



Summary of Utah's Medical Cannabis Law

On November 6, 2018, Utah voters approved Proposition 2, which legalized the use of medical cannabis for qualified patients. The law went into effect on December 1, 2018, but a special legislative session was convened shortly thereafter. Lawmakers replaced Prop 2 with a "compromise" bill agreed to by both proponents and opponents of Prop 2 prior to the election. The replacement legislation includes tighter restrictions on patient access and a greater level of state oversight.

Some revisions have been enacted since then. In 2019, Gov. Gary Herbert (R) signed SB 161 to make a number of modifications to the state's medical cannabis program, such as prohibiting discrimination against medical cannabis patients in family court matters. On February 28, 2020, Gov. Herbert (R) signed [SB 121](#), which makes more changes, including:

- allowing flower to be dispensed in child-proof bottles, not just blister packs;
- allowing physicians to recommend to more patients; and
- removing criminal penalties from registered patients with THC metabolites in their system who are not impaired.

On March 24, 2020, Gov. Herbert signed [HB 425](#), which delays the requirement that patients obtain a medical cannabis card until the end of 2020.

Below are some of the details of Utah's medical cannabis law.

Patient licenses: A patient may submit an application to the [Utah Department of Health](#) to receive a medical cannabis registration card if he or she has received a recommendation from a registered healthcare provider (MD, DO, APRN, or PA). Utah patients must obtain a recommendation from a healthcare provider in Utah. Patient registration cards are initially valid for one month. Thereafter, the registration card can be renewed continually in six-month intervals. Licenses are voluntary until January 1, 2021. A recommendation from a health professional is sufficient to receive cannabis until that time.

Qualifying conditions: HIV, Alzheimer's disease, amyotrophic lateral sclerosis, cancer, cachexia, persistent nausea that is not significantly responsive to traditional treatment (except nausea caused by pregnancy, cannabis-induced vomiting syndrome, or cannabinoid hyperemesis syndrome), Crohn's disease, ulcerative colitis, epilepsy, debilitating seizures, multiple sclerosis, debilitating muscle spasms, PTSD (provided certain conditions are met), autism, a terminal illness (with six months or fewer remaining), a condition resulting in an individual receiving hospice care, and chronic pain (provided that certain conditions are met). Patients may also petition the "compassionate use board" to become a qualifying patient for other conditions.

Minor patients: Patients under the age of 18 may register as a qualifying patient if they receive approval from the compassionate use board. A parent or guardian must also obtain a "medical cannabis guardian card." Minor patients are not permitted to enter medical cannabis pharmacies. Patients aged 18, 19, or 20 must petition the compassionate use board in order to receive a patient license.

Visiting patients: Provided that they have been diagnosed with a qualifying condition approved under Utah law, out-of-state patients have legal protections if they aren't a resident, have a card from another state, and possess cannabis in a form allowed under Utah law.

Healthcare providers: A healthcare provider may not issue recommendations for medical cannabis unless he or she has registered and been deemed qualified by the health department. Qualifications include: completing appropriate continuing medical education courses, having authority to prescribe Schedule II drugs, and being a state-licensed physician, registered nurse, or physician's assistant. Physicians must pay a fee of \$300 to complete the registration process. Registrations must be renewed every two years. Initially, healthcare providers will not be limited in the number of medical marijuana recommendations they can issue to patients. General practice providers are limited to 275 patient recommendations. Some specialists, such as oncologists, neurologists, and others, are limited to 600.

Caregivers: Patients may designate up to two caregivers to assist with the access and use of medical cannabis. Caregivers are not permitted to cultivate cannabis.

Possession limits: Patients are allowed to possess the lesser of: a) a one-month supply based on the dosage amount specified by their doctor or state-licensed pharmacist at a medical cannabis pharmacy; or b) four ounces of flower or 20 grams THC. Marijuana may be dispensed in the following forms: flower or bud, tablets, capsules, concentrated oil, liquid suspension, topicals, transdermal patches, sublingual preparations, and lozenges. Patients are not permitted to cultivate their own medical cannabis.

Anti-discrimination protections: Registered healthcare providers and patients are protected from criminal and civil liability, provided they comply with the law. Patients may not be denied access to organ transplants. State employees may not be disciplined or discriminated against on the basis of their status as a registered patient and their use of medical cannabis in compliance with the law. The law prohibits courts from considering the lawful use of medical cannabis in custody hearings.

Medical cannabis access: The Utah Medical Cannabis Act allows patients with a health care

provider's certification to purchase cannabis from medical cannabis pharmacies. (Beginning on January 1, 2021, patients must obtain a registry ID card.) The pharmacies must employ at least one state-licensed pharmacist and may dispense cannabis products only in specific dosages based on the patient's medical needs. Fourteen pharmacies have been approved by the state. Pharmacies may not sell an amount greater than a 14-day supply to patients based on their allotted dosage requirements. The state also regulates and licenses cultivation facilities, testing facilities, and processors. State agencies established an electronic monitoring system to track all cannabis products from the point of cultivation to the point of sale to registered patients.

Localities: Municipalities may not prohibit the establishment of medical cannabis facilities but may impose additional regulations consistent with state law. Medical cannabis establishments are not permitted within 1,000 feet of a "community location" (defined as schools, churches, etc.) or within 600 of a residential area unless the municipality permits it.

Paraphernalia: Smoking is prohibited under Utah's medical marijuana law. The Utah Medical Cannabis Act does not protect individuals from criminal liability for possessing devices that facilitate the combustion of cannabis. The vaporization of cannabis products with use of a heated nail is also prohibited.

Research: The medical cannabis law establishes a cannabinoid product board tasked with researching the effectiveness and appropriate dosage amounts of medical cannabis for specific medical conditions.

Affirmative defense: Prior to the availability of patient registration cards, a patient could be found "not guilty" of marijuana possession if they: 1) were previously diagnosed with a qualifying condition; 2) had a physician recommend the use of cannabis (written or verbal); and 3) possessed marijuana in one of the approved forms.

Taxes: Medical cannabis products are exempt from taxes, including the state sales tax.

Timeline:

On or before January 1, 2020: The Department of Agriculture and Food was required to begin accepting medical cannabis facility applications.

On March 1, 2020: The Department of Health began accepting applications for patient registration cards. The department has 15 days to approve or reject patient applications.

