

State moves to ease access to medical marijuana

Jonathan Wiggs/Globe staff/File

Proposed rule changes would allow medical marijuana to be delivered to patients in nursing homes, hospices, and other health facilities.

By [Kay Lazar](#) Globe Staff September 15, 2016

State regulators moved Wednesday toward making it significantly easier for patients to gain access to medical marijuana, proposing an overhaul of a program hobbled by missteps when it dawned three years ago.

The rules would allow nurse practitioners to certify patients for marijuana use, similar to the way such nurses already write prescriptions for other medicines. Now, only physicians can certify patients for medical marijuana use.

Under that change, Massachusetts would join a handful of other states — New Hampshire, Vermont, Maryland, Minnesota, and Washington — that allow advance practice nurses to authorize patients for marijuana use, according to the Marijuana Policy Project, a Washington, D.C., organization that tracks marijuana laws and lobbies for legalization.

The proposed rules would also allow Massachusetts dispensaries for the first time to post prices of products on their websites, which means patients could comparison shop.

The proposals include a provision permitting dispensaries to deliver products to patients in nursing homes, hospices, and other health facilities. Currently, dispensaries can make deliveries only to patients' homes.

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“Our goal is safety, transparency, and access for patients who need this,” said Dr. Monica Bharel, commissioner of the Massachusetts Department of Public Health, which oversees the state’s medical marijuana program.

“This is an evolving process,” Bharel said, “both in Massachusetts and nationally.”

The proposed rules, part of a larger initiative by the Baker administration to review and update all state regulations, were presented to the Public Health Council, an appointed board of physicians, academics, and consumer advocates that helps the health department set policy.

The agency is expected to schedule a public hearing on the proposals this fall before bringing a final version to the Public Health Council for approval. Regulators were unable to provide a timetable for implementing the proposals.

State data indicate that roughly 36,000 patients have been certified to use medical marijuana. Seven dispensaries have opened, and three more have received state permission to grow marijuana, but have not opened for sales.

The proposed changes should prove especially helpful to patients who rely on nurse practitioners for their primary health care, said Nichole Snow, executive director of the Massachusetts Patient Advocacy Alliance.

Snow said allowing dispensary deliveries to nursing homes and other health facilities will be of particular benefit to patients who are paralyzed or who have severe mobility problems.

“This will be helpful for these patients who feel they’ve been forgotten,” Snow said.

And allowing dispensaries to post prices online will help patients as consumers, she said.

“Price shopping is a part of cost-savings for patients,” Snow said.

Most states allow dispensaries to post prices online, according to Jordan Wellington, compliance director at Vicente Sederberg, a Colorado law firm that represents dispensaries in many states.

But the Massachusetts regulators’ proposal to allow dispensaries to deliver to nursing homes and other medical facilities is unusual, Wellington said.

“A lot of states don’t allow delivery to begin with,” he said. “This may be a very positive step forward for patients. At times, institutional players can be conservative in decision making, and without express authorization in the law, fewer institutions would provide this option for palliative care for patients.”

The proposed changes sparked few questions from the Public Health Council. But some members expressed concerns that a small number of physicians have provided the vast preponderance of approvals needed by Massachusetts patients to gain access to medical marijuana.

State data released in June show that just 13 doctors had certified nearly three-quarters of patients who had received permission to use medical marijuana. Many other physicians in the state are reluctant to sign off on patients using the drug, according to the Massachusetts Medical Society.

The council members said they worried that state rules were not being followed that require patients to have a “bona fide” relationship with the health care provider — currently only physicians — who certifies them for marijuana use.

In May, the Board of Registration in Medicine stripped a doctor of his medical license for allowing nurse practitioners to certify patients. The physician, Dr. John C. Nadolny, was medical director of Canna Care Docs, a company that specializes in certifying patients for marijuana use in six states, including Massachusetts.

In suspending Nadolny's license, the medical board said he had signed 5,792 patient certificates without having the required relationship with the patients, and that he often delegated the work to nurse practitioners, which up until now has been prohibited.

State records at that time showed that Nadolny was the state's second-highest provider of patient certifications.

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