

Regulation 3: Verification of medical information; issuance, denial, revocation, and form of registry identification cards

- A. The department shall verify medical information contained in the patient's application within thirty days of receiving the application. Verification of medical information shall consist of determining that there is documentation stating the applicant has a current diagnosis with a debilitating medical condition as defined in regulation six-by a physician who has a current ACTIVE, UNRESTRICTED AND UNCONDITIONED license to practice medicine issued by the State of Colorado, WHICH LICENSE IS IN GOOD STANDING, AND WHO HAS A BONA FIDE PHYSICIAN PATIENT RELATIONSHIP WITH THE PATIENT AS DEFINED IN REGULATION EIGHT.

Regulation 8: Physician requirements; reasonable cause for referrals of physicians to the Colorado Medical Board; reasonable cause for department adverse action concerning physicians; appeal rights

- A. PHYSICIAN REQUIREMENTS. A PHYSICIAN WHO CERTIFIES A DEBILITATING MEDICAL CONDITION FOR AN APPLICANT TO THE MEDICAL MARIJUANA PROGRAM SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:
1. UNRESTRICTED, UNCONDITIONED COLORADO LICENSE TO PRACTICE MEDICINE. THE PHYSICIAN SHALL HAVE A VALID, UNRESTRICTED COLORADO LICENSE TO PRACTICE MEDICINE, WHICH LICENSE IS IN GOOD STANDING.
 - a. FOR THE PURPOSES OF CERTIFYING A DEBILITATING MEDICAL CONDITION OF AN APPLICANT AND RECOMMENDING THE USE OF MEDICAL MARIJUANA FOR THE MEDICAL MARIJUANA PROGRAM, "IN GOOD STANDING" MEANS:
 - i. THE PHYSICIAN HOLDS A DOCTOR OF MEDICINE OR DOCTOR OF OSTEOPATHIC MEDICINE DEGREE FROM AN ACCREDITED MEDICAL SCHOOL;
 - ii. THE PHYSICIAN HOLDS A VALID LICENSE TO PRACTICE MEDICINE IN COLORADO THAT IS NOT RESTRICTED OR CONDITIONED; AND
 - iii. THE PHYSICIAN HAS A VALID AND UNRESTRICTED UNITED STATES DEPARTMENT OF JUSTICE FEDERAL DRUG ENFORCEMENT ADMINISTRATION CONTROLLED SUBSTANCES REGISTRATION

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- 48 2. BONA FIDE PHYSICIAN PATIENT RELATIONSHIP. A PHYSICIAN
- 49 WHO MEETS THE REQUIREMENTS IN SUBSECTION A.1 OF THIS
- 50 REGULATION EIGHT AND WHO HAS A BONA FIDE PHYSICIAN-
- 51 PATIENT RELATIONSHIP WITH A PARTICULAR PATIENT MAY
- 52 CERTIFY TO THE STATE HEALTH AGENCY THAT THE PATIENT
- 53 HAS A DEBILITATING MEDICAL CONDITION AND THAT THE
- 54 PATIENT MAY BENEFIT FROM THE USE OF MEDICAL
- 55 MARIJUANA. IF THE PHYSICIAN CERTIFIES THAT THE PATIENT
- 56 WOULD BENEFIT FROM THE USE OF MEDICAL MARIJUANA
- 57 BASED ON A CHRONIC OR DEBILITATING DISEASE OR
- 58 MEDICAL CONDITION, THE PHYSICIAN SHALL SPECIFY THE
- 59 CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION
- 60 AND, IF KNOWN, THE CAUSE OR SOURCE OF THE CHRONIC OR
- 61 DEBILITATING DISEASE OR MEDICAL CONDITION.
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- 63 a. "BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP", FOR
- 64 PURPOSES OF THE MEDICAL MARIJUANA PROGRAM,
- 65 MEANS:
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- 67 i. A PHYSICIAN AND A PATIENT HAVE A TREATMENT OR
- 68 COUNSELING RELATIONSHIP, IN THE COURSE OF WHICH
- 69 THE PHYSICIAN HAS COMPLETED A FULL ASSESSMENT
- 70 OF THE PATIENT'S MEDICAL HISTORY AND CURRENT
- 71 MEDICAL CONDITION, INCLUDING AN APPROPRIATE
- 72 PERSONAL PHYSICAL EXAMINATION;
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- 74 ii. THE PHYSICIAN HAS CONSULTED WITH THE PATIENT
- 75 WITH RESPECT TO THE PATIENT'S DEBILITATING
- 76 MEDICAL CONDITION BEFORE THE PATIENT APPLIES
- 77 FOR A REGISTRY IDENTIFICATION CARD; AND
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- 79 iii. THE PHYSICIAN IS AVAILABLE TO OR OFFERS TO
- 80 PROVIDE FOLLOW-UP CARE AND TREATMENT TO THE
- 81 PATIENT, INCLUDING BUT NOT LIMITED TO PATIENT
- 82 EXAMINATIONS, TO DETERMINE THE EFFICACY OF THE
- 83 USE OF MEDICAL MARIJUANA AS A TREATMENT OF THE
- 84 PATIENT'S DEBILITATING MEDICAL CONDITION.
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- 86 b. A PHYSICIAN MAKING MEDICAL MARIJUANA
- 87 RECOMMENDATIONS SHALL COMPLY WITH GENERALLY
- 88 ACCEPTED STANDARDS OF MEDICAL PRACTICE, THE
- 89 PROVISIONS OF THE MEDICAL PRACTICE ACT, § 12-36-101
- 90 *ET SEQ.*, C.R.S, AND ALL COLORADO MEDICAL BOARD
- 91 RULES.
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- 93 c. THE “APPROPRIATE PERSONAL PHYSICAL EXAMINATION”
94 REQUIRED BY PARAGRAPH A.2.I OF THIS REGULATION
95 EIGHT MAY NOT BE PERFORMED BY REMOTE MEANS,
96 INCLUDING TELEMEDICINE.
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- 98 3. MEDICAL RECORDS. THE PHYSICIAN SHALL MAINTAIN A
99 RECORD-KEEPING SYSTEM FOR ALL PATIENTS FOR WHOM
100 THE PHYSICIAN HAS RECOMMENDED THE MEDICAL USE OF
101 MARIJUANA. PURSUANT TO AN INVESTIGATION INITIATED
102 BY THE COLORADO MEDICAL BOARD, THE PHYSICIAN SHALL
103 PRODUCE SUCH MEDICAL RECORDS TO THE COLORADO
104 MEDICAL BOARD AFTER REDACTING ANY PATIENT OR
105 PRIMARY CAREGIVER IDENTIFYING INFORMATION.
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- 107 4. FINANCIAL PROHIBITIONS. A PHYSICIAN SHALL NOT:
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- 109 a. ACCEPT, SOLICIT, OR OFFER ANY FORM OF PECUNIARY
110 REMUNERATION FROM OR TO A PRIMARY CAREGIVER,
111 DISTRIBUTOR, OR ANY OTHER PROVIDER OF MEDICAL
112 MARIJUANA;
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- 114 b. OFFER A DISCOUNT OR ANY OTHER THING OF VALUE TO A
115 PATIENT WHO USES OR AGREES TO USE A PARTICULAR
116 PRIMARY CAREGIVER, DISTRIBUTOR, OR OTHER PROVIDER
117 OF MEDICAL MARIJUANA TO PROCURE MEDICAL
118 MARIJUANA;
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- 120 c. EXAMINE A PATIENT FOR PURPOSES OF DIAGNOSING A
121 DEBILITATING MEDICAL CONDITION AT A LOCATION
122 WHERE MEDICAL MARIJUANA IS SOLD OR DISTRIBUTED;
123 OR
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- 125 d. HOLD AN ECONOMIC INTEREST IN AN ENTERPRISE THAT
126 PROVIDES OR DISTRIBUTES MEDICAL MARIJUANA IF THE
127 PHYSICIAN CERTIFIES THE DEBILITATING MEDICAL
128 CONDITION OF A PATIENT FOR PARTICIPATION IN THE
129 MEDICAL MARIJUANA PROGRAM.
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- 132 B. REASONABLE CAUSE FOR REFERRAL OF A PHYSICIAN TO THE
133 COLORADO MEDICAL BOARD. FOR REASONABLE CAUSE, THE
134 DEPARTMENT MAY REFER A PHYSICIAN WHO HAS CERTIFIED A
135 DEBILITATING MEDICAL CONDITION OF AN APPLICANT TO THE
136 MEDICAL MARIJUANA REGISTRY TO THE COLORADO MEDICAL
137 BOARD FOR POTENTIAL VIOLATIONS OF SUB-PARAGRAPHS 1, 2, AND
138 3 OF PARAGRAPH A OF THIS RULE.

- 142 C. REASONABLE CAUSE FOR DEPARTMENT SANCTIONS CONCERNING
143 PHYSICIANS. FOR REASONABLE CAUSE, THE DEPARTMENT MAY
144 SANCTION A PHYSICIAN WHO CERTIFIES A DEBILITATING MEDICAL
145 CONDITION FOR AN APPLICANT TO THE MEDICAL MARIJUANA
146 REGISTRY FOR VIOLATIONS OF PARAGRAPH A.4 OF THIS RULE.
147 REASONABLE CAUSE SHALL INCLUDE, BUT NOT BE LIMITED TO:
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- 149 1. THE PHYSICIAN IS HOUSED ONSITE AND/OR CONDUCTS
150 PATIENT EVALUATIONS FOR PURPOSES OF THE MEDICAL
151 MARIJUANA PROGRAM AT A LOCATION WHERE MEDICAL
152 MARIJUANA IS SOLD OR DISTRIBUTED, SUCH AS A MEDICAL
153 MARIJUANA CENTER, OPTIONAL GROW SITE, MEDICALLY
154 INFUSED PRODUCTS MANUFACTURER, BY A PRIMARY CARE-
155 GIVER, OR OTHER DISTRIBUTOR OF MEDICAL MARIJUANA.
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 - 157 2. A PHYSICIAN WHO HOLDS AN ECONOMIC INTEREST IN AN
158 ENTITY THAT PROVIDES OR DISTRIBUTES MEDICAL
159 MARIJUANA, SUCH AS A MEDICAL MARIJUANA CENTER, AN
160 INFUSED PRODUCTS MANUFACTURER, AN OPTIONAL GROW
161 SITE, A PRIMARY CARE-GIVER, OR OTHER DISTRIBUTOR OF
162 MEDICAL MARIJUANA.
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 - 164 3. THE PHYSICIAN ACCEPTS, OFFERS OR SOLICITS ANY FORM OF
165 PECUNIARY REMUNERATION FROM OR TO A PRIMARY CARE-
166 GIVER, MEDICAL MARIJUANA CENTER, OPTIONAL GROW SITE,
167 MEDICALLY INFUSED PRODUCT MANUFACTURER, OR ANY
168 OTHER DISTRIBUTOR OF MEDICAL MARIJUANA.
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 - 170 4. THE PHYSICIAN OFFERS A DISCOUNT OR ANY OTHER THING
171 OF VALUE, INCLUDING BUT NOT LIMITED TO A COUPON FOR
172 REDUCED-PRICE MEDICAL MARIJUANA OR A REDUCED FEE
173 FOR PHYSICIAN SERVICES, TO A PATIENT WHO AGREES TO
174 USE A PARTICULAR MEDICAL MARIJUANA CENTER, PRIMARY
175 CARE-GIVER, OR OTHER DISTRIBUTOR OF MEDICAL
176 MARIJUANA.
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- 178 D. SANCTIONS. FOR REASONABLE CAUSE, THE DEPARTMENT MAY
179 PROPOSE ANY OF THE FOLLOWING SANCTIONS AGAINST A
180 PHYSICIAN:
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- 182 1. REVOCATION OF THE PHYSICIAN'S ABILITY TO CERTIFY A
183 DEBILITATING MEDICAL CONDITION AND RECOMMEND
184 MEDICAL MARIJUANA FOR AN APPLICANT TO THE MEDICAL
185 MARIJUANA REGISTRY; OR
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2. SUMMARY SUSPENSION OF THE PHYSICIAN'S ABILITY TO CERTIFY A DEBILITATING MEDICAL CONDITION OR RECOMMEND MEDICAL MARIJUANA FOR AN APPLICANT TO THE MEDICAL MARIJUANA REGISTRY WHEN THE DEPARTMENT REASONABLY AND OBJECTIVELY BELIEVES THAT A PHYSICIAN HAS DELIBERATELY AND WILLFULLY VIOLATED SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION OR § 25-1.5-106, C.R.S. AND THE PUBLIC HEALTH, SAFETY AND WELFARE IMPERATIVELY REQUIRES EMERGENCY ACTION.

E. APPEALS. IF THE DEPARTMENT PROPOSES TO SANCTION A PHYSICIAN PURSUANT TO PARAGRAPH C OF THIS RULE, THE DEPARTMENT SHALL PROVIDE THE PHYSICIAN WITH NOTICE OF THE GROUNDS FOR THE SANCTION AND SHALL INFORM THE PHYSICIAN OF THE PHYSICIAN'S RIGHT TO REQUEST A HEARING.

1. A REQUEST FOR HEARING SHALL BE SUBMITTED TO THE DEPARTMENT IN WRITING WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE POSTMARK ON THE NOTICE.
2. IF A HEARING IS REQUESTED, THE PHYSICIAN SHALL FILE AN ANSWER WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE POSTMARK ON THE NOTICE.
3. IF A REQUEST FOR A HEARING IS MADE, THE HEARING SHALL BE CONDUCTED IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURES ACT, § 24-4-101 *ET SEQ.*, C.R.S.
4. IF THE PHYSICIAN DOES NOT REQUEST A HEARING IN WRITING WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THE NOTICE, THE PHYSICIAN IS DEEMED TO HAVE WAIVED THE OPPORTUNITY FOR A HEARING.