

February 13, 2019

Update for Physicians, APCs and All Intermountain Caregivers on Utah's Medical Cannabis Law

Dear Colleagues:

I want to provide you with an update on where we are in our review and assessment of The Utah Medical Cannabis Act. Late in December, Intermountain, along with the University of Utah and other organizations, asked providers to pause on writing patient letters recommending medical cannabis. Since then, we have been meeting and listening to patients, their family members, patient advocacy groups, physicians, advanced practice clinicians (APCs), pharmacists, nurses, medical informaticists, directors and operations teams, and Intermountain and national legal teams. These have been informative and collaborative discussions. We will need the continued interest and engagement from everyone who has helped so far so we, together, can learn how this new public policy and approach will work and how we can continuously improve our care for patients and families.

We also are committed to keeping you and all Intermountain caregivers informed on this important work, and to incorporating your expertise and guidance in developing best practices across our professions. Below is a brief overview of the current Utah and federal law on this issue.

These provisions of the law became effective on December 3, 2018:

- Individuals can possess and use medical cannabis within these criteria:
 - They must have been diagnosed with a qualifying condition;
 - They must have a pre-existing relationship with a licensed Advanced Practice Registered Nurse (APRN), Doctor of Medicine (MD), Doctor of Osteopathy (DO), or Physician Assistant (PA) who believes their illness “could benefit” from using medical cannabis; and
 - The cannabis must be in medicinal dosage form⁽ⁱ⁾, in a quantity spelled out by the law.
- APRNs, MDs, DOs, and PAs, who have the authority to write a prescription for a Schedule II controlled substance, can recommend medical cannabis treatment to a patient who has a qualifying condition.⁽ⁱⁱ⁾
 - Physician Assistants (PAs) must have a delegation of services agreement with their supervising physician that specifically includes the recommending of medical cannabis as a treatment option; and the supervising physician must be qualified to recommend medical cannabis.
 - The law is silent on what the recommendation looks like, what needs to be in it, and how long it's good for.
 - The law states that providers must use reasonable and ordinary care in the treatment of a patient for whom the provider recommends or considers recommending treatment with medical cannabis.
- Providers are immune from state civil liability, criminal liability, and licensure sanctions related to violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis if the provider:

- Has the authority to write a prescription; and
- Recommends medical cannabis treatment to a patient with a qualifying condition.

Although Utah law permits the use of cannabis for medical purposes, we want to remind providers and caregivers that cannabis remains a Schedule I controlled substance under the federal Controlled Substances Act (CSA). In addition, there is no medical necessity exception or defense currently under the CSA. Based on the experiences of other states with legalized cannabis, we believe the risk of federal action against healthcare institutions and providers is low. However, the risk is not zero.

In accordance with these interim provisions of Utah law, we have written a letter that documents the presence of an established relationship and that the patient has a qualifying medical condition as defined by the Utah Medical Cannabis Act. If you 1) have an established relationship with a patient who has a qualifying condition; 2) feel that they could benefit from treatment with medical cannabis; and 3) are comfortable providing a letter, you can now do so. If a PA will be issuing the recommendation letter, their Delegation of Services Agreement should first be updated to reflect that authority. Physicians and APCs are not obligated to provide a letter to patients.

The letter, which is attached, meets the requirements of the law during this interim period and also provides additional information for patients and family members. This letter can be used now and is available in iCentra. Please use the workflow for creating a patient letter and search for the auto text “.letterMedicalCannabis”. A tip sheet from Care Transformation will be shared this week.

The following provisions of the law will become effective later. We’ll continue to monitor and assess progress in these areas and will keep you informed:

- Only a “qualified medical provider” (QMP) may recommend medical cannabis treatment to patients. QMPs must:
 - Register with the Department of Health;
 - Complete 4 hours of continuing education regarding the use of medical cannabis; and
 - Renew registration every 2 years.
- Once the Utah Compassionate Use Board is in place and a patient, parent, or guardian petitions them, a QMP will need to provide a letter with the patient’s relevant treatment history and notes or copies of progress notes describing their relevant treatment history, including rationale for considering the use of medical cannabis.
- Once the state’s electronic verification system is in place on or before March 1, 2020, a QMP will use the system to electronically recommend medical cannabis or renew a recommendation during a visit with a patient. The patient will need to have a valid form of identification to use the electronic verification system. The QMP has multiple requirements within this process.^[iii]

If you have questions or suggestions, please reach out to either me, your medical director, your manager, or Susan DuBois (susan.dubois@imail.org) and we will respond or triage your questions to the appropriate expert.

With much respect and gratitude,

Mark Briesacher, MD
Chief Physician Executive
Intermountain Healthcare

^[i] Medicinal dosage form means:

- For processed medical cannabis or a medical cannabis product, the following in single dosage form with a specific and consistent cannabinoid content:
 - A tablet;
 - A capsule;
 - A concentrated oil;
 - A liquid suspension;
 - A topical preparation;
 - A transdermal preparation;
 - A sublingual preparation;
 - A gelatinous cube, gelatinous rectangular cube or rectangular cuboid shape; or
 - For use only after the individual's qualifying condition has failed to substantially respond to at least two other forms described above, a resin or wax;
- For unprocessed cannabis flower, a blister pack, with each individual blister:
 - Containing a specific and consistent weight that does not exceed one gram and that varies by no more than 10% from the stated weight; and
 - Labeled with a barcode that provides information connected to an inventory control system and the individual blister content and weight; and
- A form measured in grams, milligrams, or milliliters.

Medicinal dosage form does not include:

- Any unprocessed cannabis flower outside of the blister pack except as described above; or
- A process of vaporizing and inhaling cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

^[ii] Qualifying conditions:

- Autism;
- A terminal illness when the patient's remaining life expectancy is less than 6 months;
- A condition resulting in the individual receiving hospice care;
- A rare condition or disease that
 - Affects less than 200,000 individuals in the US as defined in Section 526 of the Food Drug and Cosmetic Act, and
 - Is not adequately managed despite treatment attempts using (i) conventional medications other than opioids or opiates, or (ii) physical interventions;
- Pain lasting longer than 2 weeks that is not adequately managed, in the provider's opinion, despite treatment attempts using conventional medications other than opioids or opiates, or physical interventions.
- HIV;
- Alzheimer's disease;
- ALS;
- Cancer;
- Cachexia;
- Persistent nausea that is not responsive to traditional treatment (except for nausea related to pregnancy, cannabis-induced cyclical vomiting syndrome, or cannabinoid hyperemesis syndrome);
- Crohn's disease or ulcerative colitis;
- Epilepsy or debilitating seizures;
- MS;
- PTSD that is being treated and monitored by a licensed mental health therapist and has been diagnosed or confirmed by (i) a licensed board-eligible or board-certified psychiatrist, (ii) a licensed psychologist with a doctorate level degree, (iii) a licensed clinical social worker with a doctorate-level degree, or (iv) a licensed APRN who is qualified to practice within the psychiatric mental health nursing specialty and who has completed the clinical practice requirements in psychiatric mental health nursing including psychotherapy;

^[iii] Qualified Medical Provider requirements

- Verify the patient's valid form of identification;
- Complete and document in the patient's record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care of the patient's condition;
- Review any record related to the patient in the state electronic verification system and the controlled substances database;

-
- For a minor patient, also review the parent/guardian's information in the state electronic verification system and controlled substance database; and
 - State in their recommendation that the patient:
 - Suffers from a qualifying condition, including the type of qualifying condition, and
 - May benefit from treatment with cannabis in a medicinal dosage form.
 - Optionally, recommend dosing parameters. If QMP does not provide dosing parameters, then must also document:
 - Evaluation of the qualifying condition underlying the recommendation;
 - Prior treatment attempts with cannabis and cannabis products; and
 - Patient's current medication list.