

218B.050 Written certification form -- Application process -- Renewals -- Bona fide practitioner-patient relationship -- Procedures -- Administrative regulations.

- (1) Except as provided in subsection (11) of this section, a physician or an advanced practice registered nurse who is authorized to prescribe controlled substances under KRS 314.042 seeking to provide written certifications for the use of medicinal cannabis shall apply to the same state licensing board that issued his or her professional practice license, on a form prescribed by the state licensing board, for authorization to provide written certifications for the use of medicinal cannabis.
- (2)
 - (a) A state licensing board shall approve an application for authorization to provide written certifications for the use of medicinal cannabis if the application is complete and meets the requirements established in administrative regulations promulgated by the state licensing board.
 - (b) A state licensing board shall not authorize an application for authorization to provide written certifications for the use of medicinal cannabis if the applicant has an ownership or investment interest in or compensation agreement with a cannabis business licensed under this chapter. A state licensing board may consult with the cabinet to determine if an applicant has an ownership or investment interest in or compensation agreement with a cannabis business.
- (3) Authorization to provide written certifications for the use of medicinal cannabis granted under this section shall expire and may be renewed in accordance with administrative regulations promulgated by a state licensing board.
- (4) A medicinal cannabis practitioner authorized by a state licensing board to provide written certifications for the use of medicinal cannabis may only provide a patient with a written certification after the medicinal cannabis practitioner has:
 - (a) Established a bona fide practitioner-patient relationship with the patient;
 - (b) Diagnosed the patient, or confirmed a diagnosis provided by another health care provider, with a medical condition for which the medicinal cannabis practitioner believes that the patient may receive therapeutic or palliative benefit from the use of medicinal cannabis;
 - (c) Reviewed a report of information from the electronic monitoring system established pursuant to KRS 218A.202 related to the patient for a period of time that covers at least the twelve (12) months immediately preceding the date of the report;
 - (d) Consulted with the patient, or the patient's custodial parent or legal guardian responsible for providing consent to treatment if the patient is a minor child, with respect to the possible risks and side effects associated with medicinal cannabis, including possible interactions between medicinal cannabis and any other drug or medication that the patient is taking at that time; and
 - (e) Obtained the consent of the patient's custodial parent or legal guardian responsible for providing consent to treatment, if the patient is a minor child.
- (5) A bona fide practitioner-patient relationship may be established following a referral from the patient's primary care provider and may be maintained via telehealth. However, a bona fide practitioner-patient relationship shall not be established via telehealth.

- (6)
 - (a) When issuing a written certification for the use of medicinal cannabis to a patient, the medicinal cannabis practitioner shall use a form prescribed by the cabinet.
 - (b) An initial written certification for the use of medicinal cannabis shall be provided during the course of an in-person examination of the patient by the medicinal cannabis practitioner. Subsequent written certifications, including for the purpose of renewing a registry identification card, may be provided electronically or during the course of a telehealth consultation.
 - (c) For the purpose of applying for a registry identification card, a written certification provided under this section shall be valid for a period of not more than sixty (60) days. The medicinal cannabis practitioner may renew a written certification for not more than three (3) additional periods of not more than sixty (60) days each. Thereafter, the medicinal cannabis practitioner may issue another certification to the patient only after an in-person examination or an examination conducted via telehealth of the patient by the medicinal cannabis practitioner.
 - (d) Within twenty-four (24) hours of providing a patient with a written certification for the use of medicinal cannabis, a medicinal cannabis practitioner shall record the issuance of the written certification in the electronic monitoring system established pursuant to KRS 218A.202.
- (7) A medicinal cannabis practitioner shall not:
 - (a) Dispense medicinal cannabis; or
 - (b) Provide a written certification for the use of medicinal cannabis to a family member or for himself or herself.
- (8) Nothing in this chapter shall prevent a medicinal cannabis practitioner from being sanctioned for:
 - (a) Issuing a written certification without first obtaining authorization to provide written certifications from a state licensing board;
 - (b) Issuing a written certification to a patient with whom the medicinal cannabis practitioner does not have a bona fide practitioner-patient relationship;
 - (c) Failing to properly evaluate a patient's medical history and current medical condition prior to issuing a written certification;
 - (d) Otherwise failing to use good faith in his or her treatment of the patient; or
 - (e) Any other violation of this section.
- (9) A state licensing board may suspend or revoke a medicinal cannabis practitioner's authorization to provide written certification for the use of medicinal cannabis and practice license for multiple violations or a serious violation of this section or administrative regulations promulgated thereunder.
- (10) The state licensing boards shall:
 - (a) No later than July 1, 2024, promulgate administrative regulations in accordance with KRS Chapter 13A to establish:
 - 1. Procedures for applying for authorization to provide written certifications;

2. The conditions that must be met to be eligible for authorization to provide written certifications;
 3. The process and procedures for renewing authorization to provide written certifications;
 4. Continuing education requirements for medicinal cannabis practitioners who are authorized to provide written certifications;
 5. The reasons for which authorization to provide written certifications for the use of medicinal cannabis may be suspended or revoked; and
 6. The minimal standards of care when providing written certifications including record maintenance and follow-up care requirements;
- (b) On a regular basis, provide the cabinet with the names of all medicinal cannabis practitioners; and
 - (c) Immediately provide the cabinet with the name of any medicinal cannabis practitioner whose authorization to provide written certifications is suspended or revoked.
- (11) This section does not apply to a practitioner who recommends treatment with cannabis or a drug derived from cannabis under any of the following that are approved by an investigational review board or equivalent entity, the United States Food and Drug Administration, or the National Institutes for Health or any of its cooperative groups or centers under the United States Department of Health and Human Services:
- (a) A research protocol;
 - (b) A clinical trial;
 - (c) An investigational new drug application; or
 - (d) An expanded access submission.
- (12) As used in this section, "telehealth" has the same meaning as in KRS 211.332.

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