

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 09cr209
)	
ROBERT PAWLOWSKI,)	
)	
Defendant.)	

DEFENDANT’S MOTION TO PERMIT THE USE OF MEDICAL MARIJUANA

AND NOW comes the Defendant, Robert Pawlowski, by and through his attorney PATRICK K. NIGHTINGALE, ESQUIRE, who brings the within Motion to Permit the Use of Medical Marijuana and in support thereof sets forth the following:

1. Defendant, Robert Pawlowski, incorporates all prior pleadings in this matter.
2. Defendant is serving a term of supervised release. One of the conditions of his release is that he not commit a federal crime.
3. Cannabis remains Schedule I under federal law and no exception is made for state sanctioned medical cannabis use.
4. Defendant requests this Court to modify that condition to allow the use of medical marijuana as long he is in compliance with Pennsylvania law. In the alternative, he requests that this Court take no punitive action if he is violated for medical marijuana use, so long as that use is in compliance with Pennsylvania law.
5. Pennsylvania enacted the Medical Marijuana Act in 2016 (“The Act”). The Act provides that “use or possession of medical marijuana . . . is lawful within this Commonwealth” so long as the “patient” meets certain requirements. *See* 35 Pa. Stat. Ann. § 10231.303. To be eligible for medical marijuana under the Act, a “patient” must have one of the enumerated “serious medical condition[s],” which include, *inter alia*, severe chronic or intractable pain, cancer, neuropathies, Crohn's disease, post-traumatic stress disorder (PTSD), Anxiety, Tourette’s syndrome, autism, seizure disorder, HIV/AIDS, Huntingdon’s disease, sickle cell anemia and

inflammatory bowel disease. *Id.* § 10231.103. The Act also requires a “patient” to “receive[] certification from a practitioner,” to acquire the marijuana from an approved dispensary, and to be “in possession of a valid identification card issued by” the Pennsylvania Department of Health at any time they are in possession of medical marijuana. *Id.* § 10231.303.

6. Defendant suffers from anxiety, a qualifying condition under Pennsylvania’s Medical Marijuana Act. Defendant’s letter of certification from Dr. Eric Smith is attached hereto and made a part hereof.

7. Defendant’s patient identification is attached hereto and made a part hereof.

8. Other local District Judges have permitted the use of medical marijuana when in compliance with Pennsylvania law. *See United States v. Richard Martin*, 09-cr-98, Doc. No. 133 (W.D.P.A. 2019) (**Judge Cercone** permitting the use of medical marijuana provided use remains in compliance with Pennsylvania law); *See also United States v. Nicole Hooper*, 19-cr-142, Doc.

Nos. 61, 64 (W.D.P.A. 2020) (Government consenting to the use of medical marijuana) (**Judge Bissoon** permitting the use of medical marijuana provided use remains in compliance with Pennsylvania law).

Respectfully submitted,

/s/ Patrick K. Nightingale

Patrick K. Nightingale, Esq.
Attorney for Defendant
Robert Pawlowski
Attorney ID# 76015
707 Grant Street
2340 Gulf Tower
Pittsburgh, PA 15219
412.454.5582
412.454.5583 (facsimile)
pknlaw@mac.com

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 09cr209
)	
ROBERT PAWLOWSKI)	

ORDER OF COURT

AND NOW, to-wit, this _____ day of _____, 2021, upon consideration of Defendant's Motion to Permit Medical Marijuana, it is hereby ORDERED, ADJUDGED and DECREED that said Motion is GRANTED. Defendant must strictly comply with all provisions of Pennsylvania's Medical Marijuana Act which includes, but is not limited to, a prohibition on smoking medical marijuana and storing unused medical marijuana in its original dispensary packaging at all times when not actively consuming medical marijuana. Defendant shall keep all receipts from the purchase of medical marijuana for inspection by his pre-trial services officer upon request. Because smoking medical cannabis is not permitted under Pennsylvania's medical marijuana act Defendant is prohibited from possessing any paraphernalia used for smoking dry leaf marijuana. Vaporization of same is permitted as it is authorized under the act.

BY THE COURT:

_____, J.

pennsylvania
Medical Marijuana Program

PATIENT



ISSUED: 12/09/2020

EXPIRES: 12/09/2021

**PAWLOWSKI
ROBERT**

MEDICAL MARIJUANA IDENTIFICATION CARD

Pennsylvania
visitPA.com USA

DRIVER'S LICENSE

NOT FOR REAL ID PURPOSES

068



4d DLN: 20 944 391

3 DOB: 08/20/1961

4b EXP: 08/21/2023

1 PAWLOWSKI

2 ROBERT

8 527 5TH STREET EXT
TRAFFORD, PA 15085

15 SEX: M 18 EYES: BRO

16 HGT: 5'-11"

9 CLASS: CM

9a END: NONE

12 RESTR: NONE

DUPS: 00

4a ISS: 08/08/2019

Robert Pawlowski

5 DD: 1922001200004
500000046160



 **ORGAN DONOR**

From: Robert Pawlowski bobski412@gmail.com
 Subject: Re:
 Date: March 31, 2021 at 7:21 PM
 To: Patrick K. Nightingale, Esq. pknlaw@mac.com

RP

Pennsylvania Department of Health
 Office of Medical Marijuana

Patient Certification



Publication Release Date:

For additional information, please contact:
 The Pennsylvania Department of Health
 Office of Medical Marijuana
RA-DHMedMarijuana@pa.gov

Pennsylvania Department of Health Office of Medical Marijuana

Patient ID: 476490

MEDICAL MARIJUANA PROGRAM PATIENT CERTIFICATION

Section 1 - Patient Information

Patient's Name : ROBERT PAWLOWSKI		Email Address : bobski412@gmail.com
Patient's Address : 527 5TH STREET EXT , TRAFFORD , PA , 15085		Patient's DOB : 08/20/1961
		Primary Phone Number : (412) 230-7117
Date of patient consultation: 11/23/2020		
Length of time patient has been under practitioner's continuing care:		Less than 1 Year
Treatment period for this certification <input checked="" type="radio"/> One year from date of patient consultation <input type="radio"/> A treatment period less than one year (please specify):		

Section 2 - Serious Medical Conditions Under Act 16

Select whichever is applicable; can select more than 1

<input type="checkbox"/> Amyotrophic Lateral Sclerosis	<input type="checkbox"/> Autism
<input type="checkbox"/> Cancer	<input type="checkbox"/> Crohn's Disease
<input type="checkbox"/> Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity	<input type="checkbox"/> Epilepsy
<input type="checkbox"/> Glaucoma	<input type="checkbox"/> HIV(Human Immunodeficiency Virus)/ AIDS(Acquired Immune Deficiency Syndrome)
<input type="checkbox"/> Huntington's Disease	<input type="checkbox"/> Inflammatory Bowel Disease
<input type="checkbox"/> Intractable Seizures	<input type="checkbox"/> Multiple Sclerosis
<input type="checkbox"/> Neuropathies	<input type="checkbox"/> Parkinson's Disease
<input type="checkbox"/> Post-traumatic Stress Disorder	<input type="checkbox"/> Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or ineffective
<input type="checkbox"/> Sickle Cell Anemia	<input type="checkbox"/> Neurodegenerative diseases
<input type="checkbox"/> Terminal illness	<input type="checkbox"/> Dyskinetic and spastic movement disorders
<input type="checkbox"/> Opioid use disorder for which conventional therapeutic interventions are contraindicated or ineffective, or for which adjunctive therapy is indicated in combination with primary therapeutic interventions	<input checked="" type="checkbox"/> Anxiety Disorders
<input type="checkbox"/> Tourette Syndrome	

Section 3 – Caregiver Designation

Please check the appropriate box below:

- ☐ The patient is under 18 years of age.
☐ The patient needs assistance from a parent, spouse, caregiver, or legal guardian to obtain medical marijuana due to their medical condition.
☐ The patient, in the opinion of the practitioner, is either homebound or an inpatient and will not be able to visit a dispensary during the treatment period listed in this patient certification?
☒ None of the above.

Section 4 – Caregiver Information

(The patient is permitted to designate up to 2 caregivers)

Name :

Email Address :

Telephone Number :

Relationship to Patient:

- ☐ Caregiver ☐ Custodial Parent ☐ Legal Guardian ☐ Spouse

Name :

Email Address :

Telephone Number :

Relationship to Patient:

- ☐ Caregiver ☐ Custodial Parent ☐ Legal Guardian ☐ Spouse

Section 5 – Practitioner's Information

Practitioner's Name :

Practitioner's Business Address : 203 Canterbury Court, Blue Bell, PA, 19422

Name of Medical Practice or Group : -Erik C. Smith, MD, LLC

Professional Email Address : dr.ecsmith@gmail.com

Telephone Number : (215) 919-4979

Section 6 – Practitioner's Recommendation

☐ Are there any limitations or restrictions as to the form of medical marijuana for the above patient?

The following form of medical marijuana is recommended for the above patient.

- ☒ Vaporizer or Nebulizer Form
- ☒ Topical Form
- ☒ Liquid
- ☒ Oil
- ☒ Pill
- ☒ Tincture

☐ It is recommend that the patient discuss the form of medical marijuana to be dispensed with a medical professional employed by dispensary.

☐ Any other information about the above patient's medical condition that should be considered when dispensing medical marijuana?

Section 7 – Practitioner's Certified Statements

I, Erik Smith, MD, the practitioner treating Robert Pawlowski : certify that I have completed the following:

1. I have conducted a patient consultation in a manner appropriate to make a medical determination as to the patient's serious medical condition(s) indicated above.

☒

2. I have made a diagnosis of a serious medical condition for the above patient for which the patient will receive a therapeutic or palliative medical benefit from the use of medical marijuana.

☒

3. I have established a medical record for the patient and shall maintain that medical record while the patient is under my continuing care treatment.

☒

4. I have consulted the Prescription Drug Monitoring Program database to review whether the patient has been recently dispensed any controlled substances that would prohibit or pose a risk for the patient to obtain medical marijuana.

☒

5. I have received an informed consent statement from the patient, or if applicable, an informed consent statement from the patient's caregiver, custodial parent, legal guardian or spouse that includes an explanation of the potential risks and benefits of the medical use of marijuana.

☒

Section 8 - Physician Attestation

I understand that a false statement made in this application is punishable under the applicable provisions of 18 Pa. C.S. Ch. 49 (relating to falsification and intimidation). ☒

I understand that by typing my name below, I am electronically signing this patient certification. ☒

Erik Smith

Print Name

11/25/2020

Date

On Tue, Mar 30, 2021 at 1:30 PM Robert Pawlowski <bobski412@gmail.com> wrote:
I called and it'll take up to 24 hours for the doctor to either email me or call me. But I'm confident they'll just email it so as soon as I get it I'll send it to you directly.

On Tue, Mar 30, 2021, 1:20 PM Robert Pawlowski <bobski412@gmail.com> wrote:
Okay working on it right this second.

On Tue, Mar 30, 2021, 1:20 PM Patrick K. Nightingale, Esq. <pknlaw@mac.com> wrote:
As soon as I have that I'll file.

Patrick K. Nightingale, Esquire
707 Grant Street
2340 Gulf Tower
Pittsburgh, PA 15219
412.454.5582
412.454.5583 (facsimile)

www.patricknightingale.com
www.cannabislegalsolutions.net

The information contained in this message may be attorney-client privileged or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or reproduction of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and immediately notify Patrick K. Nightingale, Esquire, by telephone. Thank you.

On Mar 30, 2021, at 1:17 PM, Robert Pawlowski <bobski412@gmail.com> wrote:

Ok, I will do that.

On Tue, Mar 30, 2021, 12:59 PM Patrick Nightingale <pknlaw@mac.com> wrote:
I need a letter from Veriheal setting forth your qualifying condition.

Patrick

Patrick K. Nightingale, Esquire
www.patricknightingale.com

> On Mar 30, 2021, at 10:58 AM, Robert Pawlowski <bobski412@gmail.com> wrote:
>
>
> <original_9d0de6d9-3ec1-40a1-bead-d95c3dbd04d9_20210226_084229.jpg>
> <20210226_084243.jpg>
> <original_5bba3abf-581b-4b60-859c-3f4d3dd1e398_20210226_235812.jpg>