

IM 26 Revisions: Written Certification

Written Certification

- Certification Language Concern
 - SDCL 34-20G-5 requires that a practitioner certify a therapeutic and palliative benefit in addition to the patient's condition.
- Reviewed statutes from North Dakota and Minnesota.
- Recommend removing language related to certifying a therapeutic or palliative benefit.





North Dakota

- Original statute passed by voters in 2017 mirrored current South Dakota statute:
 - “Written certification” means a document dated and signed by a physician, stating that **in the physician’s opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient’s debilitating medical condition or symptoms associated with the debilitating medical condition.** [...] The written certification shall specify the qualifying patient’s debilitating medical condition.
– *North Dakota Century Code 19-24-02*
- North Dakota Legislature revised statute in 2019 and removed language related to therapeutic and palliative benefit:
 - "Written certification" means a form established by the department which is executed, dated, and signed by a health care provider within ninety calendar days of the date of application, **stating the patient has a debilitating medical condition.**
– *North Dakota Century Code 19-24.1-01*



Minnesota

- Statute describes health care practitioner duties:
 - (1) determine, in the health care practitioner's medical judgment, whether a patient suffers from a qualifying medical condition, and, if so determined, provide the patient with a certification of that diagnosis;**
 - (2) determine whether a patient is developmentally or physically disabled and, as a result of that disability, the patient requires assistance in administering medical cannabis or obtaining medical cannabis from a distribution facility, and, if so determined, include that determination on the patient's certification of diagnosis;
 - (3) advise patients, registered designated caregivers, and parents, legal guardians, or spouses who are acting as caregivers of the existence of any nonprofit patient support groups or organizations;
 - (4) provide explanatory information from the commissioner to patients with qualifying medical conditions, including disclosure to all patients about the experimental nature of therapeutic use of medical cannabis; the possible risks, benefits, and side effects of the proposed treatment; the application and other materials from the commissioner; and provide patients with the Tennessee warning as required by section 13.04, subdivision 2; and
 - (5) agree to continue treatment of the patient's qualifying medical condition and report medical findings to the commissioner.

- *Minnesota Statute Section 152.28*



South Dakota

South Dakota Codified Law (SDCL) 34-20G-1 Section 23:

"Written certification," a document dated and signed by a practitioner, stating that ~~in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate~~ the patient's has a debilitating medical condition or symptom associated with the debilitating medical condition. This document shall affirm that it is made in the course of a bona fide practitioner-patient relationship and shall specify the qualifying patient's debilitating medical condition.