



# Medical cannabis provider legal summary

## Background

- This document outlines parts of Utah medical cannabis laws but **is not comprehensive and should not 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

- The Utah medical cannabis program started in 2018.
- Patients with specific qualifying medical conditions can work with a medical provider to get a medical cannabis card. Once patients have medical cannabis cards, they can purchase and use medical cannabis products from licensed medical cannabis pharmacies.
- Utah law defines medical cannabis differently than cannabidiol (CBD) or hemp products with less than 0.3% tetrahydrocannabinol (THC). CBD or hemp products are legal federally and can be purchased over the counter in Utah.

## Medical providers (26B-4-2, R383)

- There are 3 types of medical providers: qualified medical providers (QMPs), limited medical providers (LMPs), and pharmacy medical providers (PMPs).
- QMPs and LMPs can't be paid or accept benefits from cannabis producers, medical cannabis pharmacies, or other medical providers.

### Qualified medical providers (QMP)

- QMPs can provide medical cannabis recommendations to patients.
- 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 when they first register and a \$50 renewal fee every 2 years.



- QMPs must complete 4 hours of DHHS-approved continuing education before they first register **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 recommendation that is billed through insurance does not count towards the QMP's patient cap.
- QMPs must petition the Compassionate Use Board (CUB) if their patient is younger than 21 years or is an adult who does not have a qualifying condition for medical cannabis. Learn more about the CUB at <https://medicalcannabis.utah.gov/resources/compassionate-use-board/>.
- QMPs can petition DHHS for patients who have a terminal illness and who are expected to live less than 6 months to purchase more medical cannabis than the monthly limit (113 grams of unprocessed flower and 20 grams of concentrate in a 28-day period).
- QMPs and medical clinics may only advertise the following information, in any medium, to the general public:
  - a green cross
  - their name, logo, and contact information
  - the qualifying conditions they treat
  - that they evaluate patients for medical cannabis recommendations
  - a scientific study about medical cannabis, and contact information.
- QMPs and medical clinics may use targeted marketing that is limited to:
  - Electronic communication, like emails or texts, to adults 21 years and older.
  - In-person marketing events for adults 21 years or older
  - Hard copy or digital materials in the medical office
  - Handouts given to adults 21 years or older.
- QMPs can be penalized by DHHS if they provide a medical cannabis recommendation at a clinic that doesn't follow targeted marketing laws.
- QMPs can designate employees as QMP proxies to access the EVS and submit medical cannabis recommendations on their behalf.
- QMPs and medical clinics that advertise medical cannabis recommendations must report their fees to DHHS quarterly. Fees are updated 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 can provide medical cannabis recommendations to patients.
- 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.
- LMPs have a patient cap of 15 active medical cannabis recommendations.
- LMPs must petition the Compassionate Use Board (CUB) if their patient is younger than 21 years or does not have a qualifying condition for medical cannabis. Learn more about the CUB at <https://medicalcannabis.utah.gov/resources/compassionate-use-board/>.

## Pharmacy medical providers (PMP)

- PMPs work in medical cannabis pharmacies to counsel patients about products and dosing instructions.
- PMPs must be Utah-licensed pharmacists or physicians who have a controlled substance license.
- PMPs must pay a \$150 application fee when they first register and a \$50 application fee every 2 years.
- PMPs must complete 4 hours of DHHS-approved continuing education before they first register **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/>.
- PMPs must provide proof of employment at a licensed medical cannabis pharmacy when they register.
- 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.
- QMPs and PMPs who do not follow state laws and regulations for recommending medical cannabis may be fined and have their registration denied, suspended, or revoked.
- Medical providers are responsible for federal privacy laws about private and protected health information.

## Medical cannabis recommendations

### Appointments

- A patient's first appointment must be physically in-person unless they have a terminal illness, receive hospice care, or live in an assisted living facility.
- Follow-up and renewal appointments can be conducted virtually or via telehealth.

### Documentation

- Providers must complete a medical assessment and document it in the patient's record before submitting a medical cannabis recommendation.
- 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

- 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/>. The completed form must be sent to a licensed medical cannabis pharmacy, where it will be submitted in the EVS by a medical cannabis pharmacy employee.
- The provider can, but is not required to, enter dosing instructions for the patient in their recommendation or defer the dosing guidelines to the PMP. Dosing instructions include the amount and types of medical cannabis the patient should use. If a QMP or LMP doesn't enter any dosing guidelines, a PMP may do so.

### Medical cannabis card renewal periods

- Medical cannabis cards are valid for 1 year unless the provider chooses a shorter renewal period of 3 or 6 months.
- A medical cannabis card that the department issues in relation to acute pain expires 30 days after the day on which the department first issues a conditional or full medical cannabis card

### Revoking a medical cannabis recommendation

- Providers can revoke a medical cannabis recommendation if the patient no longer needs it, 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 that is not caused by pregnancy, cannabis-induced cyclical vomiting syndrome, or CBD hyperemesis syndrome
  - Persistent pain that lasts longer than 2 weeks
  - Post-traumatic stress disorder (PTSD) that has been diagnosed by a medical provider, is documented in the patient's medical record, and is 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.
- Providers can petition the Compassionate Use Board (CUB) for patients who don't have a listed qualifying condition but would benefit from using medical cannabis.

## Legal medical cannabis forms and devices (26B-4-201, 245)

- The following medical cannabis types are legal in Utah.
  - Aerosols
  - Edibles like capsules, tablets, gummies, chews or confections
  - Liquid suspensions like tinctures
  - Skin patches
  - Sublingual products, like extracts and tinctures
  - Suppositories
  - Topical products, like salves, lotions, balms, and creams
  - Unprocessed cannabis flower
  - Vape cartridges and pens
  - Waxes or resins



- Smoking cannabis is illegal. This includes using devices that heat the cannabis using a flame, like a bong.
- Medical cannabis pharmacies can sell vaporizers for unprocessed flower that don't use a flame to heat up cannabis.
- Cannabis cookies, brownies, and chocolate are illegal.

## Resources

- QMPs: <https://medicalcannabis.utah.gov/providers/become-a-qualified-medical-provider/>
- LMPs: <https://medicalcannabis.utah.gov/providers/lmp/>
- PMPs: <https://medicalcannabis.utah.gov/providers/pharmacy-medical-provider-pmp/>
- Provider continuing education: <https://medicalcannabis.utah.gov/providers/continuing-education/>
- Provider frequently asked questions: <https://medicalcannabis.utah.gov/resources/frequently-asked-questions/#providers>
- Medical cannabis education: <https://medicalcannabis.utah.gov/resources/resource-library/>
- News and updates: <https://medicalcannabis.utah.gov/resources/program-news/>