

Core concepts to be covered in agent exam



This document lists core concepts that must be covered in each exam offered by a medical cannabis pharmacy agent or medical cannabis courier agent course provider as part of a UDAF-approved continuing education course. The exam must include at least 25 questions with at least one question for each of the 10 general concepts listed in this document. Covering just one sub-point under each general concept in a question is adequate. Sub-points appearing under general concepts in this document that are not covered in the 10 general concept questions may be but are not all required to be covered in the other questions along with other laws cited in the UDAF-approved medical cannabis agent continuing education course handout found on the Utah Medical Cannabis website. Citations to applicable laws are provided as footnotes in this document but the citations are not required to appear in course materials.

Federal and state privacy laws

1. State law requires that an agent comply with federal and state privacy laws

- a. State law requires that medical cannabis pharmacies maintain treatment files and other records in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 as amended.¹
- b. State law requires that agents safeguard all information about a medical cannabis cardholder that is stored in or retrieved from the electronic verification system (EVS) and the inventory control system (ICS).²

2. Definition of personally identifiable information (PII) and personal health information (PHI)

- a. Sensitive identifiable information includes personally identifiable information (PII) and personal health information (PHI).
- b. PII is any information that can be used to distinguish an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as: medical, educational, financial and employment information.

¹ 4-41a-1103(1) and HIPAA, Pub. L. No. 104-191, 110 Stat. 1936, as amended

² Utah Admin. Code R66-5-3

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- c. PHI is any information that relates to the past, present or future health of an individual; the provision of healthcare to an individual; or the payment for the provision of healthcare to an individual.³

3. Examples of where sensitive identifiable information may be found

- a. Sensitive identifiable information may be found in the following:
 - i. spoken/verbal communications (telephone conversations, meetings);
 - ii. paper or hard copy records (documents, forms, labels, photos); and
 - iii. electronic records (computer-based records, electronic medical records, scanned documents, video recordings, files on servers and mobile devices, email content and attachments).⁴

4. Minimum necessary standard

- a. Private health information (PHI) should only be used or disclosed when it is necessary to satisfy a particular business purpose or to carry out a business function. Otherwise, it should not be used or disclosed.⁵
- b. An agent is prohibited from accessing information about family members, neighbors, friends or co-workers without a business need to access the information.⁶

5. Penalties for violation of privacy laws

- a. A person authorized to access the EVS or ICS who fails to observe confidentiality requirements established in state law may lose access to the EVS and the Department may revoke their UDAF-issued agent card.
- b. Any person who obtains or attempts to obtain information from the state electronic verification system (EVS) for a purpose other than a purpose authorized under Utah law is guilty of a third degree felony and may be subject to a civil penalty not to exceed \$5,000.

³ HIPAA, Pub. L. No. 104-191, 110 Stat. 1936, as amended

⁴ HIPAA, Pub. L. No. 104-191, 110 Stat. 1936, as amended

⁵ HIPAA, Pub. L. No. 104-191, 110 Stat. 1936, as amended

⁶ Utah Admin. Code 26B-4-202, 4-41a-103

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6. Steps to protect the privacy of sensitive identifiable information

- a. To ensure compliance with applicable privacy laws, an agent is responsible to take steps to protect the privacy of a patient's sensitive identifiable information. Steps include:
 - i. Lock desks, drawer/file cabinets, and work areas containing sensitive identifiable information when unattended.
 - ii. Keep work areas clear of PII and PHI information when not in use.
 - iii. Store keys to cabinets, doors, and other secure areas in secure locations.
 - iv. Collect printed documents sent to print at shared network printers immediately after ordering them to print.
 - v. Arrange workstation monitors so that sensitive identifiable data is protected from being viewed by unauthorized persons.
 - vi. Use cybersecurity measures, such as email encryption, when sending or requesting sensitive identifiable information.
 - vii. Don't share your unique passwords with others.
 - viii. Log out fully before other authorized users access a shared workstation.
 - ix. Clear whiteboards of sensitive identifiable information when done or leaving rooms.
 - x. When disposing of sensitive identifiable information, shred, purge, or totally destroy the data prior to disposal.

Pharmacy operating standards

7. Medical cannabis pharmacy cardholder area access

Access to the cardholder area of a medical cannabis pharmacy is limited to the following individuals:

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- a. an individual registered by the Department as a medical cannabis cardholder, pharmacy medical provider (PMP), or a medical cannabis pharmacy agent, or;
- b. an individual logged in as a visitor who:
 - i. receives a visitor identification badge that is worn and visibly displayed at all times; and
 - ii. is escorted within the cardholder area by a pharmacy agent or PMP at all times.⁹

An employee in the process of application who is yet not registered by the Department as a medical cannabis pharmacy agent or a PMP is a visitor and should not access the cardholder area without a visitor badge and an escort.

8. Medical cannabis pharmacy agent must carry agent card with them at all times

A pharmacy agent must carry a physical copy of their agent card with them at all times when they:

- a. are on the premises of a medical cannabis pharmacy;
- b. are transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.¹⁰

9. Recommending medical provider (RMP) dosing guidelines

If an RMP recommends dosing guidelines, a PMP at a medical cannabis pharmacy must ensure the patient's purchase complies with the guidelines.

- a. This includes the type of dosage form, (i.e. gelatinous cube, concentrated oil, etc.) and amount as written in the patient's medical cannabis recommendation.

⁹ Utah Admin. Code R66-5-7

¹⁰ 4-41a-1204(7), 4-41a-1107(1,3)

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- b. To change an RMP's dosing guideline, a PMP must contact the cardholder's RMP, obtain approval from the RMP to make the change, and document the RMP's approval of the change in the EVS.

The RMP can choose to authorize the PMP to make any therapeutic substitutions to the dosing guidelines in the EVS. If the RMP authorizes the PMP to make substitutions, then the PMP does not need to contact the cardholder's RMP and obtain approval from the RMP to change the recommendation. Authorization for the PMP to determine dosing guidelines can include partial dosing guidelines or entire dosing guidelines.

- a. If an RMP only limits a certain part of a recommendation in the EVS but does not limit other parts (e.g. limits dosage form but does not limit amount or vice versa), a PMP may determine the remaining parts of the recommendation during a consultation. However, the PMP may not change what the RMP has already recommended unless approval for the change is communicated by the RMP to the PMP and documented in the EVS.
- b. If an RMP certifies a patient's eligibility for a medical cannabis card but allows the PMP to recommend dosing guidelines, as documented in EVS, a PMP must determine the best course of treatment through consultation with the patient. To determine a patient's best course of treatment, a PMP must review the following with the patient:
 - i. any information about the patient in EVS or from the Limited Medical Provider Recommendation for Medical Cannabis form;
 - ii. the patient's qualifying condition;
 - iii. indications for medical treatments;
 - iv. any directions of use and dosing guidelines documented by the RMP; and
 - v. potential adverse reactions.¹¹

10. Limits on what a medical cannabis pharmacy agent may do in a medical cannabis pharmacy

A medical cannabis pharmacy agent cannot perform the following duties in a medical cannabis pharmacy.

¹¹ UCA 26B-4-231

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- a. receive dosing guidelines for a patient's recommendation over the phone, or in person;
- b. determine, or modify, dosing guidelines in a patient's recommendation; or
- c. provide counseling, or consultation, regarding a patient's medical condition, or medical treatment.¹²

¹² Utah Admin. Code R66-5-23