

MEDICAL CANNABIS CARD RENEWAL AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions regarding the renewal of a medical cannabis card in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ allows a patient to renew a medical cannabis card for a longer period in certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-61a-201, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-61a-201** is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.



28 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
29 which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202
30 submits an application in accordance with this section or Section 26-61a-202:

31 (a) issue a medical cannabis patient card to an individual described in Subsection
32 (2)(a);

33 (b) issue a medical cannabis guardian card to an individual described in Subsection
34 (2)(b);

35 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

36 (d) issue a medical cannabis caregiver card to an individual described in Subsection
37 26-61a-202(4).

38 (2) (a) An individual is eligible for a medical cannabis patient card if:

39 (i) (A) the individual is at least 21 years old; or

40 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate
41 use board under Section 26-61a-105, and the compassionate use board recommends department
42 approval of the petition;

43 (ii) the individual is a Utah resident;

44 (iii) the individual's qualified medical provider recommends treatment with medical
45 cannabis in accordance with Subsection (4);

46 (iv) the individual signs an acknowledgment stating that the individual received the
47 information described in Subsection (8); and

48 (v) the individual pays to the department a fee in an amount that, subject to Subsection
49 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

50 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

51 (A) is at least 18 years old;

52 (B) is a Utah resident;

53 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
54 provider recommends a medical cannabis treatment, the individual petitions the compassionate
55 use board under Section 26-61a-105, and the compassionate use board recommends department
56 approval of the petition;

57 (D) the individual signs an acknowledgment stating that the individual received the
58 information described in Subsection (8);

59 (E) pays to the department a fee in an amount that, subject to Subsection
60 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
61 criminal background check described in Section 26-61a-203; and

62 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
63 offense under either state or federal law, unless the individual completed any imposed sentence
64 six months or more before the day on which the individual applies for a medical cannabis
65 guardian card.

66 (ii) The department shall notify the Department of Public Safety of each individual that
67 the department registers for a medical cannabis guardian card.

68 (c) (i) A minor is eligible for a provisional patient card if:

69 (A) the minor has a qualifying condition;

70 (B) the minor's qualified medical provider recommends a medical cannabis treatment
71 to address the minor's qualifying condition;

72 (C) the minor's parent or legal guardian petitions the compassionate use board under
73 Section 26-61a-105, and the compassionate use board recommends department approval of the
74 petition; and

75 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
76 under Subsection (2)(b).

77 (ii) The department shall automatically issue a provisional patient card to the minor
78 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
79 guardian card to the minor's parent or legal guardian.

80 (3) (a) An individual who is eligible for a medical cannabis card described in
81 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
82 department:

83 (i) through an electronic application connected to the state electronic verification
84 system;

85 (ii) with the recommending qualified medical provider while in the recommending
86 qualified medical provider's office; and

87 (iii) with information including:

88 (A) the applicant's name, gender, age, and address;

89 (B) the number of the applicant's valid form of photo identification;

90 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
91 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
92 and

93 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
94 holds the associated medical cannabis guardian card.

95 (b) The department shall ensure that a medical cannabis card the department issues
96 under this section contains the information described in Subsection (3)(a)(iii).

97 (c) (i) If a qualified medical provider determines that, because of age, illness, or
98 disability, a medical cannabis patient cardholder requires assistance in administering the
99 medical cannabis treatment that the qualified medical provider recommends, the qualified
100 medical provider may indicate the cardholder's need in the state electronic verification system.

101 (ii) If a qualified medical provider makes the indication described in Subsection
102 (3)(c)(i):

103 (A) the department shall add a label to the relevant medical cannabis patient card
104 indicating the cardholder's need for assistance; and

105 (B) any adult who is 21 years old or older and who is physically present with the
106 cardholder at the time the cardholder needs to use the recommended medical cannabis
107 treatment may handle the medical cannabis treatment and any associated medical cannabis
108 device as needed to assist the cardholder in administering the recommended medical cannabis
109 treatment, including in the event of an emergency medical condition under Subsection
110 [26-61a-204\(2\)](#).

111 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

112 (A) ingest or inhale medical cannabis;

113 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
114 of the immediate area where the cardholder is present or with an intent other than to provide
115 assistance to the cardholder; or

116 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
117 the cardholder is not in the process of being dosed with medical cannabis.

118 (4) To recommend a medical cannabis treatment to a patient or to renew a
119 recommendation, a qualified medical provider shall:

120 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in

121 a medicinal dosage form:

122 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
123 guardian's valid form of identification described in Subsection (3)(a);

124 (ii) review any record related to the patient and, for a minor patient, the patient's parent
125 or legal guardian in:

126 (A) the state electronic verification system; and

127 (B) the controlled substance database created in Section 58-37f-201; and

128 (iii) consider the recommendation in light of the patient's qualifying condition and
129 history of medical cannabis and controlled substance use; and

130 (b) state in the qualified medical provider's recommendation that the patient:

131 (i) suffers from a qualifying condition, including the type of qualifying condition; and

132 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
133 product in a medicinal dosage form.

134 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
135 department issues under this section is valid for the lesser of:

136 (i) an amount of time that the qualified medical provider determines; or

137 (ii) (A) for the first issuance, 30 days; [~~or~~]

138 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months[-]; or

139 (C) for a renewal, one year if, after at least one year of treatment with medical
140 cannabis, the qualified medical provider determines that the patient has been stabilized on the
141 medical cannabis treatment and a one-year renewal period is justified.

142 (b) (i) A medical cannabis card that the department issues in relation to a terminal
143 illness described in Section 26-61a-104 does not expire.

144 (ii) The recommending qualified medical provider may revoke a recommendation that
145 the provider made in relation to a terminal illness described in Section 26-61a-104 if the
146 medical cannabis cardholder no longer has the terminal illness.

147 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
148 renewable if:

149 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
150 (b); or

151 (ii) the cardholder received the medical cannabis card through the recommendation of

152 the compassionate use board under Section 26-61a-105.

153 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

154 (i) using the application process described in Subsection (3); or

155 (ii) through phone or video conference with the qualified medical provider who made
156 the recommendation underlying the card, at the qualifying medical provider's discretion.

157 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
158 pay to the department a renewal fee in an amount that:

159 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
160 63J-1-504; and

161 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
162 comparison to the original application process.

163 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
164 patient card renews automatically at the time the minor's parent or legal guardian renews the
165 parent or legal guardian's associated medical cannabis guardian card.

166 (e) The department may revoke a medical cannabis guardian card if the cardholder
167 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
168 under either state or federal law.

169 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
170 cannabis card with the patient's name.

171 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
172 purchase, in accordance with this chapter and the recommendation underlying the card,
173 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
174 medical cannabis device.

175 (ii) A cardholder under this section may possess or transport, in accordance with this
176 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
177 cannabis product in a medicinal dosage form, or a medical cannabis device.

178 (iii) To address the qualifying condition underlying the medical cannabis treatment
179 recommendation:

180 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
181 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
182 or a medical cannabis device; and

183 (B) a medical cannabis guardian cardholder may assist the associated provisional
184 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
185 product in a medicinal dosage form, or a medical cannabis device.

186 (c) If a licensed medical cannabis pharmacy is not operating within the state after
187 January 1, 2021, a cardholder under this section is not subject to prosecution for the possession
188 of:

189 (i) no more than 113 grams of marijuana in a medicinal dosage form;

190 (ii) an amount of cannabis product in a medicinal dosage form that contains no more
191 than 20 grams of tetrahydrocannabinol; or

192 (iii) marijuana drug paraphernalia.

193 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
194 Utah Administrative Rulemaking Act, a process to provide information regarding the following
195 to an individual receiving a medical cannabis card:

196 (a) risks associated with medical cannabis treatment;

197 (b) the fact that a condition's listing as a qualifying condition does not suggest that
198 medical cannabis treatment is an effective treatment or cure for that condition, as described in
199 Subsection 26-61a-104(1); and

200 (c) other relevant warnings and safety information that the department determines.

201 (9) The department may establish procedures by rule, in accordance with Title 63G,
202 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
203 provisions of this section.

204 (10) (a) A person may submit to the department a request to conduct a research study
205 using medical cannabis cardholder data that the state electronic verification system contains.

206 (b) The department shall review a request described in Subsection (10)(a) to determine
207 whether an institutional review board, as that term is defined in Section 26-61-102, could
208 approve the research study.

209 (c) At the time an individual applies for a medical cannabis card, the department shall
210 notify the individual:

211 (i) of how the individual's information will be used as a cardholder;

212 (ii) that by applying for a medical cannabis card, unless the individual withdraws
213 consent under Subsection (10)(d), the individual consents to the use of the individual's

214 information for external research; and

215 (iii) that the individual may withdraw consent for the use of the individual's
216 information for external research at any time, including at the time of application.

217 (d) An applicant may, through the medical cannabis card application, and a medical
218 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
219 cardholder's consent to participate in external research at any time.

220 (e) The department may release, for the purposes of a study described in this
221 Subsection (10), information about a cardholder under this section who consents to participate
222 under Subsection (10)(c).

223 (f) If an individual withdraws consent under Subsection (10)(d), the withdrawal of
224 consent:

225 (i) applies to external research that is initiated after the withdrawal of consent; and

226 (ii) does not apply to research that was initiated before the withdrawal of consent.

227 (g) The department may establish standards for a medical research study's validity, by
228 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.