the following requirements:

1. Have a current and active New Mexico license from their respective medical licensing board
2. Be licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act
   a. Hold an active New Mexico Controlled Substance license from the New Mexico Board of Pharmacy
   b. Hold an active DEA license to prescribe controlled substances
3. Have a primary place of practice that is located in the state of New Mexico.
4. A patient may not be certified by a practitioner who is related to the patient within the second degree of consanguinity or the first degree of affinity, including a spouse, child, stepchild, parent, step-parent, sibling, grandparent, mother-in-law, father-in-law, son-in-law, or daughter-in-law of the patient.
5. A practitioner may be prohibited from certifying a patient’s application for:
   a. failure to comply with any provision of the rules and regulations of the program NMAC 7.34.2 to 7.34.4;
   b. falsification of any material or information submitted to the department;
   c. threatening or harming an employee of a producer, a medical practitioner, a patient, or an employee of the department; or
   d. any determination by the practitioner’s licensing body that practitioner has engaged in unprofessional or dishonorable conduct.

A written certification means that, in the practitioner’s professional opinion, the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient. Certifications must take place within an established patient-provider relationship that includes a current assessment of the applicant’s debilitating medical condition and an assessment of whether the potential benefits of program participation outweigh any risks. Certifications completed in the absence of a clinical visit are unacceptable. Certifications conducted via mail or electronic means are unacceptable.

**Can mid-levels refer patients?**
Yes. Certifying providers must be licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act. Many mid-level providers meet this requirement. They may certify patients if they meet this requirement and those listed in the section above.

**How many providers need to certify a patient for program participation? Does it require 2 practitioners? Does one need to be the patient’s primary care provider?**

The majority of conditions require a certification from only one provider, typically the person’s primary care provider. Some eligible conditions do have additional requirements. Conditions with special application requirements are as follows:

1) Painful peripheral neuropathy – requires inclusion of medical records that provide *objective* evidence of the presence of peripheral neuropathy
2) PTSD – requires verification of the diagnosis by a psychiatrist, psychiatric nurse practitioner or prescribing psychologist
3) Glaucoma – requires the diagnosis be made by an ophthalmologist or optometrist
4) Severe chronic pain – requires 2 certifications. One certification may be from any provider eligible to certify program applicants. The second certification must be from a medical specialist with expertise in pain management or from a medical specialist with expertise in the disease process that is causing the chronic pain.
5) Inflammatory auto-immune mediated arthritis – the certification must come from a board certified rheumatologist

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Is my information confidential if I certify patients for the program?

Yes, the medical cannabis program does maintain a list of approved patients and their certifying provider. However, this information is considered strictly confidential for reasons of patient privacy. Under NMAC 7.3.4.3.16 “Names and contact information regarding a primary caregiver or certifying provider shall be confidential and shall not be subject to disclosure, except:

1. to applicable licensing bodies, for the purpose of verifying the practitioner’s licensure status, or in the event that the medical cannabis program manager or designee has reason to believe that a practitioner may have violated licensing requirements or an applicable law;
2. to employees of New Mexico state or local law enforcement agencies, in the event that the medical cannabis program manager or designee has reason to believe that a primary caregiver or certifying provider may have violated an applicable law;
3. as provided in the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 and applicable state and federal regulations.” [7.34.3.16 NMAC - Rp, 7.34.3.14 NMAC, 12/30/2010]

What is required for a patient to qualify for participation in the program, from the medical provider perspective?

A patient applicant must have one of the 17 current qualifying conditions. The presence of one of these conditions does not immediately qualify for a patient program participation based on the diagnosis alone. The Lynn and Erin Compassionate Use Act allows for “the beneficial use of medical cannabis in a regulated system for “alleviating symptoms caused by debilitating medical conditions and their medical treatments”. When you certify a patient you are stating that the applicant has both the qualifying condition AND the presence of symptoms associated with that condition, or treatment of that condition. Department approved conditions (i.e. those conditions not specified in the Lynn and Erin Compassionate Use Act) also require that standard treatments have failed to bring adequate relief.

There is a section on the certification form in which you must provide written certification to this effect.

The following are some practical examples:

1. A patient with newly diagnosed breast cancer undergoing chemotherapy that has persistent nausea and vomiting. This meets the diagnostic and compassionate use requirements.
2. A patient with a prior history of abdominal malignancy, now cured, who underwent bowel resection and radiation, leaving them with persistent nausea, vomiting, and abdominal pain related to radiation enteritis and short bowel. This meets the diagnostic and compassionate use requirements.
3. A patient with a recent prostate biopsy showing areas of prostate cancer that is currently asymptomatic and undergoing monitoring by his urologist. This person meets the diagnostic criteria but does not have any symptoms associated with that diagnosis to meet the compassionate use intent of the Act.

What will I be asked to provide on the certification?

1. Your name, address, phone number, clinical licensure, clinical area of medical practice or medical specialty, length of time you have cared for the patient, NM medical license number, NM Controlled Substance license number and DEA number.
2. Written certification that the patient has one of the debilitating medical conditions currently considered as a qualifying condition and that they have symptoms due this condition or
treatment of the condition. Any specific details you can provide will greatly aid in the review of your patient’s application.

3. Written certification that the potential health benefits of the medical use of cannabis in this patient would likely outweigh health risks for the patient.

4. Any additional information that you feel would support your patient’s application, such as therapies tried which were either not efficacious or not tolerated.

What does the qualifying condition of “hepatitis C currently receiving antiviral treatment” mean?

This condition is specifically for hepatitis C patients who are actively receiving treatment for the disease. Antiviral drug therapy can be associated with symptoms such as nausea, vomiting, and weight loss that may cause a patient to stop therapy before treatment is complete. The intent of this qualifying condition in the program is to allow patients on treatment to use medical cannabis for the relief of treatment associated symptoms in order to enhance their ability to complete a full course of antiviral drug therapy in hopes of curing their hepatitis C infection.

This condition does not cover patients with hepatitis C who are not on therapy.

I am certifying a patient for painful peripheral neuropathy. What should providing objective evidence of the presence of peripheral neuropathy include?

The specific requirements for patients participating under painful peripheral neuropathy were set by the Medical Advisory Board and the Secretary of Health as follows:

1. All cases of peripheral neuropathy should be verified by objective diagnostic testing and should be confirmed by a qualified medical practitioner.
2. Application to the Medical Cannabis Program must be accompanied by medical records that confirm the presence of painful peripheral neuropathy that has been refractory to other treatments.

The diagnosis of peripheral neuropathy can be confirmed by diagnostic tests and by the evaluation of a qualified medical practitioner. For example, this may include nerve conduction studies and electromyography studies (NCV/EMG); a detailed neurologic exam by a practitioner that documents persistent sensory deficits consistent with painful peripheral neuropathy; or biopsy findings. In general, radiologic imaging studies such as plain radiographs and MRIs are NOT adequate for verification of the diagnosis, as radiologic studies do not necessarily correlate with the presence of objective neuropathy. The presence of pain alone, without objective evidence of neuropathy, is NOT adequate to qualify for the program under this condition.

Clinical examples:

1. Painful diabetic neuropathy (with presence of objective neuropathy)
2. Painful neuropathy resulting from chemotherapeutic agents, toxins, HIV, or malignancy (with presence of objective neuropathy)
3. Peripheral nerve damage due to mechanical injuries such as avulsion or traumatic injury resulting in persistent objective nerve damage with painful neuropathy

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I am certifying a patient under the category of severe chronic pain. What is required?

The specific requirements for patients participating under the category of severe chronic pain were established by the Medical Advisory Board and the Secretary of Health as follows:

1. Objective proof of the etiology of the severe chronic pain must be included in the application.
2. Two clinicians familiar with the patient’s chronic pain must provide written certification that the patient has an unremitting severe chronic pain condition. One of these clinicians must be a certification eligible provider and the other must be a medical specialist with expertise in pain management or with expertise in the disease process that is causing the pain.
3. The two certifying clinicians must attest that all other standard modalities for treating the pain have been tried and have failed to bring adequate relief for the pain and suffering.

In practice, providing objective proof of the etiology of the severe chronic pain may include medical records, written documentation by the provider, and/or imaging studies. Clinical medical records are often helpful to the program in evaluating the application. The application MUST include a certification from a specialist. This specialist may either be a practitioner with expertise in pain management (i.e. anesthesiologist, physical medicine and rehabilitation) or a specialist in a medical specialty related to the patient’s chronic pain syndrome.

Clinical examples:
1. For clients with chronic back pain syndromes, examples of potential specialist certifications include: back and spine specialists, neurosurgeons, orthopedists, rheumatologists, anesthesiologists, and physical medicine and rehabilitation specialists.
2. For clients with painful joint disease examples of potential specialist certifications include rheumatologists, orthopedists, anesthesiologists, and physical medicine and rehabilitation specialists.

I am certifying a patient with nausea/vomiting. What does intractable mean in this context?

Intractable nausea/vomiting refers to a condition characterized by repeated episodes of nausea and/or vomiting which does not resolve and persists despite the use of anti-emetic medications of various classes. The etiology may be highly variable; including both gastrointestinal and non-gastrointestinal conditions such as bulimia, brain injuries, metabolic syndromes, and even porphyria. Since cannabis provides only symptomatic treatment, it is essential that patients be thoroughly evaluated prior to initiating medical cannabis therapy.

How do patients obtain medical cannabis?

Medical cannabis in New Mexico may be obtained through one of 23 currently licensed non-profit producers. Once a patient is approved and enrolled in the program, the patient will receive a list of producers along with specific contact information. The patient then chooses where they would like to obtain their medical cannabis. The transaction between patient and producer is a private one. The State program can neither recommend which producer a patient uses nor do we regulate pricing of the product.
As an alternative, registered patients may also produce their own medical cannabis. Every patient has the option of applying for a license to produce their own medical cannabis. Requirements and updated information is located on the program website at: nmhealth.org/about/mcp/svcs/

**What is a common misperception that medical providers hold regarding New Mexico’s new program for medical marijuana use?**

One common misperception is concern that certifying patients for the program may put a provider’s licensure at risk. The important point to emphasize is that certifying a patient for the program is NOT equivalent to prescribing marijuana. Practitioners certify that patients are eligible to apply for participation in our state medical cannabis program because they have one of the conditions in the program and have unrelieved symptoms that not been helped by other treatments. The New Mexico legislation that established the NM medical cannabis program has specific language that addresses this issue as follows:

“A practitioner shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.”

**What should providers do when they are not comfortable recommending medical marijuana (either specifically for a patient or as a general principle)?**

Practitioners have the right and responsibility to use their best professional judgment in assessing patients for program participation. Practitioners know their patients best and are best suited to assess the potential risks and benefits of medical cannabis use for an individual patient.

However, since programs for the use of medical cannabis are relatively new, many providers don’t necessarily have a background in the science or clinical aspects of medical cannabis. We are always happy to answer questions for providers and our program is working to provide educational sessions to providers in NM to address these questions. Providers are welcome to contact the program via our email at medical.cannabis@state.nm.us. Please list in the subject line or text that the email is from a provider requesting clinical information. That way the email can be forwarded to our medical staff in order to supply an answer to the provider. For providers who remain uncomfortable certifying patients for the program, either for personal or institutional reasons, they may want to consider referring a patient to another provider for a second opinion. The state program cannot provide referrals or names of physicians for certification to applicants.

**Where can I find additional information and application forms?**

Additional information on the program including patient applications, common questions and answers, and current data about the program is located on our website at: nmhealth.org/about/mcp/svcs/

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