

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 946

COMPASSIONATE USE OF MEDICAL CANNABIS PATIENT REGISTRY

SUBPART A: GENERAL PROVISIONS

Section	
946.10	Definitions
946.15	Referenced Materials
946.20	Debilitating Medical Conditions
946.30	Addition of Debilitating Medical Conditions
946.40	Limitations and Penalties
946.50	Notifications to the Department
946.60	Confidentiality
946.70	Applicability to the Smoke Free Illinois Act

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section	
946.200	Application for Registry Identification Card for Qualifying Patients and Designated Caregivers
<u>946.201</u>	<u>Application for Registry Identification Card for Qualifying Patients under 18 Years of Age</u>
946.205	Deadlines for Submission of Application for Registry Identification Card
946.210	Fees
946.220	Fingerprint-Based Criminal History Records Check
946.230	General Provisions
946.240	Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities
946.250	Disposal of Medical Cannabis by Qualifying Patients
946.260	Responsibilities of Designated Caregivers
946.270	Revocation of a Registry Identification Card
946.275	Suspension of a Registry Identification Card
946.280	Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization
946.290	Renewal of Registry Identification Cards

SUBPART C: PHYSICIAN REQUIREMENTS

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section	
946.300	Qualifications of the Certifying Physician
946.310	Physician Written Certification
946.320	Records Maintained by the Physician and Department

SUBPART D: CANNABIS-INFUSED PRODUCTS

Section	
946.400	Manufacture of Cannabis-Infused Products
946.410	Sale and Distribution of Cannabis-Infused Products
946.420	Preparation
946.430	Health Hazards

SUBPART E: ENFORCEMENT

Section	
946.500	Circuit Court Review

AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

SOURCE: Adopted at 39 Ill. Reg. 17367, effective July 29, 2014; emergency amendment at 39 Ill. Reg. _____, effective _____ for a maximum of 150 days; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 946.10 Definitions

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"Adequate supply" means 2.5 ounces of usable cannabis during a period of 14 days and that is derived solely from an intrastate source. (Section 10(a)(1) of the Act)

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Administer" or "Administration" means the direct introduction of medical cannabis into the body of a person, whether by inhalation, ingestion, or any other means.

"Bona-fide physician-patient relationship" means a relationship in which the physician has ongoing responsibility for the assessment, care and treatment of a patient's debilitating medical condition, or a symptom of the patient's debilitating medical condition, for which the physician has certified to the Department that the qualifying patient would receive therapeutic or palliative benefit from the medical use of cannabis.

"Cannabis" means *marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis sativa and including any and all derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.* (Section 3(a) of the Cannabis Control Act)

"Caregiver" or "designated caregiver" means a person who is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a certified medical cannabis dispensary, dispense and assist in the administration of medical cannabis.

"Cultivation center" means *a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.* (Section 10(e) of the Act)

"DD214" means a certified DD214 Certificate of Release or Discharge from Active Duty Member Copy 4 or State Director of Veteran Affairs Copy 6; a certified DD214 Report of Separation from Active Duty Copy 2; or equivalent

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

certified document indicating character of service and dates of service. A DD214 can be certified by the State Department of Veterans' Affairs, county veteran's officials, and the federal Department of Veterans Affairs.

"DEA Registration Certificate" means a certificate to prescribe controlled substances issued by the U.S. Department of Justice's Drug Enforcement Administration.

"Debilitating medical condition" means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, agitation of Alzheimer's disease, cachexia/wasting syndrome, muscular dystrophy, severe fibromyalgia, spinal cord disease, including but not limited to arachnoiditis, Tarlov cysts, hydromyelia, syringomyelia, Rheumatoid arthritis (RA), fibrous dysplasia, spinal cord injury, traumatic brain injury (TBI) and post-concussion syndrome, Multiple Sclerosis, Arnold-Chiari malformation and Syringomyelia, Spinocerebellar Ataxia (SCA), Parkinson's disease, Tourette's syndrome, Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD (Complex Regional Pain Syndromes Type I), Causalgia, CRPS (Complex Regional Pain Syndromes Type II), Neurofibromatosis, Chronic Inflammatory Demyelinating Polyneuropathy, Sjogren's syndrome, Lupus, Interstitial Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella syndrome, residual limb pain, seizures (including those characteristic of epilepsy) or the treatment of these conditions; or any other debilitating medical condition that is added pursuant to the statute or by the Department by rule as provided in Section 946.30. (Section 10(h) of the Act)

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Dispensing organization district" or "District" means one of the 43 geographically dispersed areas identified in the Act and by the Department of Financial and Professional Regulation where one or more dispensing organizations may be located.

"Evidence-based medical research" means documentation of published, peer-reviewed best evidence on research related to the use of medical cannabis, which includes up-to-date information from relevant, valid research about the effects of

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

medical cannabis on different forms of diseases and conditions, its use in health care, the potential for harm from exposure, and other relevant medical information.

"Excluded offense" means:

a violent crime defined in Section 3 of the Rights of Crime Victims and Witnesses Act or a substantially similar offense that was classified as a felony in the jurisdiction where the person was convicted; or

a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except that the Department may waive this restriction if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.

This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law. (Section 10(1) of the Act)

"Fingerprint-based criminal history records check" means a fingerprint-based criminal history records check conducted by the Illinois State Police in accordance with the Uniform Conviction Information Act (UCIA).

"Health care facility" means any and all facilities and agencies licensed by the Illinois Department of Public Health, including, but not limited to, those registered under the Hospital Licensing Act, Nursing Home Care Act, Ambulatory Surgical Treatment Center Act, Alternative Health Care Delivery Act, Hospice Program Licensing Act, Specialized Mental Health Rehabilitation Act of 2013 and any nursing facility operated by the Illinois Department of Veterans' Affairs.

"ISP" means the Illinois State Police.

"Livescan" means an inkless electronic system designed to capture an individual's fingerprint images and demographic data in a digitized format that can be transmitted to ISP for processing. The data is forwarded to the ISP Bureau of Identification (BOI) over a virtual private network (VPN) and then processed by ISP's Automated Fingerprint Identification System (AFIS). Once received at the

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

BOI for processing, the inquiry may be forwarded electronically to the Federal Bureau of Investigation (FBI) for processing.

"Livescan vendor" means an entity licensed by the Department of Financial and Professional Regulation to provide commercial fingerprinting services under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to: vaporizing or smoking dried buds; using concentrates; administering tinctures or tonics; applying topicals such as ointments or balms; or consuming medical cannabis-infused food products.

"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container or package used for the purpose of containment of medical cannabis. (Section 10(n) of the Act)

"Medical cannabis dispensing organization" or "Dispensing organization" means a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing medical cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. (Section 10(o) of the Act)

"Medical cannabis-infused product" means food, oils, ointments, sodas or teas, capsules or other products containing usable cannabis that are not smoked. (Section 10(q) of the Act)

"Petitioner" means an applicant who seeks to add debilitating medical conditions to those listed in Section 10(h) of the Act as allowed under Section 946.30.

"Private residence" means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Promptly" means as soon as reasonably practicable, but not later than five days.

"Public place" means any place where an individual could reasonably be expected to be observed by others, including all parts of buildings owned in whole or in part or leased by the State or a unit of local government. A "public place" does not include health care facilities, as defined in this Part, or private residences unless the private residence is used to provide child care, foster care or other similar social service care on the premises.

"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition. (Section 10(t) of the Act)

"Quorum" means a majority of the appointed members of the advisory committee being present in person or participating through video conference or by telephonic means.

"Registered qualifying patient" means a qualifying patient who has been approved by the Department and has been issued a registry identification card.

"Registry identification card" or "medical cannabis patient registry card" means a document issued by the Department that identifies a person as a current registered qualifying patient or registered designated caregiver. (Section 10(v) of the Act)

"Reviewing physician" means a physician currently licensed under the Medical Practice Act of 1987 or who possesses a current, active medical license issued by another state, who has conducted a review of the medical records from other physicians treating a qualifying patient who is under 18 years of age for the purposes of attesting that the qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the qualifying patient's debilitating medical condition.

"Spinal cord injury" means damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

"Tincture" means cannabis flowered tops and leaves that are soaked in liquid, usually an alcohol solution, transferring the THC and other cannabinoid to the liquid. The tincture may be added to foods and liquids, applied to the skin, or

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

consumed directly by drinking a small quantity or placing a few drops under the tongue.

"Tetrahydrocannabinol" or "THC" means the primary active ingredient in cannabis.

"VA" means federal Department of Veterans Affairs.

"Veteran" means person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

"VA hospital" means a health care facility operated by the federal Department of Veterans Affairs-Veterans Health Administration providing hospital and outpatient health care services to U.S. military service veterans.

"VA official hospital medical records" means records from the VA documenting medical conditions and dates of treatment in the VA healthcare system.

"Violent crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 or the Criminal Code of 2012, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this definition, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A Type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene; or a substantially similar offense that was tried and convicted as a felony in the jurisdiction where the qualifying patient or designated caregiver was convicted. (Section 3(c) of the Rights of Crime Victims and Witnesses Act and Section 10(l)(1) of the Act)

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Waiver" means a waiver of an excluded offense granted by the Department solely based upon the results of a fingerprint-based criminal history records check *if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.* (Section 10(1)(2) of the Act)

"Written certification" means a document dated and signed by a physician, stating that in the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition; that the qualifying patient has a debilitating medical condition and specifying the debilitating medical condition the qualifying patient has; and that the patient is under the physician's care for the debilitating medical condition. A written certification shall be made only in the course of a bona-fide physician-patient relationship, after the physician has completed an assessment of the qualifying patient's medical history, reviewed relevant records related to the patient's debilitating condition, and conducted a physical examination. (Section 10(y) of the Act)

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.20 Debilitating Medical Conditions

A qualifying patient shall be eligible to apply for a Medical Cannabis Patient Registry Identification Card for the use of medical cannabis for treating or alleviating the symptoms associated with ~~if diagnosed as~~ having one or more debilitating medical conditions (see Section 946.10).

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.30 Addition of Debilitating Medical Conditions

Residents may petition the Department to add debilitating medical conditions to those listed in Section 10(h) of the Act and Section 946.20. The Department will accept petitions twice annually. The open period for accepting petitions will be for a one-month period from January 1 through January 31 and again from July 1 through July 31 each year. Petitions received outside of the open periods specified in this Section will not be reviewed and will be returned to the resident submitting the petition.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- a) The Department will convene a Medical Cannabis Advisory Board (Advisory Board) composed of 16 ~~15~~ members, including:
- 1) One medical cannabis patient advocate or designated caregiver;
 - 2) One parent or designated caregiver of a person under age 18 who is a qualified medical cannabis patient;
 - ~~2)3)~~ Two registered nurses or nurse practitioners ~~who work with medical cannabis patients;~~
 - ~~3)4)~~ Three registered qualifying patients, including one veteran; and
 - ~~4)5)~~ Nine healthcare practitioners with current professional licensure in their field. The Advisory Board shall be composed of ~~there shall be one~~ healthcare practitioner with expertise in and representing each of the following areas, and ~~practitioner with expertise in and~~ At at least two of the one appointed healthcare practitioner ~~practitioners~~ shall have direct experience related to ~~with~~ the health care needs of veterans and at least one individual shall have pediatric experience:
 - A) Neurology;
 - B) Pain management;
 - C) Medical oncology;
 - D) Psychiatry or mental health;
 - E) Infectious disease;
 - F) Family medicine;
 - G) General primary care;
 - H) Medical ethics; ~~and~~
 - I) Pharmacy;-
 - J) Pediatrics; or

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

K) Psychiatry or mental health for children or adolescents.

- b) The Advisory Board shall review petitions and recommend to the Department additional debilitating conditions or diseases that would benefit from the medical use of cannabis.
- c) Members of the Advisory Board will be appointed by the Governor.
 - 1) Members shall serve a term of four years or until a successor is appointed and qualified. If a vacancy occurs, the Governor will appoint a replacement to complete the original term created by the vacancy.
 - 2) Members shall select a chairperson.
 - 3) Members may serve multiple terms.
 - 4) Members shall not have an affiliation with, serve on the board of, or have a business relationship with a registered cultivation center or a registered medical cannabis dispensary.
 - 5) Members shall disclose any real or apparent conflicts of interest that may have a direct bearing of the subject matter, such as relationships with pharmaceutical companies, biomedical device manufacturers, or corporations whose products or services are related to the medical condition or disease to be reviewed.
 - 6) Members will not be paid but will be reimbursed for travel expenses incurred while fulfilling the responsibilities of the Advisory Board.
- d) The Advisory Board shall convene at least twice per year to:
 - 1) Review petitions received from residents of Illinois for the addition of debilitating medical conditions or diseases that would benefit from the medical use of cannabis.
 - 2) Conduct a public hearing to review the petitions received.
 - 3) Review conditions previously reviewed by the Advisory Board and accepted by the Department for the purposes of determining whether to

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

recommend the revision of the list of debilitating medical conditions or to review new medical and scientific evidence pertaining to currently approved conditions.

- 4) Recommend the approval or denial of each petitioner's request by submitting a written report to the Department within 60 days after conducting the public hearing. The written report shall include a medical justification for the recommendation based upon the individual or collective expertise of the members of the advisory board. The medical justification shall delineate between the findings of fact made by the Advisory Board and the scientific conclusions of evidence-based medical research.
- e) During the open period, the Department will accept petitions from any resident requesting the addition of a new debilitating medical condition or disease to the list of approved debilitating medical conditions for which the use of cannabis has been shown to have a therapeutic or palliative effect. The Department will provide public notice 30 days before the open period for accepting petitions, describing the time period for submission, the required format of the submission, and the submission address, which is set forth in Section 946.205.
- f) Each petition shall be limited to one proposed debilitating medical condition or disease.
- g) A petitioner shall file one original petition in the format provided by the Department and two paper copies, along with a CD/DVD or flash drive containing the petition and all associated documents in electronic form, with the Department by certified U.S. mail. For a petition to be processed and submitted to the Advisory Board, the following information shall be included:
 - 1) The petition, prepared on forms provided by the Department.
 - 2) A specific description of the medical condition or disease that is the subject of the petition. The petitioner shall not submit broad categories, e.g., all mental illnesses. Each petition shall be limited to a single condition or disease. Information about the proposed condition or disease shall include:
 - A) The extent to which the condition or disease itself and/or the treatments cause severe suffering, such as severe and/or chronic

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

pain, severe nausea and/or vomiting, or otherwise severely impair a person's ability to carry on with activities of daily living;

- B) Information about why conventional medical therapies are not sufficient to alleviate the suffering caused by the disease or condition and its treatment;
 - C) The proposed benefits from the medical use of cannabis specific to the medical condition or disease;
 - D) Evidence from the medical community and other experts supporting the use of medical cannabis to alleviate suffering caused by the condition or disease and/or treatment;
 - E) Letters of support from physicians or other licensed health care providers knowledgeable about the condition or disease, including, if feasible, a letter from a physician with whom the petitioner has a bona-fide physician-patient relationship;
 - F) Any additional medical, testimonial or scientific documentation; and
 - G) An electronic copy of all materials submitted.
- 3) Upon review of materials submitted pursuant to subsection (g)(2), the Department will determine whether:
- A) The petition meets the standards for submission and, if so, will accept the petition for further review; or
 - B) The petition does not meet the standards for submission and, if so, will deny the petition without further review.
- 4) If the petition does not fulfill the standards for submission, the petition will be considered deficient. The Department will notify the petitioner, who may correct any deficiencies and resubmit the petition during the next open period.
- 5) If the petition is accepted, the Department will refer the petition documents to the Advisory Board for review.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- h) The petitioner may withdraw his or her petition by submitting a written statement to the Department indicating withdrawal.
- i) The Advisory Board shall have a minimum of 30 days to review the petitions before convening a public hearing.
- j) The Advisory Board shall convene a public hearing to review all petitions accepted by the Department pursuant to Section f(4)(B) requesting the addition of medical conditions or diseases to the list of debilitating medical conditions that would benefit from the medical use of cannabis.
 - 1) The Department will provide a notice of public hearing setting forth the date, time and location of the hearing, a brief description of the petitions received, and information on the requirements for public comment or statement of intent to present technical evidence, as required by the Open Meetings Act. The Department will publish a notice of the hearing on its website to provide notice to the public.
 - 2) Meetings of the Advisory Board shall be in accordance with the Open Meetings Act.
 - 3) Any meeting consisting of a quorum of the Advisory Board members held for the purpose of evaluating, discussing or otherwise formulating specific opinions concerning the recommendation of a petition filed pursuant to this Part shall be declared a public hearing open to the public at all times, unless a portion of the hearing is closed to protect information made confidential by applicable State or federal laws.
 - 4) A petitioner may request to close a portion of the hearing to protect the disclosure of confidential information. The request for closure of the hearing shall be submitted to the same address as the initial submission set forth in Section 946.205. The request must be received by the Department at least 48 hours prior to the hearing.
- k) Any individual or an association of individuals who wishes to present technical evidence at the hearing shall file a statement of intent, no later than 15 days prior to the date of the hearing. The statement of intent to present technical evidence shall include:

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Name of the person filing the statement;
 - 2) Indication of whether the person filing the statement supports or opposes the petition at issue;
 - 3) Name of each witness;
 - 4) Estimate of the length of the direct testimony of each witness;
 - 5) List of exhibits, if any, to be offered into evidence at the hearing; and
 - 6) Summary or outline of the anticipated direct testimony of each witness.
- l) Upon final determination, the Advisory Board shall provide the Director a written report of findings recommending either the approval or denial of the petitioner's request. The written report of findings shall include a medical justification for the recommendation based upon the individual or collective expertise of the Advisory Board membership. The medical justification shall delineate between the findings of fact made by the Advisory Board and scientific conclusions of evidence-based medical research. The written report of findings shall protect information by applicable State or federal laws (e.g., FOIA or HIPAA).
- m) Upon review of the Advisory Board's recommendations, the Director will render a final decision regarding the acceptance or denial of the proposed debilitating medical conditions or diseases.
- n) *The Department will approve or deny a petition within 180 days after its submission during the biannual petition period. (Section 45 of the Act)*

(Amended 39 Ill. Reg. _____, effective _____).

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section 946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers

- a) A qualifying patient who has been issued a written certification who seeks to use medical cannabis for palliative or therapeutic benefit to treat or alleviate the symptoms associated with ~~for~~ the patient's debilitating condition, and the qualifying patient's designated caregiver, when applicable, shall register with the Department on forms and in a manner prescribed by the Department.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- b) To qualify for a registry identification card, a qualifying patient shall:
- 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
 - 2) Have a qualifying medical condition for which the use of medical cannabis will provide help with treating or alleviating the pain, nausea, and other symptoms associated with the condition;
 - 3) Have a signed, written certification for the use of medical cannabis meeting the requirements of this Part;
 - 4) Complete the fingerprint-based background check and not have been convicted of an ~~excluded~~ offense as specified under Section 65(b) ~~25(b)~~ of the Act; and
 - 5) ~~Be least 18 years of age unless otherwise authorized by statute or rule.~~
- c) Residency. For purposes of this Part, the qualifying patient and designated caregiver, if any, shall be a resident of the State of Illinois if the individual:
- 1) Physically resides in the State of Illinois, or has taken verifiable actions to make Illinois his or her home indefinitely with no present intent to reside in another state.
 - 2) Provides proof of Illinois residency by submitting at least two of the following items with the application for a registry identification card; persons who are homeless shall only be required to submit a Notarized Homeless Status Certification (available at https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf):
 - A) Pay stub or electronic deposit receipt, issued less than 60 days prior to the application date, that shows evidence of the applicant's withholding for State income tax;
 - B) Valid voter registration card with an address in Illinois;

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- C) Valid, unexpired Illinois driver's license or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act;
 - D) Bank statement (dated less than 60 days prior to application);
 - E) Deed/title, mortgage or rental/lease agreement;
 - F) Insurance policy (homeowner's or renter's);
 - G) Medical claim or statement of benefits (from private insurance company or public (government) agency, dated less than 90 days prior to application) or Social Security Disability Insurance Statement or Supplemental Security Income Benefits Statement;
 - H) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application; or
 - I) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cable or gas, issued less than 60 days prior to application.
- d) To apply for a registry identification card, a qualifying patient shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) Written certification for the use of medical cannabis meeting the requirements of this Part issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987 and dated less than 90 days prior to the application;
 - 2) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
 - 3) Proof of identity of the qualifying patient;
 - 4) Proof of the qualifying patient's age;

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 5) Photograph of the qualifying patient and designated caregiver, if applicable, as follows:
- A) Current digital passport-size image, taken no more than 30 calendar days before the submission of the application;
 - B) Taken against a plain background or backdrop;
 - C) At least 2 inches by 2 inches in size;
 - D) In natural color; and
 - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed.
 - i) A qualifying patient or designated caregiver will not be required to submit to a photograph if sufficient justification is provided by the qualifying patient or caregiver to establish that a photograph would be in violation of or contradictory to the qualifying patient's or designated caregiver's religious convictions. If a qualifying patient or designated caregiver declares that the use of a photograph is against his/her religious convictions, the qualifying patient or designated caregiver will be given an affidavit ~~Affidavit~~ to be completed. This affidavit ~~Affidavit~~ contains designated areas for a detailed written explanation of the reasons why a photograph is against the qualifying patient's or designated caregiver's religious convictions, a place for the qualifying patient's or designated caregiver's signature and date, the designation of the religious sect or denomination involved, space for a minister or other religious leader to apply his/her signature attesting to the explanation the qualifying patient or designated caregiver has offered, along with the date and official title of the minister or religious leader.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ii) The Affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.
 - iii) If the qualifying patient or designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination
 - iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the qualifying patient's home address.
- 6) Designation of the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis. During 2014, and later if the Department so elects, a qualifying patient may designate the dispensing organization district in which he or she expects to obtain his or her medical cannabis.
- 7) Completion of the designated caregiver application if applicable.
- 8) Payment of the applicable application fee (see Section 946.210) by check or money order. If the qualifying patient or caregiver is applying on-line, the Department will accept credit card payments.

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.201 Application for Registry Identification Card for Qualifying Patients under 18 Years of Age

- a) A qualifying patient under 18 years of age shall register with the Department on forms and in a manner prescribed by the Department. The designated caregiver shall complete the application for registry identification card for a qualifying patient under 18 years of age. Once the qualifying patient becomes 18 years of age, he or she must submit a full application for a Registry Identification Card as specified in Section 946.200. Qualifying patients who become 18 years of age

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

during the time period in which their registration identification card is valid, may apply for a registration identification card either immediately or during the normal renewal period. Until such time, the Registry Identification Card shall be subject to the conditions applicable to the registered qualifying patient under age 18.

- b) To qualify for a registry identification card, a qualifying patient under 18 years of age shall:
- 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
 - 2) Be diagnosed with any debilitating medical condition listed in Section 946.310 for which medical cannabis may be used to treat or alleviate the pain, nausea or other symptoms associated with the condition.
- c) The application for a Registry Identification Card for a qualifying patient under 18 years of age shall include the following:
- 1) Two signed written certifications for the use of medical cannabis:
 - A) A signed written certification as specified in Section 946.310; and
 - B) A signed written certification from a reviewing physician indicating that a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted.
 - 2) Identify a designated caregiver (custodial parent or legal guardian) who shall complete an application for a caregiver registry identification card as specified in Section 946.200;
 - 3) A completed, signed Medical Cannabis Custodial Parent and Legal Guardian Attestation form. This form can be downloaded from the Illinois Department of Public Health website at <http://idph.state.il.us/> ; and
 - 4) If applicable, provide proof of guardianship documentation.
- d) Residency. For purposes of this Part, the qualifying patient and custodial parent or legal guardian shall be residents of the State of Illinois.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- e) The designated caregiver shall provide proof of Illinois residency by submitting the following items with the application for a registry identification card; persons who are homeless shall be required to submit only a Notarized Homeless Status Certification (available at https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf):
- A) A copy of the caregiver's unexpired Illinois driver's license; or
 - B) A copy of the caregiver's unexpired Illinois identification card; or
 - C) A copy of the caregiver's unexpired U.S. passport.
- f) To apply for a registry identification card for a qualifying patient under 18 years old, the designated caregiver shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) A written certification for the use of medical cannabis meeting the requirements of this Part issued by a physician who meets the requirements set forth in the Act and the Medical Practice Act of 1987 and dated less than 90 days prior to the application;
 - 2) A signed written certification from a reviewing physician indicating a comprehensive review of the qualifying patient's medical records from other physicians treating the qualifying patient has been conducted. This physician shall meet the requirements set forth in the Medical Practice Act of 1987 or shall provide proof of a current, active medical license issued by another state.
 - 3) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
 - 4) Proof of identity of the qualifying patient (copy of the qualifying patient's birth certificate);
 - 5) Proof of the qualifying patient's age. A copy of the qualifying patient's birth certificate shall fulfill this requirement;

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 6) Current digital passport-size photograph of the designated caregiver, as follows:
- A) Taken no more than 30 calendar days before the submission of the application;
 - B) Taken against a plain background or backdrop;
 - C) At least 2 inches by 2 inches in size;
 - D) In natural color; and
 - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed.
 - i) A designated caregiver for a qualifying patient under 18 years old will not be required to submit a photograph if sufficient justification is provided by the caregiver to establish that a photograph would be in violation of or contradictory to the designated caregiver's religious convictions. If a designated caregiver declares that the use of a photograph is against his/her religious convictions, the designated caregiver will complete an affidavit on a form provided by the Department. The affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the designated caregiver's religious convictions; a place for the designated caregiver's signature and date, the designation of the religious sect or denomination involved; space for a minister or other religious leader to apply his/her signature attesting to the explanation the designated caregiver has offered; and the date and official title of the minister or religious leader.
 - ii) The affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

submit a recommendation to the Director for his or her final decision.

- iii) If the designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination.
- iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the designated caregiver's home address.

- 7) Designation of the medical cannabis dispensing organization where the designated caregiver will obtain medical cannabis on behalf of the qualifying patient under 18 years of age.
- 8) Completion of the Medical Cannabis Parent and Legal Guardian Attestation form.
- 9) If applicable, submission of proof of guardianship documentation.
- 10) Payment of the applicable application fee (see Section 946.210) by check or money order. If the patient or caregiver is applying on-line, the Department will accept credit card payments.

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.205 Deadlines for Submission of Application for Registry Identification Card

A qualifying patient who has been issued a physician written certification who seeks to use medical cannabis for palliative or therapeutic benefit for the patient's debilitating condition, and the qualifying patient's designated caregiver when applicable, shall register with the Department on forms and in a manner prescribed in this Part.

- a) ~~During 2014, qualifying patients whose last names begin with the letters A through L, and their designated caregivers, if applicable, regardless of the caregiver's last name, shall submit an application for a registry identification card from September 1, 2014 through October 31, 2014.~~

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- b) ~~During 2014, qualifying patients whose last names begin with the letters M through Z, and their designated caregivers, if applicable, regardless of the caregiver's last name, shall submit an application for a registry identification card from November 1, 2014 through December 31, 2014.~~
- a) ⇨ Beginning January 1, 2015, applications for registry identification cards will be accepted year round.
- b) ⇨ Application Submission
- 1) Applications for registry identification cards shall be submitted electronically through the Department's website (www.idph.state.il.us) or shall be sent via U.S. mail to the following address:
- Division of Medical Cannabis
Illinois Department of Public Health
535 West Jefferson Street
Springfield IL 62761-0001
- 2) Applications for registry identification cards not submitted electronically or to the above address shall be considered deficient.
- c) *The Department of Public Health shall send a notification to a registered qualifying patient or designated caregiver 90 days prior to the expiration date on the registry identification card. (Section 70 of the Act)*
- d) *To maintain a valid registry identification card, a registered qualifying patient and designated caregiver must annually resubmit, at least 45 days prior to the expiration date stated on the registry identification card, a completed renewal application (see Section 946.200), renewal fee (see Section 946.210) and accompanying documentation (see Section 946.200). (Section 70 of the Act)*
- e) ~~*To maintain a valid registry identification card, a registered qualifying patient and designated caregiver must annually resubmit, at least 45 days prior to the expiration date stated on the registry identification card, a completed renewal application (see Section 946.200), renewal fee (see Section 946.210) and accompanying documentation (see Section 946.200). (Section 70 of the Act)*~~

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- f) ~~The Department of Public Health shall send a notification to a registered qualifying patient or designated caregiver 90 days prior to the expiration date on the registry identification card. (Section 70 of the Act)~~

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.210 Fees

- a) Except as set forth in subsection (b), the registration, renewal and replacement card fees are as specified in this subsection (a). All fees submitted to the Department shall be non-refundable. Annually, the Department may revise these fees:

- | | | |
|-----------------|---|--------------|
| 1) | Annual qualifying patient application fee | \$100 |
| 2) | <u>Annual application fee for a qualifying patient under 18 years of age (includes caregiver application fee)</u> | <u>\$100</u> |
| 3 2) | Annual caregiver application fee | \$25 |
| 4 3) | Replacement card fee | \$25 |
| 5 4) | Returned check fee | \$35 |

- b) The Department may reduce registration and renewal card fees for a qualifying patient enrolled in the federal Social Security Disability Income (SSDI) or the Supplemental Security Income (SSI) disability programs, with submission of proof as described in subsection (b)(2), and for veterans with proof of service as described in subsection (b)(3).

- | | | |
|----|--|------|
| 1) | Annual reduced qualifying patient application fee | \$50 |
| 2) | The applicant shall submit a copy of a letter or other documentation from the Social Security Administration identifying the qualifying patient and showing the amount of monthly SSDI and SSI benefits to be received by the qualifying patient during the current year of application. | |
| 3) | Veterans shall provide a copy of their DD214. | |

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.220 Fingerprint-Based Criminal History Records Check

No person who has been convicted of a felony under the Illinois Controlled Substances Act, Cannabis Control Act, or Methamphetamine Control and Community Protection Act, or similar provisions in a local ordinance or other jurisdiction is eligible to receive a registry identification card. (Section 65(b) of the Act)

- a) The Illinois State Police (ISP) will act as the Department's agent for purposes of receiving electronic fingerprints and conducting background checks of each qualifying patient and designated caregiver, if applicable, applying for a registry identification card.
 - 1) The ISP will conduct background checks for conviction information contained within ISP and Federal Bureau of Investigation (FBI) criminal history databases to the extent allowed by law.
 - 2) For verification of any statutorily imposed duty to conduct background checks pursuant to the Act, ISP will transmit the results of the background check to the Department.
 - 3) The electronic background checks will be submitted as outlined in the Illinois Uniform Conviction Information Act or ISP rules at 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprints).

- b) Each qualifying patient and designated caregiver, if applicable, applying for a registry identification card shall have his or her fingerprints collected electronically by a livescan vendor licensed by the Illinois Department of Financial and Professional Regulation, and transmitted to ISP for processing no more than 30 days prior to the date of application or renewal for a registry identification card. If the qualifying patient is under age 18 at the time of application, no fingerprint collection shall be necessary for the qualifying patient; however, the designated caregiver shall comply with the requirements of this Section.
 - 1) The qualifying patient or designated caregiver shall submit to the Department, with the registry card application or renewal, a copy of the livescan request form and the receipt provided by the livescan fingerprint

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

vendor containing the Transaction Control Number (TCN) as proof that fingerprints have been collected.

- 2) Registry card applications submitted without a copy of the livescan request form and receipt will be considered incomplete and will not be processed until fingerprinting is completed.
 - 3) Any fees associated with the livescan fingerprint-based criminal history records check shall be the responsibility of the individual seeking a registry identification card and will be collected by the livescan vendor at the time of fingerprinting.
 - 4) If the fingerprints are rejected by ISP, the qualifying patient or designated caregiver shall have his or her fingerprints collected electronically by a licensed livescan vendor a second time.
 - 5) If equipment malfunction or other special circumstances make electronic transmission of fingerprint data impractical, the Department will allow use of paper fingerprint records.
- c) The Department will obtain from ISP a State and federal criminal records check for each qualifying patient applying for a registry identification card and for each designated caregiver identified on a qualifying patient registry application.
- d) The Department will maintain the results of the criminal history records check for the time period associated with the registry identification card or the registered qualifying patient and designated caregiver, if any, and in accordance with the State Records Act, after which the documentation shall be destroyed.
- e) Denial of Application or Renewal
- 1) The Department may deny an application or renewal for a qualifying patient or a designated caregiver who has been convicted of an excluded offense in accordance with this subsection (e).
 - A) Denial of a designated caregiver will not automatically result in the denial of a qualifying patient application.
 - B) The qualifying patient shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

designated caregiver application or shall indicate that a designated caregiver is not required.

- C) The Department will not deny an application for a registry identification card based solely on the qualifying patient's or designated caregiver's conviction for an excluded offense for a violation of a State or federal controlled substance law that was classified as a felony if his or her conviction was for the possession, cultivation, transfer or delivery of a reasonable amount of cannabis intended for medical use and the termination of the last sentence was 10 or more years prior to application.

2) Exception

If the qualifying patient or designated caregiver has been convicted of any excluded offenses, the Department may approve a registry identification card pursuant to this Part *if the person demonstrates that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.* (Section 10(1)(2) of the Act) In determining whether to waive a conviction for excluded offenses, the Department will:

- A) Review the criminal records and the qualifying patient's medical history to determine whether the patient had been diagnosed with the debilitating medical condition at the time of the offense; and
- B) Determine whether the offense consisted of conduct for which, had it occurred on or after January 1, 2014, would likely have been protected by the Act and would likely not have resulted in a conviction.

3) Qualifying Patients Under 18 Years of Age

- A) Denial of a designated caregiver (custodial parent or legal guardian) because of an excluded offense will not automatically result in the denial of an application for a qualifying patient under 18 years of age.
- B) The custodial parent or legal guardian shall identify a new designated caregiver within 15 days after receiving notice of the denial of his or her designated caregiver application. The custodial

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

parent or legal guardian shall execute an “Authorization and Consent” form designating a person over 21 years of age to act as the designated caregiver for the qualifying patient under 18 years of age.

- f) The Department will not waive convictions for violations of the medical cannabis laws of Illinois or any other State or jurisdiction.

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.230 General Provisions

- a) A registry identification card shall not be transferable.
- b) A registry identification card issued under this Section is the property of the State of Illinois and shall be surrendered upon demand of the Director, or the Director’s designee.
- c) The qualifying patient and the designated caregiver, if applicable, shall sign and date the application for a registry identification card. If the qualifying patient is under 18 years of age at the time of application, only the designated caregiver shall be required to sign and date the application for a registry identification card.
- d) The Department will require each applicant for a registry identification card to include a signed statement that specifies that the applicant attests that all information submitted as part of the application is true and accurate to the best of the applicant's knowledge and, at minimum, certifies that the applicant has actual notice that, notwithstanding any State law:
- 1) Cannabis is a prohibited Schedule I controlled substance under federal law;
 - 2) Participation in the program is permitted only to the extent provided by the strict requirements of the Act and this Part;
 - 3) Any activity not sanctioned by the Act or this Part may be in violation of State law;

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 4) Growing, distributing or possessing cannabis in any capacity, except through a federally approved research program, is a violation of federal law;
 - 5) Use of medical cannabis may affect an individual's ability to receive federal or state licensure in other areas;
 - 6) Use of medical cannabis, in tandem with other conduct, may be in violation of State or federal law;
 - 7) Participation in the program does not authorize any person to violate federal or State law and, other than as specified in Section 25 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal or State law; and
 - 8) Applicants shall indemnify, hold harmless, and defend the State of Illinois for any and all civil or criminal penalties resulting from participation in the program.
- e) Once the qualifying patient reaches 18 years of age, he or she must submit a full application for a Registry Identification Card as specified in Section 946.200. Qualifying patients who become 18 years of age during the time period in which their registration identification card is valid, may apply for a registration identification card either immediately or during the normal renewal period. Until a full application is submitted and approved, the Registry Identification Card shall be subject to the conditions applicable to the registered qualifying patient under age 18.

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.260 Responsibilities of Designated Caregivers

- a) A designated caregiver shall not receive payment or other compensation for services provided as a designated caregiver other than reimbursement for reasonable expenses incurred in the provision of services as a designated caregiver. In the case of an employee of a hospice provider, nursing facility or medical facility, or a visiting nurse, personal care attendant, or home health aide serving as a designated caregiver, the individual shall not receive payment or compensation above or beyond his or her regular wages.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- b) A designated caregiver is responsible for notifying the Department within 10 business days after any change to the information that his or her registered qualifying patient was previously required to submit to the Department, or after the designated caregiver discovers that his or her registry identification card has been lost or stolen.
- c) A designated caregiver shall carry his or her registry identification card at all times while in possession of medical cannabis.
- d) A designated caregiver may:
 - 1) Transport a registered qualifying patient to and from a licensed medical cannabis dispensary;
 - 2) Obtain and transport an adequate supply of medical cannabis from a licensed medical cannabis dispensary on behalf of a registered qualifying patient;
 - 3) Prepare medical cannabis for consumption by a registered qualifying patient; ~~and~~
 - 4) Administer medical cannabis to a registered qualifying patient; ~~and~~ -
 - 5) Purchase only medical cannabis-infused products for use by registered qualifying patients under age 18.
- e) A designated caregiver shall not:
 - 1) Consume, by any means, medical cannabis that has been dispensed on behalf of a registered qualifying patient;
 - 2) Sell, provide or otherwise divert medical cannabis that has been dispensed to a registered qualifying patient; or
 - 3) Grow or cultivate medical cannabis on behalf of a registered qualifying patient.
- f) The designated caregiver shall notify the Department promptly by phone and in writing within 10 calendar days following the death of the designated caregiver's registered qualifying patient.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.280 Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization

A registered qualifying patient or designated caregiver shall obtain medical cannabis only from the medical cannabis dispensing organization designated on his or her registry identification application and shall not:

- a) Grow or cultivate medical cannabis;
- b) Purchase medical cannabis from non-authorized sources; or
- c) Obtain medical cannabis from other registered qualifying patients or designated caregivers.
- d) Designated caregivers of registered qualifying patient under 18 years of age may purchase only medical cannabis-infused products from medical cannabis dispensing organizations.

(Amended 39 Ill. Reg. _____, effective _____).

SUBPART C: PHYSICIAN REQUIREMENTS

Section 946.310 Physician Written Certification

- a) A certification indicating that a qualifying patient is recommended for the use of medical cannabis shall be written on a form provided by the Department and shall include, at minimum, the following:
 - 1) The qualifying patient's name, date of birth, home address and primary telephone number;
 - 2) The physician's name, address, telephone number, e-mail address, medical license number, indication of specialty or primary area of clinical practice, if any, and DEA registration number;

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 3) The length of time the qualifying patient has been under the care of the physician;
 - 5) The qualifying patient's debilitating medical condition;
 - 5) Additional comments, if necessary, that would be useful in assessing the qualifying patient's application for use of medical cannabis;
 - 6) A statement that the physician has confirmed a diagnosis of a debilitating medical condition; has a bona-fide physician-patient relationship; has conducted an in-person physical examination; has conducted a review of the patient's medical history, including reviewing medical records from other treating physicians, if any, from the previous 12 months; and has explained the potential risks and benefits of the use of medical cannabis to the qualifying patient; and
 - 7) The physician's signature and date.
- b) *A patient may apply for a waiver where a physician provides a substantial medical basis in a signed, written statement asserting that, based on the patient's medical history, in the physician's professional judgment, 2.5 ounces is an insufficient adequate supply for a 14-day period to properly alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. (Section 10(a)(2) of the Act)*
- 1) The waiver recommendation shall be on a Physician Waiver Recommendation form provided by the Department.
 - 2) The waiver shall describe in the physician's professional opinion why 2.5 ounces is an insufficient supply for a 14-day period.
 - 3) The waiver shall describe how the qualifying patient will benefit from an increased supply.
 - 4) The waiver shall include a statement by the physician indicating the amount of medical cannabis that would be a sufficient supply for the qualifying patient's debilitating medical condition and provide a recommendation for the length of time the waiver should be in effect.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 5) If the Department approves the waiver, the amount of medical cannabis recommended by the physician shall be noted on the registry identification card.
- c) Applications for qualifying patients under 18 years old shall require a written certification from a physician and a reviewing physician.

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.410 Sale and Distribution of Cannabis-Infused Products

Neither the Department of Public Health nor the Department of Agriculture nor the health department of a unit of local government may regulate the service of medical cannabis-infused food products by a registered cultivation center or registered dispensing organizations provided all of the following conditions are met. (Section 80 of the Act)

- a) *No cannabis infused products requiring refrigeration or hot-holding or considered potentially hazardous food (Section 4 of the Food Handling Regulation Enforcement Act) shall be manufactured at a cultivation center for sale or distribution at a dispensing organization due to the potential for food-borne illness (Section 80(a) of the Act).*
- b) *Baked products infused with medical cannabis (such as brownies, bars, cookies, cakes, breads, pastries), tinctures, and other non-refrigerated items are acceptable for sale at dispensing organizations (Section 80(a) of the Act). The products are allowable for sale only at dispensing organizations registered with the Department of Financial and Professional Regulation.*
- c) All cannabis-infused products offered for sale at registered dispensing organizations shall be labeled in accordance with Section 946.400.
- d) Designated caregivers of registered qualifying patient under 18 years of age may purchase only medical cannabis-infused products from registered dispensing organizations.

(Amended 39 Ill. Reg. _____, effective _____).

Section 946.500 Circuit Court Review

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- a) *Denial of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court. (Section 65 of the Act)*
- b) *The suspension or revocation of a registration is a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court. (Section 185 of the Act)*
- c) *The approval or denial of any petition pursuant to Section 946.30 is a final decision of the Department, subject to judicial review. Jurisdiction and venue are vested in the Circuit Court. (Section 45 of the Act)*
- d) *All final administrative decisions of the Department of Public Health are subject to direct judicial review under the provisions of the Administrative Review Law and the rules adopted under that Law. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. (Section 155 of the Act)*
- e) If any final Department action is appealed in Circuit Court pursuant to this Section, the record on review shall include the following:
 - 1) The application or petition submitted;
 - 2) Any written documentation considered by the Department in making its final decision with respect to the application or petition. With respect to petitions for the addition of a medical condition or disease as referenced in Section 946.30, the record on review shall include:
 - A) Any written report made by the Medical Cannabis Advisory Board to the Department, to the extent that the report actually materially discusses the medical condition or disease proposed in the petition;
 - B) Any public minutes of an Advisory Board meeting at which the medical condition or disease proposed in the petition is materially discussed;
 - C) Any statement of intent to present technical evidence, as referenced in Section 946.30(k), to the extent that the technical

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

evidence relates to the medical condition or disease proposed in the petition;

- 3) Any written correspondence between the Department and the person submitting the application or petition, provided that the correspondence either played a material role in the final decision rendered by the Department; made a material argument to the Department with respect to the application or petition; or would be helpful to the Circuit Court in reviewing the matter because the correspondence provides helpful procedural background.
- f) If the materials in the record on review contain any confidential information as defined in Section ~~946.80~~ ~~946.60~~, either the information shall be redacted, as appropriate, or the entirety or portions of the record on review shall be filed under seal so as to retain the confidentiality of, without limitation, patient medical records or Departmental documents or data.

(Amended 39 Ill. Reg. _____, effective _____).