

# Medical cannabis provider legal summary

## Background

- This document outlines parts of Utah’s medical cannabis laws but **is not comprehensive, nor should it be taken as legal advice.**
- A complete copy of the Utah code and related administrative rules is available on the Utah Department of Health and Human Services (DHHS) Center for Medical Cannabis website at <https://medicalcannabis.utah.gov/resources/utah-medical-cannabis-law/>.

## Utah medical cannabis program

- Cannabis is federally illegal but is legal in some states.
- The original Utah medical cannabis law was passed in 2018, which created a medical cannabis program in Utah.
- The Utah medical cannabis program allows patients with specific qualifying medical conditions to work with a medical provider and receive a medical cannabis card. Once patients have medical cannabis cards, they can purchase and use medical cannabis products from licensed medical cannabis pharmacies.
- Medical cannabis, as defined in Utah law, is different from cannabidiol (CBD) or hemp products with less than 0.3% tetrahydrocannabinol (THC). CBD or hemp products are legal federally and over the counter in most states, including Utah.

## Medical providers (26B-4-204, 205, 219; R383-12)

- There are 3 types of medical providers: qualified medical providers (QMPs), limited medical providers (LMPs), and pharmacy medical providers (PMPs).
- QMPs and LMPs **cannot** accept compensation or benefits for recommending medical cannabis from cannabis producers, medical cannabis pharmacies, or other medical providers.

## Qualified medical providers (QMP)

- QMPs must be Utah-licensed medical doctors (MD), osteopathic physicians (DO), advanced practice registered nurses (APRN), physician assistants (PA), or podiatrists (DPM) with a controlled-substance license.

- QMPs must pay a \$150 application fee at their initial registration. A \$50 application fee is required at each renewal every 2 years.
- 4 hours of DHHS-approved continuing education are required before the QMPs' initial registration and during each 2-year renewal period. A list of DHHS-approved continuing education courses is available at <https://medicalcannabis.utah.gov/providers/continuing-education/>.
- QMPs have a patient cap equal to 1.5% of active medical cannabis cardholders. This number is updated in the electronic verification system (EVS) quarterly. Any patient evaluation billed through insurance does not count against the patient cap.
- QMPs can petition the Compassionate Use Board (CUB) if their patient does not have a qualifying condition for medical cannabis and the patient would still benefit from medical cannabis. Learn more about the CUB at <https://medicalcannabis.utah.gov/resources/compassionate-use-board/>.
- QMPs can advertise their services on a website or social media account with a green cross, their QMP registration, the medical conditions they treat, or a scientific study about medical cannabis.
- QMPs can designate employees as QMP proxies to access the EVS and submit medical cannabis recommendations.
- QMPs and clinics that provide medical cannabis recommendations must report their medical cannabis recommendation fees to DHHS if they advertise medical cannabis recommendations. These fees are available on the medical cannabis visit cost website at <https://healthcost.utah.gov/cannabis.php>, where patients can compare prices and see which QMPs and clinics accept insurance.

### Limited medical providers (LMP)

- LMPs must be Utah-licensed medical doctors (MD), osteopathic physicians (DO), advanced practice registered nurses (APRN), physician assistants (PA), or podiatrists (DPM) who have a controlled-substance license.
- LMPs do not need to register with DHHS or complete continuing education to recommend medical cannabis to patients.
- LMPs have a patient cap of 15 active medical cannabis recommendations.

### Pharmacy medical providers (PMP)

- PMPs work in medical cannabis pharmacies to counsel patients about products and QMP dosing instructions in the medical cannabis EVS.
- PMPs must be Utah-licensed pharmacists or physicians who have controlled substance licenses.

- PMPs must pay a \$150 application fee at their initial registration and a \$50 application fee at the 2-year renewal.
- 4 hours of DHHS-approved continuing education are required before the PMPs' initial registration and during each 2-year renewal period. A list of DHHS-approved continuing education courses is available at <https://medicalcannabis.utah.gov/providers/continuing-education/>.
- When PMPs first register with DHHS, they must provide proof of employment at a licensed medical cannabis pharmacy.
- At least 1 PMP must be physically present in the medical cannabis pharmacy during business hours to counsel patients and review all medical cannabis transactions.

### State legal protections

- Medical providers will not be subject to civil or criminal liabilities under state law or state licensure sanctions **solely** for recommending medical cannabis.
- Medical providers not following state laws and regulations for recommending medical cannabis may have their QMP or PMP registration denied, suspended, and revoked. Additionally, they may receive a penalty or a fine.
- Medical providers are still responsible for federal privacy laws about private and protected health information.

### Medical cannabis recommendations (26B-4-204, 230, 231)

- QMPs and LMPs can provide medical cannabis recommendations to patients.

### Appointments

- A QMP's or LMP's first appointment with a patient must be in-person unless the patient has a terminal illness, receives hospice care, or lives in an assisted living facility.
- Any follow-up or renewal appointments can be conducted virtually or via telehealth.

### Documentation

- QMPs and LMPs must thoroughly assess the patient's condition and medical history and document it in the patient's medical record.
- The assessment should include the patient's qualifying condition, any history of substance or opioid use, and any history of substance use disorders.

## Submitting a medical cannabis recommendation

- Once a patient is assessed and their diagnosis and treatment plan are documented in their medical record, a QMP or LMP can submit a medical cannabis recommendation.
- QMPs submit medical cannabis recommendations directly in the electronic verification system (EVS).
- LMPs must download and fill out the *LMP Recommendation Form for Medical Cannabis* at <https://medicalcannabis.utah.gov/providers/lmp/>. After completion, the form must be sent to a licensed medical cannabis pharmacy, where the information is submitted in the EVS by a medical cannabis pharmacy employee.
- In the medical cannabis recommendation, the QMP or LMP can provide dosing instructions for the patient. Dosing instructions may include the **amount** of medical cannabis the patient should use daily and the **types** of medical cannabis they can purchase.
- If a QMP or LMP does not want to provide dosing instructions, they can defer that information to the PMP. The QMP or LMP should share the patient's qualifying condition, treatment attempts, and current medications with the PMP so the PMP can consult with the patient and determine which types and amounts of medical cannabis will be most beneficial.

## Medical cannabis card renewal periods

- Medical cannabis cards are issued for 1 year.
- QMPs and LMPs can choose a shorter renewal period of 3 or 6 months if they feel that is best for the patient.
- Some qualifying conditions have different rules for renewal periods. For example, cards for acute pain have a 30-day renewal period.

## Revoking a medical cannabis recommendation

- QMPs and LMPs can revoke a medical cannabis recommendation if the patient no longer needs the recommendation if medical cannabis is harmful for the patient, or if the patient's qualifying condition resolves.

## Qualifying conditions (26B-4-203)

- Utah law allows patients with the following conditions to use medical cannabis:
  - Acute pain expected to last 2 weeks or longer
  - Alzheimer's disease
  - Amyotrophic lateral sclerosis



- Autism
- Cancer
- Cachexia
- Crohn's disease or ulcerative colitis
- Epilepsy or debilitating seizures
- HIV or AIDS
- Hospice care
- Multiple sclerosis or debilitating muscle spasms
- Persistent nausea unrelated related to pregnancy, cannabis-induced cyclical vomiting syndrome, or CBD hyperemesis syndrome
- Persistent pain which lasts longer than 2 weeks
- Post-traumatic stress disorder (PTSD), which a medical provider has formally diagnosed, is documented in the patient's medical record and treated and monitored by a licensed mental health therapist.
- Terminal illness with a life expectancy of less than 6 months
- Rare condition or disease affecting <200,000 individuals in the U.S.
- If a patient does not have 1 of the listed qualifying conditions, a QMP can petition the CUB to provide the patient with a medical cannabis card.

## Legal, medical cannabis forms and devices (26B-4-201, 230)

- The following medical cannabis types are legal in Utah and at a medical cannabis pharmacy:
  - Aerosols
  - Capsules
  - Gummies in a rectangle or cube shape
  - Liquid suspensions
  - Skin patches
  - Sublingual products, like extracts and tinctures
  - Tablets
  - Topical products, like salves, lotions, balms, and creams
  - Unprocessed cannabis flower
  - Vape cartridges and pens
  - Waxes or resins
- Medical cannabis pharmacies can also sell vaporizers that warm up unprocessed flower into vapor without an open flame.
- Smoking cannabis, including devices that heat cannabis with an open flame, is illegal.
- Edible cannabis products, like candies, cookies, and brownies, are illegal.

## Resources

- <https://medicalcannabis.utah.gov/providers/become-a-qualified-medical-provider/> includes information about how to become a QMP, how to use the EVS, information about the CUB, and guidance from the Cannabis Research Review Board (CRRB).
- <https://medicalcannabis.utah.gov/providers/lmp/> includes information about how to submit an LMP medical cannabis recommendation, a downloadable LMP medical cannabis recommendation form, and other resources for LMPs, such as an article about the LMP program and a webinar about the LMP program.
- <https://medicalcannabis.utah.gov/providers/pharmacy-medical-provider-pmp/> includes information about how to register as a PMP and how to use the EVS.
- <https://medicalcannabis.utah.gov/providers/continuing-education/> provides information about the continuing education requirements for QMPs and PMPs.
- <https://medicalcannabis.utah.gov/resources/frequently-asked-questions/#providers> includes frequently asked questions about medical cannabis providers.
- <https://medicalcannabis.utah.gov/resources/resource-library/> includes educational materials about medical cannabis and medical cannabis verification forms.
- <https://medicalcannabis.utah.gov/resources/program-news/> contains links to the DHHS Center for Medical Cannabis monthly newsletter.