


Overview of 
Alabama's Medical
Cannabis Law

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Disclaimer

This program is informational in nature and should not be construed as
constituting a legal opinion or legal advice.

Medical Cannabis
STATUTES

Medical Cannabis Statutes

- Darren Wesley 'Ato' Hall Compassion Act (Compassion Act) passed by legislature in 2021
- Codified in Alabama Code § 20-2A-1, et seq.
- Legislative intent: to create an intrastate healthcare market for medical cannabis, including the licensing and regulation of cultivators, processors, testers, transporters, and dispensaries

Relation to Other Laws

- Compassion Act supersedes some other state laws pertaining to medical cannabis
 - Registered qualified patients with valid cards and in possession of no more than 70 daily dosages NOT subject to arrest for unlawful possession
- Registered certifying physicians who recommend in compliance with Compassion Act are immune from civil and criminal liability for such recommendations
- Licensees or employees of licensees acting in compliance with requirements of Compassion Act not subject to arrest or prosecution
- Hospitals treating qualifying patients in accordance with Compassion Act not subject to penalty
- Possession of medical cannabis card alone not grounds for probable cause or reasonable suspicion

Effect on Insurance, Employment, & Child Welfare

- Insurance:
 - Does not require insurer or other organization providing medical coverage to reimburse for medical cannabis use
- Employment:
 - Does not prohibit adverse employment actions for medical cannabis use
 - Does not prohibit employment policies against the use of medical cannabis on the job or requiring notification when employee possesses medical cannabis card
- Child welfare:
 - Does not prohibit DHR from consideration of parent or guardian use of medical cannabis in child welfare situations like abuse investigations and child custody determinations

Medical Cannabis Statutes

- Compassion Act creates the following:
 - Alabama Medical Cannabis Commission (AMCC)
 - Patient Registry
 - Seed to Sale Tracking Program

AMCC

- Regulatory authority and licensing body for all aspects of cannabis market
- Fourteen appointed members, appointed by the state officers below:
 - Governor: physician, pharmacist, experience in agricultural lending or banking
 - Lt. Governor: pediatrician, health lawyer, biochemist
 - President Pro Tem of Senate: oncologist, experience in multiple crop development and agricultural practices
 - Speaker of House: experience in mental health or substance abuse counseling, experience in agricultural systems management
 - Commissioner of Agriculture and industries: experience in agricultural production
 - State Health Officer
 - Attorney General – advisory only, nonvoting
 - Secretary of Law Enforcement Agency – advisory only, nonvoting

Patient Registry System

- Alabama Medical Cannabis Patient Registry System - Integrated electronic system for tracking the following:
 - Qualified patient registrations
 - Physician certifications
 - Issuance of cards
 - Purchases, validity of cards, verifies purchase is within allowable limits
- No requirement or current plan to integrate with PDMP

Seed to Sale Tracking System

- Statewide seed to sale tracking system: an integrated tracking, inventory, and verification system
- Must be compatible with patient registry
- Must be compatible with third party tracking systems used by licensees, if required

Qualified Patients

- Certified by a registered certifying physician as having a qualifying condition
- Registered with the commission
- If under 19 years of age, has a qualified designated caregiver who is his or her parent or legal guardian

Qualifying Medical Conditions

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| <ul style="list-style-type: none"> • Autism Spectrum Disorder (ASD) • Cancer-related cachexia, nausea or vomiting, weight loss, or chronic pain • Crohn's Disease • Depression • Epilepsy or a condition causing seizures • HIV/AIDS-related nausea or weight loss • Panic disorder • Parkinson's disease • Persistent nausea not significantly responsive to traditional treatment, except for nausea related to pregnancy, or related to use of cannabis | <ul style="list-style-type: none"> • Post Traumatic Stress Disorder (PTSD) • Sickle Cell Anemia • Spasticity associated with motor neuron disease, including ALS • Spasticity associated with Multiple Sclerosis or a spinal cord injury • Terminal illness • Tourette's Syndrome • A condition causing chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective |
|---|---|

Forms of Medical Cannabis

- Allowed:
 - Oral tablet, capsule, or tincture
 - Non-sugarcoated gelatinous cube
 - Gel, oil, cream, or other topical
 - Suppository
 - Transdermal patch
 - Nebulizer
 - Liquid or oil for use by inhaler
- Prohibited:
 - Raw plant material
 - Any product administered by smoking, combustion, or vaping
 - Food products with medical cannabis baked, mixed, or otherwise infused into the product, such as cookies or candies

Medical Cannabis

RULES

Medical Cannabis Rules for Certifying Physicians

- Ala. Code §20-2A-33 provided BME rule-making authority for issuance of certifications to use medical cannabis by registered certifying physicians, including the following requirements:
 - Patient examination and creation of treatment relationship
 - Inclusion of relevant information in patient record
 - Review of history in controlled substance prescription database
 - Review of patient registry
- Rules were proposed in November 2021 and adopted March 2022

Definitions

- Certify – confirm or diagnose by examination a qualifying medical condition where conventional therapy has failed and medical cannabis is indicated
- Chronic Pain – Pain persisting beyond usual course of acute disease or healing of injury
- Intractable Pain – Pain for which cause cannot be removed or treated
- Patient Capable of Conception -- A patient possessing female reproductive organs who is between eleven (11) and fifty (50) years of age, excluding any patient who the registered certifying physician has confirmed to have had a hysterectomy or tubal ligation.

Definitions

- Recommend – To authorize the daily dose and type of medical cannabis to a registered patient for the specific qualifying condition
- Terminal illness – Illness or physical condition reasonably expected to result in death in 6 months or less
- Unrestricted – No restriction on medical license, controlled substance certificate registration, or DEA registration, and not subject to any kind of discipline in the past 5 years

Eligibility for registration as certifying physician

- Active, unrestricted:
 - Alabama Medical License
 - Alabama Controlled Substance Certificate (ACSC)
 - Alabama-specific DEA registration
 - Registration and access to Prescription Drug Monitoring Program (PDMP)
 - Registration and access to the Alabama Medical Cannabis Patient Registry (AMCPR)

Eligibility for registration as certifying physician

- Three (3) years in active practice, or if Board certified, one (1) year in active practice (excluding internships, residencies, fellowships)
- Completion of a 4-hour course developed by the Medical Association of the State of Alabama on medical cannabis and completion of accompanying exam with passing grade
- Payment of all applicable fees

Limitations on registered certifying physicians

- No acceptance, solicitation, or offer of any form of remuneration to certify a patient for use, other than fee for medical services not to exceed what is customary
- No acceptance, solicitation, or offer of any form of remuneration to refer a patient to a particular dispensary
- No discounts to patients in exchange for using a designated caregiver or using a specific dispensary
- No direct or indirect economic interest in or service on board of licensees of AMCC

Limitations on registered certifying physicians

- No referrals to specific caregivers or dispensaries
- No advertising in dispensaries
- No advertisements describing scope of practice as including medical cannabis other than: "Dr. _____ is qualified by the State of Alabama to certify patients for medical cannabis use under the Alabama Compassion Act."
- No sharing office space or location with dispensary
- No certifying outside of Alabama (physician, patient, examinations must all be in Alabama)

Limitations on registered certifying physicians

- No certifying with qualifying medical conditions outside of the physician's education, training and usual medical practice
- No certifying or recommending to patients who are pregnant, breastfeeding or attempting to conceive
- No certifying or recommending to a patient diagnosed with a condition where medical cannabis is contraindicated under current standard of care

Requirements for certifying for use

- Diagnose a patient with a qualifying medical condition, or confirm the diagnosis of another physician through observation and primary source verification
- Establish relationship, including physical exam while in the same location
- Create medical record documenting at minimum:
 - Patient name, date of office visits, and examinations performed
 - Description and diagnosis of qualifying medical condition
 - Assessment of medical history
 - Review of diagnostic test results, prior treatment and response, current medications, conventional therapy attempted

Requirements for Certifying for use

- Minimum required documentation for diagnosis
 - Development of a treatment plan
 - Review of PDMP (reviewing at least 24 months prior to certification)
 - Results of mandatory drug screen for illicit or controlled substances
 - Discussion of indicators of controlled substance abuse or diversion
 - Risks, benefits, alternatives of medical cannabis as it relates to specific qualifying condition
 - Voluntary, written informed consent from patient on Board-authorized form

Requirements for Certifying for use

- Minimum requirements for written informed consent
 - Classification of cannabis as Schedule I controlled substance
 - Approval and oversight status of cannabis by the FDA
 - Current state of research on efficacy of cannabis for treating qualifying conditions
 - Potential for addiction
 - Potential effect on patient's coordination or motor skills
 - Potential side effects, risks, benefits and drug interactions
 - Statement regarding use of cannabis and potential for employment termination
 - Patient's de-identified health information may be used for research or monitoring compliance
 - Statement that a certification or recommendation does not equal a prescription
 - Whether a caregiver is needed for use or administration

Requirements for Certifying for use

- Certifying physicians must submit patient information to the patient registry, including:
 - Patient name, date of birth and home address
 - Physician name and Alabama Medical Cannabis Certification permit number
 - Patient's registered caregiver
 - Description of qualifying condition or terminal illness
 - Daily dosage and type of cannabis recommended
 - Permissible length of duration of certification (90 day maximum, 30 for patients capable of conception)

Requirements for Certifying for use

- Certifying physicians must submit patient information to the patient registry, including:
 - Statements from certifying physician on the following:
 - Bona fide treatment relationship exists
 - Patient diagnosed with at least one qualifying condition
 - Conventional therapies have been attempted and failed
 - If certification based on terminal illness, physician's belief that illness will result in patient's death no later than 6 months following certification
 - Affirmation of obtaining PDMP report
 - Affirmation of risks, benefits, alternatives conversation with patient

Dosage Limitations

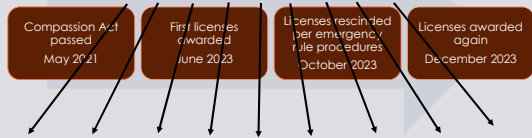
- No recommendations of medical cannabis with tetrahydrocannabinol (THC) potency greater than 3% to minors
- No recommendations of THC content exceeding the maximum daily dose for each qualifying condition as established by the AMCC
- Subject to maximum daily dosages established by AMCC, no recommendations beyond 50 mg of Delta 9-THC, unless
 - After 90 days, physician determines and justifies in documentation a higher daily dosage is medically appropriate – cannot exceed 75 mg of Delta 9-THC, or
 - Patient has been diagnosed with a terminal illness – cannot exceed 75 mg Delta 9-THC, and patient's driver's license will be suspended

Medical Cannabis

Is it available now?

Medical Cannabis Timeline

LITIGATION



Medical Cannabis Timeline

When first permits will be issued:

- No Alabama Medical Cannabis Certification Permit shall be issued until the AMCC has issued at least one license each for a cultivator, a processor, a secure transporter, and a dispensary or has issued at least one license for an integrated facility.

Reclassification of Marijuana

What does that mean for the Alabama cannabis market?

Reclassification of Marijuana

- Marijuana classified as Schedule I drug since the enactment of Controlled Substances Act
 - Schedule I means no medical value, and therefore, not available by prescription or at a pharmacy
- In May 2024, US Justice Dept issued a notice of proposed rulemaking that would reclassify marijuana to Schedule III (examples of Schedule III: ketamine, anabolic steroids)
- Hearing scheduled for December 2024, with some decision expected for 2025

Reclassification of Marijuana

- How does that change the Alabama market?
 - Will pharmacies be able to stock medical cannabis?
 - Will any physician with a valid DEA registration be able to prescribe?
 - Will medical cannabis dispensaries be subject to DEA rules?
- The Compassion Act is Alabama's law regarding the Alabama cannabis market, and a reclassification of marijuana will not change the Act's authority

Questions?
