

- **DEPARTMENT OF PUBLIC HEALTH**

- NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Compassionate Use of Medical Cannabis Pilot Program

2) Code Citation: 77 Ill. Adm. Code 946

3)

Section Numbers: Emergency Actions:

946.10	Amendment
946.15	Amendment
946.40	Amendment
946.50	Amendment
946.60	Amendment
946.200	Amendment
946.201	Amendment
946.210	Amendment
946.220	Repealed
946.235	New Section
946.240	Amendment
946.250	Amendment
946.270	Amendment
946.290	Amendment
946.300	Amendment
946.310	Amendment
946.315	Amendment
946.400	Amendment
946.600	New Section
946.610	New Section
946.620	New Section
946.630	New Section

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

5) Effective Date of Rules: December 1, 2018

6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which they are to expire: This rulemaking will not expire before the end of the 150-day period.

7) Date Filed with the Index Department: November 26, 2018

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: The Department is adopting these emergency amendments to implement PA 100-1114, effective August 28, 2018, which requires the adoption of emergency rules by December 1, 2018 to implement the changes to provisions of the Compassionate Use of Medical Cannabis Pilot Program Act. The amendments provide for provisional access to licensed medical cannabis dispensary organizations for persons applying to the Medical Cannabis Pilot Program and define the requirements for participation in the Opioid Alternative Pilot Program. The amendments are necessary to aid the Department in approving registration identification cards for provisional access to medical cannabis dispensing organizations to assure access to medical cannabis for alleviating symptoms associated with one or more debilitating conditions. Also, the new sections will allow the Department to implement the new Opioid Alternative Pilot Program.

Section 5-45 of the Illinois Administrative Procedure Act (IAPA) defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The situation that requires this emergency rulemaking constitutes an "emergency" because without this rulemaking persons who are diagnosed with a disease or condition for which an opioid was prescribed or could be prescribed would not be able to access potentially life-sustaining therapy through the use of medical cannabis products. This rulemaking will provide access to medical alternatives to opioids as a means to combat the opioid crisis, making Illinois the first state in the nation to enact such a program. Data from the U.S. Centers for Disease Control shows that opioid deaths are on the rise nationwide, with an estimated 72,000 people dying of an opioid-related overdose in 2017, including a 10 percent increase in deaths in Illinois. Immediate adoption of these emergency rules will ensure that qualifying individuals will be able to register for the Opioid Alternative Pilot Program and purchase medical cannabis at a licensed dispensing organization. Adoption of these emergency rules will help to fulfill the Department's goal of assuring access to medical cannabis to reduce the dependence on prescription opioids. The Department is also publishing identical proposed rules.

10) A Complete Description of the Subject and Issues: This rulemaking implements PA 100-1114 and updates the Code by adding definitions, modifying incorporated references, removing references to fingerprint requirements and excluded offenses, and adding requirements for participation in the Opioid Alternative Pilot Program. Additionally the rulemaking implements PA 100-660, effective August 1, 2018. The statutory changes made in PA 100-660 are incorporated to clarify that use and possession of medical cannabis is allowed on a school bus and on school grounds in accordance with the Illinois School Code. This change is necessary to allow parents or guardians who are registered

caregivers for minor qualifying patients to administer medical cannabis to a student during the school day.

11) Are there any other rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.

13) Information and questions regarding these emergency rules shall be directed to:

Erin Conley

Rules Coordinator

Division of Legal Services

Illinois Department of Public Health

535 W. Jefferson St., 5th floor

Springfield IL 62761

217/782-2043

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The full text of the Emergency Amendments begins on the next page:

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 946

COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM

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EMERGENCY

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## EMERGENCY

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

**SOURCE:** Adopted at 38 Ill. Reg. 17367, effective July 29, 2014; emergency amendment at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 7712, effective May 15, 2015; emergency amendment at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days; emergency amendment to emergency rule at 40 Ill. Reg. 13732, effective September 16, 2016, for the remainder of the 150 days; amended at 40 Ill. Reg. 16753, effective December 15, 2016; emergency amendment at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days.

## SUBPART A: GENERAL PROVISIONS

### Section 946.10 Definitions

#### EMERGENCY

"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)*

"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 established at a hospital, physician's office, or other health care facility in which the physician has an 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 or has diagnosed a disease or condition for which an opioid was prescribed or could be prescribed and is actively monitoring the effectiveness of the treatment. (Section 10(z) of the Act)*

"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 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.

*"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); and post-traumatic stress disorder (PTSD) 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 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.

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"Health care facility" means any and all facilities and agencies licensed by the Department, 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.

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"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, individuals with a provisional registration for qualifying patient cardholder status, or Opioid Alternative Pilot Program participant.* (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)

*"Opioid" means a narcotic drug or substance that is a Schedule II controlled substance under paragraph (1), (2), (3), or (5) of subsection (b) under subsection (c) of Section 206 of the Illinois Controlled Substances Act.* (Section 10 (r-5) of the Act)

*"Opioid Alternative Pilot Program participant" means an individual who has received a valid written certification to participate in the Opioid Alternative Pilot Program for a medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care.*(Section 10(r-10) 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.

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

"Provisional patient" means a qualifying patient who has received a provisional registration from the Department of Public Health.

*"Provisional registration" means a document issued by the Department of Public Health to a qualifying patient or designated caregiver who has submitted: (1) an valid and complete online application and paid a fee to participate in the Compassionate Use of Medical Cannabis Pilot Program pending approval or denial of the patient's application; or (2) a completed application for terminal illness.* (Section 10(s-5) of the Act)

"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)*

"Reasonable amount" means less than 2,000 grams of cannabis for any conviction that occurred in the past 10 years or any amount of cannabis if the felony in the jurisdiction where the conviction occurred has been reclassified as a misdemeanor or petty offense since the time of the conviction.

"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)*

"Resident" means a person who maintains a legal place of residence in the State of Illinois.

"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 physician treating a qualifying patient who is under 18 years of age for the purpose of confirming the diagnosis of debilitating medical conditions as defined in the Act.

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

"Terminal illness" means a debilitating condition or other illness for which the qualifying patient has received a diagnosis for a life expectancy of six months or less.

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

*"Written certification" means a document dated and signed by a physician, stating (1) that the qualifying patient has a debilitating medical condition and specifying the debilitating medical condition the qualifying patient has; and (2) that (A) the physician is treating or managing treatment of the patient's debilitating condition; or (B) an Opioid Alternative Pilot Program Participant has a medical condition for which opioids have been or could be prescribed. 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 either a qualifying patient's medical history or Opioid Alternative Pilot Program participant, reviewed relevant records related to the patient's debilitating condition, and conducted a physical examination. (Section 10(y) of the Act)*

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## **Section 946.15 Referenced Materials**

### **EMERGENCY**

a) The following federal statutes are referenced in this Part:

- 1) Federal Food, Drug, and Cosmetic Act (21 USC 301 et seq.)
- 2) Federal Fair Packaging and Labeling Act (15 USC 1451 et seq.)
- 3) Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191)

b) The following Illinois statutes are referenced in this Part:

- 1) Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- 2) Administrative Review Law (Article III of the Code of Civil Procedure) [735 ILCS 5/Art. III]
- 3) Cannabis Control Act [720 ILCS 550]
- 4) Methamphetamine Control and Community Protection Act [720 ILCS 646]

5) Open Meetings Act [5 ILCS 120]

6) Medical Practice Act of 1987 [225 ILCS 60]

7) Illinois Controlled Substances Act [720 ILCS 570]

8) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]

9) Food Handling Regulation Enforcement Act [410 ILCS 625]

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10) Illinois Vehicle Code [625 ILCS 5]

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11) Smoke Free Illinois Act [410 ILCS 82]

12) Illinois Identification Card Act [15 ILCS 335]

13) Freedom of Information Act (FOIA) [5 ILCS 140]

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14) Code of Civil Procedure [735 ILCS 5]

15) State Records Act [5 ILCS 160]

16) Illinois Vehicle Code [625 ILCS 5]

c) The following State administrative rules are referenced in this Part:

1) The Illinois Food, Drug and Cosmetic Act (77 Ill. Adm. Code 720)

2) Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730)

3) Food Service Sanitation Code (77 Ill. Adm. Code 750)

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4) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## **Section 946.40 Limitations and Penalties**

### **EMERGENCY**

a) Any person engaging in the following conduct may be charged with civil, criminal or other penalties for:

1) *Undertaking any task under the influence of cannabis, when doing so would constitute negligence, professional malpractice, or professional misconduct;*

2) *Possessing cannabis:*

A) *except as provided under Section 22-33 of the School Code, in a school bus;*

B) *except as provided under Section 22-33 of the School Code, on the grounds of any preschool or primary or secondary school;*

C) *in any correctional facility;*

D) *in a vehicle under Section 11-502.1 of the Illinois Vehicle Code;*

E) *in a vehicle not open to the public unless the medical cannabis is in a reasonably secured, sealed, tamper-evident container and reasonably inaccessible while the vehicle is moving; or*

F) *in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;*

3) *Using cannabis:*

A) *except as provided under Section 22-33 of the School Code, in a school bus;*

B) *except as provided under Section 22-33 of the School Code, on the grounds of any preschool or primary or secondary school;*

C) *in any correctional facility;*

D) *in any motor vehicle;*

E) *in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;*

F) *except as provided under Section 22-33 of the School Code, in any public place. "Public place" as used in this subsection (a)(3)(F) means any place where an individual could reasonably be expected to be observed by others. A "public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a local unit of government. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. For purposes of this subsection (a)(3)(F), a "public place" does not include a health care facility. For purposes of this Section, a "health care facility" includes, but is not limited to, hospitals, nursing homes, hospice care centers, and long-term care facilities;*

G) *except as provided under Section 22-33 of the School Code, knowingly in close physical proximity to anyone under the age of 18 years of age;*

4) *Smoking medical cannabis in any public place where an individual could reasonably be expected to be observed by others, in a health care facility, or any other place where smoking is prohibited under the Smoke Free Illinois Act;*

5) *Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of cannabis in violation of Sections 11-501 and 11-502.1 of the Illinois Vehicle Code;*

6) *Using or possessing cannabis if that person does not have a debilitating medical condition and is not a registered qualifying patient, provisional patient, or caregiver or Opioid Alternative Pilot Program participant;*

7) *Allowing any person who is not allowed to use cannabis under the Act to use cannabis that a cardholder, provisional patient, or Opioid Alternative Pilot Program participant is allowed to possess under the Act;*

8) *Transferring cannabis to any person contrary to the provisions of the Act;*

9) *The use of medical cannabis by an active duty law enforcement officer, correctional officer, correctional probation officer, or firefighter; or*

10) *The use of medical cannabis by a person who has a school bus permit or a Commercial Driver's License.*

b) *Nothing in the Act shall be construed to prevent the arrest or prosecution of a registered qualifying patient, provisional patient, or Opioid Alternative Pilot Program participant for reckless driving or driving under the influence of cannabis where probable cause exists.*

c) *Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, knowingly making a misrepresentation to a law enforcement official of any fact or circumstance relating*

*to the medical use of cannabis to avoid arrest or prosecution is a petty offense punishable by a fine of up to \$1,000, which shall be in addition to any other penalties that may apply for making a false statement or for the use of cannabis other than use undertaken under the Act.*

*d) Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, any person who makes a misrepresentation of a medical condition to a physician or fraudulently provides material misinformation to a physician in order to obtain a written certification is guilty of a petty offense punishable by a fine of up to \$1,000.*

*e) Any cardholder or registered caregiver, provisional patient, or Opioid Alternative Pilot Program participant who sells cannabis shall have his or her registry identification card revoked and is subject to other penalties for the unauthorized sale of cannabis.*

*f) Any registered qualifying patient, provisional patient, or Opioid Alternative Pilot Program participant who commits a violation of Section 11-502.1 of the Illinois Vehicle Code or refuses a properly requested test related to operating a motor vehicle while under the influence of cannabis shall have his or her registry identification card revoked.*

*g) No registered qualifying patient or designated caregiver, provisional patient, or Opioid Alternative Pilot Program participant shall knowingly obtain, seek to obtain, or possess, individually or collectively, an amount of usable cannabis from a registered medical cannabis dispensing organization that would cause him or her to exceed the authorized adequate supply under Section 10(a) of the Act.*

*h) Nothing in the Act shall prevent a private business from restricting or prohibiting the medical use of cannabis on its property.*

*i) Nothing in the Act shall prevent a university, college, or other institution of post-secondary education from restricting or prohibiting the use of medical cannabis on its property. (Section 30 of the Act)*

*j) Individuals who fail to comply with any of the following notification requirements (see Section 75(a) of the Act) shall be subject to a civil monetary penalty, pursuant to Section 75(d) of the Act. The civil monetary penalty, which may be assessed for each instance of non-compliance, is not to exceed \$150 per instance.*

*1) A registered qualifying patient, provisional patient, or Opioid Alternative Pilot Program participant shall notify the Department of Public Health of any change in his or her name or address, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days after the change or death.*

*2) A registered designated caregiver shall notify the Department of Public Health of any change in his or her name or address, or if the designated caregiver becomes aware the registered qualifying patient passed away, within 10 days after the change.*



3) *Before a registered qualifying patient changes his or her designated caregiver, the qualifying patient must notify the Department of Public Health.*

4) *If a cardholder loses his or her registry identification card, he or she shall notify the Department within 10 days after becoming aware the card has been lost. (Section 75(a) of the Act)*

k) *Any person, including an employee or official of the Department of Public Health, Department of Financial and Professional Regulation, or Department of Agriculture or another State agency or local government, is guilty of a Class B misdemeanor with a \$1,000 fine for breaching the confidentiality of information obtained under the Act (Section 145(c) of the Act) and Sections 946.270 and 946.275 of this Part.*

l) Any cardholder including a provisional patient or an Opioid Alternative Pilot Program participant found to be in violation of the Act or this Part may have his or her registration suspended or revoked, pursuant to Section 185(a) of the Act and Sections 946.270 and 946.275 of this Part.

m) *The Department of Public Health may with reasonable cause refer a physician, who has certified a debilitating medical condition of a patient, to the Illinois Department of Financial and Professional Regulation for potential violations of Section 35 of the Act. (Section 35(c) of the Act)*

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## **Section 946.50 Notifications to the Department**

### **EMERGENCY**

a) The registered qualifying patient, provisional patient and designated caregiver shall notify the Department of any changes in application information within 10 days after the change occurs. After a registry identification card is issued, information changes shall be made by notifying the Department. Forms for this purpose will also be available on the Department's website at <http://www.idph.state.il.us/HealthWellness/MedicalCannabis/index.htm>.

b) Registered qualifying patients and provisional patients shall notify the Department:

1) Of changes in the patient's name or address;

) If the registered qualifying patient or provisional patient ceases to have the debilitating medical condition;

3) Of a change in the designated caregiver;

4) Of a change in the selected dispensary organization; and

5) If the registry identification card is lost or stolen.

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*c) If a registered qualifying patient ceases to be a registered qualifying patient or changes his or her registered designated caregiver, the registered qualifying patient shall immediately notify the Department via telephone and the Department of Public Health shall promptly notify the designated caregiver. The registered designated caregiver's registry identification card shall immediately become void and all protections under the Act as to that qualifying patient shall expire 15 days after notification by the Department. (Section 75(c) of the Act)*

d) If the qualifying patient is deceased, the designated caregiver, if any, or a legal representative of the patient shall notify the Department.

*e) A cardholder including an Opioid Alternative Pilot Program participant who fails to make a notification to the Department of Public Health that is required by this Part is subject to a civil infraction, punishable by a penalty of no more than \$150. (Section 75(d) of the Act)*

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

#### **Section 946.60 Confidentiality**

#### **EMERGENCY**

a) The following information received and records kept by the Department for purposes of administering this Part are subject to all applicable federal privacy laws, are confidential, are exempt from the Illinois Freedom of Information Act, and are not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the Department to perform official duties of the Department pursuant to this Part:

1) Applications or renewals, their contents and supporting information submitted by qualifying patients and designated caregivers, including information regarding designated caregivers and physicians;

2) The individual names and other information identifying persons to whom the Department has issued registry identification cards; and

3) All medical records provided to the Department in connection with an application for a registry identification card.

b) Department hard drives or other data recording media that are no longer in use and that contain cardholder information will be destroyed.

c) Data subject to this Section shall not be *combined or linked in any manner with any other list or database and shall not be used for any purpose not provided by this Part or the Act.* (Section 150(a) of the Act)

d) Any dispensing information required to be kept under Section 135 or 150 of the Act or under this Part will identify cardholders including an Opioid Alternative Pilot Program participant by their registry identification numbers and not contain names or other personally identifying information.

e) The Department of Agriculture, the Department of Financial and Professional Regulation and the Illinois State Police may verify registry identification cards. Law enforcement personnel shall have access to the Department's on-line verification system to verify the period for which the registration is valid and the status of qualifying patients who have submitted an application for a registry identification card and Opioid Alternative Pilot Program participant registration information.

f) This Section does not preclude the following notifications:

1) Department employees may notify law enforcement if information submitted to the Department is suspected to be falsified or fraudulent.

2) The Department may notify State or local law enforcement about alleged criminal violations of this Part.

3) The Department will notify the Department of Financial and Professional Regulation if there is reasonable cause to believe that a physician has:

A) Issued a written certification without a bona-fide physician-patient relationship; or

B) Issued a written certification to a person who was not under the physician's care for the debilitating medical condition; or

C) Failed to abide by the acceptable and prevailing standard of care when evaluating a patient's medical condition.

g) The Department will share, disclose, and forward patient information as required by Section 60(e) of the Act.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

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

#### **EMERGENCY**

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 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.

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 or be diagnosed with a terminal illness;

3) Have a signed, written certification meeting the requirements of this Part;

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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 a valid unexpired Illinois Driver's License, Illinois Temporary Visitor Driver's License or State Identification Card issued by the Illinois Secretary of State and at least one of the following items with the application for a registry identification card. The address on the documentation provided shall match the address on the application. 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](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;

) Valid, unexpired military identification card;

D) Bank statement (dated less than 90 days prior to application) or credit card statement (dated less than 60 days prior to application);

E) Deed/title, mortgage or rental/lease agreement; property tax bill;

F) Insurance policy (current coverage for automobile, homeowner's, health or medical, or renter's);

G) Medical claim or statement of benefits (from a hospital or health clinic or private insurance company or public (government) agency, dated less than 12 months prior to application);

H) Persons enrolled in the federal Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) disability program may submit a "Benefit Verification Letter" from the Social Security Administration; showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.

I) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application;

J) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cellular phone, cable or gas, issued less than 60 days prior to application; or

K) W-2 form from the most recent tax year.

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;

5) Photograph of the qualifying patient and designated caregiver, if applicable, as follows:

A) Current digital passport-size photograph, 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. Head coverings for persons diagnosed and undergoing treatment for cancer 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 to be completed. This 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.

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. Only one medical cannabis dispensing organization may be selected at any time, however, the patient is able to submit a request to change the selected dispensary by notifying the Department.

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.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

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

#### **EMERGENCY**

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 during the time period in which their registry identification card is valid may apply for a registry identification card either immediately or during the normal renewal period. Until that 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 or have a diagnosis of terminal illness.

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;

A) A qualifying patient under 18 years of age may identify two designated caregivers if both biological parents or two legal guardians have significant decision-making responsibilities over the qualifying patient; or

B) If only one biological parent or legal guardian has significant decision-making responsibilities for the qualifying patient under 18 years of age, then a second designated caregiver may be identified.

3) A completed, signed Medical Cannabis Custodial Parent and Legal Guardian Attestation form. This form can be requested from the Illinois Department of Public Health via email [dph.medicalcannabis@illinois.gov](mailto:dph.medicalcannabis@illinois.gov); 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.

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](https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf)):

1) A copy of the caregiver's unexpired Illinois Driver's License, State Identification Card issued by the Illinois Secretary of State, or Illinois Temporary Visitor Driver's License; or

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2) 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 that 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;

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. Head coverings are allowed for persons diagnosed and undergoing treatment for cancer.

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 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.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

#### **Section 946.210 Fees**

#### **EMERGENCY**

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) Qualifying patient application fee valid for:

- A) One year \$100
- B) Two years \$200
- C) Three years \$250

2) Qualifying patient under 18 years of age application fee (includes one caregiver application fee) valid for:

- A) One year \$100
- B) Two years \$200
- C) Three years \$250

3) Caregiver or second caregiver for a patient under 18 years of age application fee valid for:

- A) One year \$25
- B) Two years \$50
- C) Three years \$75

4) Replacement card fee \$25

5) Returned check fee \$35

) The Department may reduce registration and renewal card fees for a qualifying patient:

1) 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); or

2) who is a veteran with proof of service as described in subsection (b)(3); or

3) receiving U.S. Railroad Retirement Board Disability benefits; or

4) receiving Teacher's Retirement System disability benefits; or

5) receiving Illinois State Universities Retirement System disability benefits.

6) Reduced qualifying patient application fee valid for:

- A) One year \$50
- B) Two years \$100
- C) Three years \$124

) Proof for Reduced Fee Applications.

A) The applicant enrolled in the federal Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) disability program shall submit a "Benefit Verification Letter" from the Social Security Administration, showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.

B) Applicants receiving U.S. Railroad Retirement Board Disability benefits shall submit verification of monthly disability benefits.

C) Applicants receiving Teacher's Retirement System disability benefits or disability retirement annuity or Illinois State Universities Retirement System disability benefits submit a copy of the Notification of

First Payment or another verification of monthly disability benefits from the applicable Illinois retirement system.

8) Veterans shall provide a copy of their DD214.

) Registered qualifying patients seeking to add a designated caregiver after a registry identification card has been issued shall submit a designated caregiver application as specified in Section 946.200 and a fee of \$75. The designated caregiver registry card shall expire on the same day as the registered qualifying patient registry card expiration date.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

**Section 946.220 Fingerprint-Based Criminal History Records Check (Repealed)**

**EMERGENCY**

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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.

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(Source: Repealed by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

### **Section 946.235 Provisional Access to Licensed Dispensing Organizations**

#### **EMERGENCY**

a) *A person provided a written certification for a debilitating medical condition who has submitted a valid completed online application to the Department and his or her designated caregiver shall receive a provisional registration and shall be entitled to purchase medical cannabis from a specified*

*licensed dispensing organization for a period of 90 days or until his or her application has been denied or he or she receives a registry identification card, whichever is earlier. (Section 55(b) of the Act)*

b) *A person and his or her designated caregiver may obtain an additional provisional registration after the expiration of 90 days if the Department does not provide the individual with a registry identification card or deny the individual's application within those 90 days. The provisional registration may not be extended if the individual does not respond to the Department's request for additional information or corrections to required application documents. (Section 55(b) of the Act)*

c) *In order for a person or his or her designated caregiver to receive medical cannabis under the provisional registration, a qualifying patient must present his or her provisional registration along with a valid Illinois driver's license or State identification card issued by the Illinois Secretary of State to the licensed dispensing organization specified in his or her application. (Section 55(b) of the Act)*

d) After verifying the patient's or his or her designated caregiver's provisional registration, the licensed dispensing organization shall dispense no more than 2.5 ounces of medical cannabis during a 14-day period for a period of 90 days, until the patient's application has been denied, or the patient receives a registry identification card from the Department, whichever comes first.

e) A patient with a provisional registration must keep their provisional registration in their possession at all times when transporting or engaging in the use of medical cannabis. A designated caregiver must keep his or her provisional registration in their possession at all times when transporting medical cannabis on behalf of the registered qualifying patient.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## **Section 946.240 Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities**

### **EMERGENCY**

a) *A qualifying patient who is a veteran or spouse of a veteran who has received treatment at a VA hospital is deemed to have a bona-fide physician-patient relationship with a VA physician if the patient has been seen for his or her debilitating condition at the VA hospital in accordance with VA hospital protocols. (Section 60 of the Act)*

b) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA hospital shall not be required to submit a written certification from a physician.

c) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA hospital shall register with the Department on the Registry Identification Card application (see Section 946.200) and shall comply with all other requirements specified in this Part.

d) To qualify for a patient registry identification card, a qualifying patient who is a veteran or spouse of a veteran and receiving medical care and treatment at a VA hospital shall:

1) Be a resident of the State of Illinois, as defined in Section 946.200(c), at the time of application and remain a resident during participation in the program;

2) Have a qualifying medical condition or be diagnosed with a terminal illness;

3) Provide a copy of his or her official hospital medical records requested from the VA using VA Form 10-5345. The official hospital medical records shall indicate the diagnosis of a qualifying medical condition by a licensed physician;

4) Provide a copy of his or her DD214 or equivalent certified document indicating character and dates of service, or if the spouse of a veteran, a copy of the veteran's documents as described; and

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5) Be at least 18 years of age.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

### **Section 946.250 Disposal of Medical Cannabis by Qualifying Patients**

#### **EMERGENCY**

a) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant who is no longer registered with the Department or eligible for a registry identification card shall, within 10 calendar days after he or she ceases to be registered or eligible, return any unused medical cannabis in his or her possession to the law enforcement agency having local jurisdiction for destruction.

b) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant whose registration has been revoked by the Department shall, within 10 days after receiving notice of the revocation, return any unused medical cannabis in his or her possession to the law enforcement agency having local jurisdiction for destruction.

c) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant who is no longer registered with the Department shall not transfer, share, give, sell or deliver any unused

medical cannabis in his or her possession to any other person, regardless of whether the person is participating in the Compassionate Use of Medical Cannabis Pilot Program.

d) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant shall not dispose of medical cannabis in any manner other than permitted under this Section.

e) Disposal of medical cannabis pursuant to this Section or in compliance with this Section shall not constitute a violation of the Criminal Code of 2012.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

### **Section 946.270 Revocation of a Registry Identification Card**

#### **EMERGENCY**

a) The Department will revoke a registry identification card for any of the following reasons:

1) Submission of misleading, incorrect, false or fraudulent information in the application or renewal application;

2) Fraudulent use of the registry identification card;

3) Selling, distributing, transferring in any manner, or giving medical cannabis to any unauthorized person;

4) Tampering with, falsifying, altering, modifying or duplicating a registry identification card for use by someone else;

) Non-payment of fees specified in Section 946.210 or non-response to the Department's request for information required for application of Qualifying Patients or Designated Caregivers

6) The registered qualified patient is deceased; or

7) A violation *of any requirement of the Act.* (Section 65(c)(6) of the Act.)

b) The Department will, based on the totality of the circumstances, either revoke or suspend a registry identification card based on the Department's review of the registered qualifying patient's infraction for:

1) Purchasing more medical cannabis than allowable under the Act or this Part from a registered dispensing organization;



2) Failing to notify the Department within 10 business days after becoming aware that the registry identification card has been lost, stolen or destroyed; or

3) Failing to notify the Department within 10 business days after a change in the information provided in the application for a registry identification card.

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c) A registry identification card issued to a designated caregiver is void:

1) When the registered qualifying patient or designated caregiver has notified the Department that the individual registered as the designated caregiver is no longer the designated caregiver for that patient;

2) When the registered qualifying patient for whom the designated caregiver serves is no longer registered with the Department;

3) Ten days after the death of the registered qualifying patient, to allow for appropriate disposal of medical cannabis in accordance with this Part.

d) The Department shall notify the Office of Secretary of State of the revocation.

e) A void registry identification card is inactive and invalid.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

### **Section 946.290 Extension or Renewal of Registry Identification Cards**

#### **EMERGENCY**

a) Medical cannabis registry identification cards may be valid for up to three years.

b) Extension. If the qualifying patient or designated caregiver who applied for and received a registry identification card that was approved for a 12-month period before September 12, 2016 seeks to extend his or her registry identification card for up to three years from the original effective date, the patient or caregiver shall complete an extension form no more than 45 days prior to the expiration date of the card. For the purpose of extending the registry identification card, it is not necessary to provide proof of Illinois residency or obtain a physician certification . A fee is required in accordance with Section 946.210. The qualifying patient or designated caregiver may seek extension of the registry identification card for a period of one year or two years by paying the fee required by Section 946.210.

c) Renewal. At the end of every three-year period, no less than 45 days prior to the expiration of a registry identification card, the qualifying patient and designated caregiver, if one is indicated, may apply for a new registry identification card as follows:

1) Submit a completed renewal application for the qualifying patient and designated caregiver, if one is indicated, to the Department on the required forms and include:

A) One clear photocopy of a U.S. or State government-issued photo ID, such as a driver's license, as proof of identity;

B) Proof of Illinois residency by meeting the requirements specified in Section 946.200(c);

C) A signed and dated written physician's certification meeting the requirements of this Part and dated not more than six months prior to the application renewal date. A qualifying patient who is a veteran or spouse of a veteran and receiving medical care for his or her qualifying medical condition at a VA hospital shall submit his or her official VA Medical Record instead of a written physician's certification;

D) At the end of every three-year period, a renewal application may be submitted for a one-, two-, or three-year period from the expiration date of the registry identification card.

E) If the registered qualifying patient does not have a caregiver, but would like to designate one, a caregiver application may be submitted at this time in accordance with the requirements of Section 946.200.

2) Designate the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis; and

3) Pay the required application fee (see Section 946.210).

4) The renewal application may be for a period of one-, two-, or three-years.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## SUBPART C: PHYSICIAN REQUIREMENTS

### **Section 946.300 Qualifications of the Certifying Physician**

#### **EMERGENCY**

a) A doctor of medicine or osteopathy who has a current, valid license under the Medical Practice Act of 1987 and has a current valid controlled substances license under Article III of the Illinois Controlled Substances Act may issue a written certification for a qualifying patient if the physician:

1) Has a bona-fide physician-patient relationship with the qualifying patient. The bona-fide physician-patient relationship may not be limited to issuing a written certification for the patient or a consultation simply for that purpose.

2) Complies with generally accepted standards of medical practice, the Medical Practice Act of 1987 and applicable State and federal rules specific to physician practice (e.g., HIPAA rules).

3) Has responsibility for the ongoing care and treatment of the qualifying patient's debilitating condition, provided that the ongoing treatment and care shall not be limited to or for the primary purpose of certifying a debilitating medical condition or providing a consultation solely for that purpose.

4) Has completed an in-person full assessment of the patient's medical history and current medical condition, including a personal physical examination, not more than 90 days prior to making the certification for medical cannabis. The assessment of the qualifying patient's current medical condition shall include, but not be limited to, symptoms, signs and diagnostic testing related to the debilitating medical condition.

5) Certifies that the qualifying patient is under the physician's care, either for the qualifying patient's primary care or for his or her debilitating medical condition or symptoms of a debilitating medical condition.

6) Confirms that he or she completed an assessment for the qualifying patient's medical history, including reviewing medical records from other treating physicians from the previous 12 months.

b) The physician shall not:

1) Except as provided in subsection (c), *accept, solicit, or offer any form of remuneration from or to a qualifying patient, primary caregiver, cultivation center, or dispensing organization, including each principal officer, board member, agent, and employee;*

2) *Offer a discount or any other item of value to a qualifying patient who uses or agrees to use a particular primary caregiver or dispensing organization to obtain medical cannabis;*

3) *Conduct a personal, in person, physical examination of a patient for purposes of diagnosing a debilitating medical condition at a location where medical cannabis is sold or distributed or at the address of a principal officer, agency, or employee or a medical cannabis organization;*

4) *Hold a direct or indirect economic interest in a cultivation center or dispensing organization if he or she recommends the use of medical cannabis to qualified patients or is in a partnership with a physician who recommends medical cannabis;*

5) *Serve on the board of directors or as an employee of a cultivation center or dispensing organization;*

6) *Refer qualifying patients to a cultivation center, a dispensing organization, or an individual who seeks to become a designated caregiver;*

7) *Advertise in a cultivation center or a dispensing organization. (Section 35 of the Act)*

c) *The physician may accept payment from a qualifying patient for the fee associated with the personal physical examination required prior to issuing the written certification for the qualifying patient. (Section 35 of the Act)*

d) *A physician who certifies a debilitating medical condition for a qualifying patient may notify the Department of Public Health in writing: (1) if the physician has reason to believe either that the registered qualifying patient has ceased to suffer from a debilitating medical condition; (2) that the bona-fide physician-patient relationship has terminated; or (3) that continued use of medical cannabis would result in contraindication with the patient's other medication. The registered qualifying patient's registry identification card shall be revoked by the Department of Public Health after receiving the physician's notification.(Section 35 of the Act)*

1) The physician's notification shall be in writing on the physician's letterhead and shall include the full name, date of birth, and reason for revoking the written certification.

2) The Department shall notify the registered qualifying patient, in writing or electronic notification, that the physician has revoked the written certification and the registry identification card has been revoked.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

#### **Section 946.310 Physician Written Certification for the Medical Cannabis Pilot Program**

##### **EMERGENCY**

a) A certification confirming the patient's debilitating medical condition 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 active controlled substances license under the Illinois Controlled Substances Act;

3) The length of time the qualifying patient has been under the care of the physician;

4) The qualifying patient's debilitating medical condition;

5) A statement that the physician has confirmed a diagnosis of a debilitating medical condition; is treating or managing treatment of the patient's debilitating 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;

6) The physician's signature and date of certification.

*7) A statement that a participant in possession of a written certification indicating a debilitating medical condition shall not be considered an unlawful user or addicted to narcotics solely as a result of his or her pending application to or participation in the Compassionate Use of Medical Cannabis Program.(Section 36 of the Act)*

b) The physician written certification does not constitute a prescription for medical cannabis.

c) Applications for qualifying patients under 18 years old shall require a written certification from a physician and a reviewing physician. A written certification for a reviewing physician is not required for persons under 18 years old who have been diagnosed with a terminal illness.

*d) It is unlawful for any person to knowingly submit a fraudulent certification to be a qualifying patient in the Compassionate Use of Medical Cannabis Pilot Program or an Opioid Alternative Pilot Program participant. A violation of this subsection shall result in the person who has knowingly submitted the fraudulent certification being permanently banned from participating in the Compassionate Use of Medical Cannabis Pilot Program or the Opioid Alternative Pilot Program. (Section 36 of the Act)*

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## **Section 946.315 Waiver for Increasing the Adequate Supply of Medical Cannabis**

### **EMERGENCY**

*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)

a) The waiver recommendation shall be on a form provided by the Department. The waiver recommendation shall be completed by the physician who issued the physician certification for the registered qualifying patient. If the waiver recommendation is not completed by the physician who issued the original written certification for the registered qualifying patient, the new physician must complete a written certification including an in-person office visit not more than 90 days prior to the date of the waiver recommendation.

b) The waiver shall describe in the physician's professional opinion why 2.5 ounces is an insufficient adequate supply for a 14-day period.

c) The waiver shall describe how the qualifying patient will benefit from an increased supply.

d) 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.

e) If the Department approves the waiver, the amount of medical cannabis recommended by the physician shall be noted on the registry identification card.

f) The waiver recommendation does not constitute a prescription for medical cannabis.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

#### SUBPART D: CANNABIS-INFUSED PRODUCTS

##### **Section 946.400 Manufacture of Cannabis-Infused Products**

##### **EMERGENCY**

a) The Department will conduct a pre-operational inspection at all registered cultivation centers, no more than 30 days prior to the start of the manufacturing of cannabis-infused products, to determine whether the facilities, methods, practices and controls used in the manufacture, processing or holding of cannabis-infused products conform to or are operated or administered in conformity with good manufacturing practices to ensure that products for human consumption are safe and have been prepared, packed and held under sanitary conditions.

1) Registered cultivation centers shall allow the Department to inspect the premises and all utensils, fixtures, furniture, machinery and devices used for preparing cannabis-infused products.

2) The Department will conduct pre-operational inspections of registered cultivation centers with regard to the manufacture and preparation of cannabis-infused products under the authority of the Illinois Food, Drug and Cosmetic Act and the Food Handling Regulation Enforcement Act and the Food Service Sanitation Code.

3) If a registered cultivation center ceases manufacturing cannabis-infused products for a period of 180 days or more, the Department shall be contacted to request a pre-operational inspection prior to restarting manufacturing operations.

4) A registered cultivation center shall not manufacture, process, or package cannabis-infused products designed for human consumption at same time and on the same surfaces as products not designated for human consumption.

b) *A cultivation center that prepares cannabis-infused products for sale or distribution at a dispensing organization shall be under the operational supervision of a certified food service sanitation manager.* (Section 80(a)(6) of the Act) Management responsibilities and supervision shall be in accordance with 77 Ill. Adm. Code 730.8000 and 730.8040 (Manufacturing, Processing, Packing or Holding of Food Code).

c) *All items shall be individually wrapped or packaged at the original point of preparation.* Smaller like items such as hard candies or cookies may be packaged into larger quantities in a single wrapped package.

1) *The packaging of the medical cannabis-infused product shall conform to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and shall include the following information in English on each product offered for sale or distribution:*

A) *The name and address of the registered cultivation center where the item was manufactured;*

B) *The common or usual name of the item;*

C) *All ingredients of the item, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names;*

D) *The following phrase: "This product was produced in a medical cannabis cultivation center, not subject to public health inspection, that may also process common food allergens.";*

E) *Allergen labeling as specified in the Federal Food, Drug and Cosmetic Act, Federal Fair Packaging and Labeling Act, and the Illinois Food, Drug and Cosmetic Act,*

F) *The pre-mixed total weight (in ounces or grams) of usable cannabis in the food product;*

G) *A warning that the item is a medical cannabis-infused product and not a food must be distinctly and clearly legible on the front of the package;*

H) *A clearly legible warning emphasizing that the product contains medical cannabis and is intended for consumption by registered qualifying patients only; and*

I) *Date of manufacture and "use by" date.* (Section 80(a) of the Act)

2) Signage may be translated into additional languages as needed.

d) The Department may institute additional labeling requirements for cannabis-infused products, including, but not limited to, measures of potency.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

#### SUBPART F: OPIOID ALTERNATIVE PILOT PROGRAM

##### **Section 946.600 Registration for the Opioid Alternative Pilot Program**

##### **EMERGENCY**

a) The Opioid Alternative Pilot Program shall be limited to participation by Illinois residents age 21 and older.

b) A patient who has been issued a written physician certification in accordance with Section 946.620, who seeks to use medical cannabis under the Opioid Alternative Pilot Program shall register with the Department online.

c) To qualify for the Opioid Alternative Pilot Program, a patient shall:

1) Be a resident of the State of Illinois, as defined in subsection (d), at the time of application and remain a resident during participation in the program;

2) Have a signed, written certification meeting the requirements of Section 946.620;

3) Pay a co-payment of \$10 for the initial 90-day registration for the Opioid Alternative Pilot Program and a co-payment of \$10 for each subsequent registration period.

d) Residency. For purposes of this Part, the patient shall be a resident of the State of Illinois if the individual:



1) Physically resides in the State of Illinois at the time of registration and throughout the enrollment period.

2) Provides proof of Illinois residency by submitting a color copy of a valid, unexpired Illinois Driver's License, Illinois Temporary Visitor 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 and one of the following items. The address on the documentation provided shall match the address on the application:

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;

C) Current military identification card;

D) Bank statement (dated less than 90 days prior to application) or cancelled bank check or deposit slip showing the patient's full name and address, or credit card statement (dated less than 60 days prior to application);

E) Deed/title, mortgage or rental/lease agreement, property tax bill;

F) Insurance policy (current coverage for automobile, homeowner's, health or medical, or renter's);

G) Medical claim or statement of benefits (from a hospital or health clinic or private insurance company or public (government) agency, dated less than 12 months prior to application);

H) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application;

I) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cellular phone, cable or gas, issued less than 60 days prior to application; or

J) W-2 form from the most recent tax year.

e) To register with the Opioid Alternative Pilot Program, a patient shall submit a completed electronic application to the Department, 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 30 days prior to the registration;

2) Valid, unexpired Illinois Driver's License, Illinois Temporary Visitor 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;

3) Proof of Illinois residency of the qualifying patient, as specified in subsection (d);

4) Photograph of the patient as follows:

A) Current digital passport-size photograph, taken no more than 30 calendar days before the submission of the application;

B) Taken against a plain, light-colored 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. Head coverings for persons diagnosed and undergoing treatment for cancer are allowed.

5) Designation of the medical cannabis dispensing organization where the patient will receive his or her medical cannabis. Only one medical cannabis dispensing organization may be selected during each 90-day registration for the Opioid Alternative Pilot Program.

6) Payment of a registration co-payment of \$10 for the initial registration in the Opioid Alternative Pilot Program.

*f) An Opioid Alternative Pilot Program participant shall not be registered as a medical cannabis cardholder. (Section 62 of the Act)*

g) A patient enrolled in the Opioid Alternative Pilot Program who submits an application to the Department for a medical cannabis registry identification card shall cease to be registered with the Opioid Alternative Pilot Program immediately upon submission of the application and associated fee.

h) Opioid Alternative Pilot Program participants shall notify the Department of changes in the participant's name or address.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## **Section 946.610 Medical Cannabis Dispensing Organizations**

### **EMERGENCY**

a) A patient may seek assistance with registration for the Opioid Alternative Pilot Program using the Department's online registration system from a licensed medical cannabis dispensing organization. The patient shall not pay a fee to the medical cannabis dispensing organization for assistance with the registration process.

b) The patient shall allow the medical cannabis dispensing organization to verify the patient's valid certification and registration, prior to dispensing medical cannabis in amounts not to exceed 2.5 ounces of medical cannabis pre 14-day period.

c) The patient shall allow the medical cannabis dispensing organization to verify the patient is not an active registered qualifying patient prior to assisting the patient with registration for the Opioid Alternative Pilot Program and each time medical cannabis is dispensed.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

## **Section 946.620 Physician Certification for Opioid Alternative Pilot Program**

### **EMERGENCY**

a) *A certification confirming the patient's eligibility to participate in the Opioid Alternative Pilot Program shall be written on a form provided by the Department or submitted electronically 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, and active controlled substances license under the Illinois Controlled Substances Act and indication of specialty or primary area of clinical practice, if any;*

3) *The length of time the patient has been under the care of the physician;*

4) *The patient's diagnosis and a statement identifying the patient has been diagnosed with and is currently undergoing treatment for a medical condition where an opioid has been or could be prescribed (Section 36(d)(5) of the Act);*

5) *A statement that the physician is treating or managing treatment of the patient's health care; has a bona-fide physician-patient relationship; has conducted an in-person physical examination; and 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;

6) The *physician's signature and date of certification*. (Section 36 of the Act)

7) *A statement that a participant in possession of a written certification indicating eligibility to participate in the Opioid Alternative Pilot Program shall not be considered an unlawful user or addicted to narcotics solely as a result of his or her pending application to or participation in the Compassionate Use of Medical Cannabis Program*. (Section 36 of the Act)

b) The certification for confirming the patient's eligibility to participate in the Opioid Alternative Pilot Program does not constitute a prescription for medical cannabis.

c) The physician certification for the Opioid Alternative Pilot Program shall be valid for 90 days after the date of the physician's signature.

d) If the physician determines the patient would benefit from continued enrollment in the Opioid Alternative Pilot Program after the conclusion of 90 days, the physician may issue another written certification for the patient after conducting an in-person office visit. The new written certification shall be issued no sooner than 30 days prior to the expiration of the current written certification. The new 90-day period shall begin immediately after the expiration of the current written certification period.

e) *It is unlawful for any person to knowingly submit a fraudulent certification to be a qualifying patient in the Compassionate Use of Medical Cannabis Pilot Program or an Opioid Alternative Pilot Program participant. A violation of this subsection shall result in the person who has knowingly submitted the fraudulent certification being permanently banned from participating in the Compassionate Use of Medical Cannabis Pilot Program or the Opioid Alternative Pilot Program*. (Section 36 of the Act)

(Source: Added by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)

### **Section 946.630 Fees**

#### **EMERGENCY**

a) The fee for the initial 90-day registration in the Opioid Alternative Pilot Program shall be \$10. The fee for each subsequent 90-day registration period shall be \$10.

b) Fees shall be paid by credit card or debit card. Cash shall not be accepted. All fees submitted to the Department shall be non-refundable.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days)