

Released: December X, 2023

To: Medical Cannabis Policy Advisory Board

From: Trevor Eckhoff, policy analyst, Utah Department of Health and Human Services (DHHS), Center for Medical Cannabis

Subject: Medical cannabis qualifying conditions

Introduction

The [Utah Patients Coalition](#) (UPC) would like the board to consider amending the statute to remove the list of qualifying conditions and replace it with an allowance for recommending medical providers to recommend medical cannabis for treatment of any qualifying condition. The following are options the board may consider as a recommendation:

1. Maintain the existing qualifying condition list.
2. Approve an additional condition or conditions to be added to the qualifying condition list.
3. Add a special provision to the qualifying condition list allowing recommending medical providers to recommend medical cannabis for any condition in which they believe cannabis would be therapeutic or palliative.
4. Eliminate the qualifying condition list in favor of allowing medical cannabis recommendations for any condition, per the judgment of a recommending medical provider.

Background

Utah's qualifying conditions for a medical cannabis recommendation are codified in [Utah Code 26B-4-203](#). Any change to the qualifying condition list requires a statutory change. Below is the list of qualifying conditions in Utah Code.

Qualifying conditions

There are 16 medical conditions that qualify an individual to be recommended for medical cannabis:

- HIV or AIDS
- Alzheimer's disease
- Amyotrophic lateral sclerosis (ALS)
- Cancer
- Cachexia
- Crohn's disease or ulcerative colitis
- Epilepsy or debilitating seizures
- Multiple sclerosis (MS) or persistent and debilitating muscle spasms
- Autism
- Terminal illness with a life expectancy of <6 months
- A condition resulting in hospice care
- Persistent nausea that is not responsive to traditional treatment, but not related to:
 - Pregnancy
 - Cannabis-induced cyclic vomiting syndrome
 - Cannabinoid hyperemesis syndrome
- Post-traumatic stress disorder (PTSD) that is being treated and monitored by a licensed health therapist, and that:
 - Has been diagnosed by a healthcare provider at the Veterans Administration (VA); or
 - By a psychiatrist, masters-prepared psychologist, masters-prepared licensed clinical social worker (LCSW), or a psychiatric APRN; and
 - Documented in the patient's record.
- A rare condition or disease that affects <200,000 individuals in the U.S. and is not adequately managed by conventional medications (besides opioids or opiates) or physical interventions
- Acute pain that lasts 2 weeks or longer for an acute condition, such as a surgical procedure
- Persistent pain lasting longer than 2 weeks that is not adequately managed by conventional medications (besides opioids or opiates) or physical interventions

In December 2018, Utah’s medical cannabis laws became effective and included fifteen qualifying conditions. The 2022 General legislative Session added acute pain to the qualifying condition list, the only novel addition to the conditions list.

Method of handling of patients with non-qualifying conditions under current law

If a patient does not have one of the qualifying medical conditions listed in Utah Code 26B-4-203, the statute allows the patient to submit a petition to the Compassionate Use Board (CUB) with assistance from a qualified medical provider (QMP). DHHS staff review the CUB petition, request additional information from the QMP if necessary, and prepare the petition for CUB review. The CUB then reviews the petition during its monthly meeting and may approve the application, deny it, or request additional information from the QMP, the patient, or the guardian. When additional information is requested, it is typically due to the CUB needing evidence that the patient's condition has failed standard treatments. The CUB always checks for documentation confirming that the primary medical team treating a patient’s medical condition is aware of the patient’s interest in qualifying for a medical cannabis card. Confirmation of this communication helps ensure coordination between the providers of the patient’s medical care. This information assists the CUB in determining if medical cannabis treatment is in the patient’s best interest when weighing its benefits and risks.

Table 1 shows the disposition of CUB petitions submitted for individuals who did not have a qualifying condition. **Table 2** shows types of non-qualifying conditions appearing on petitions submitted by patients that were either denied or incomplete.

Table 1. Disposition of CUB petitions submitted for individuals who did not have a qualifying condition

Petition disposition	Number of petitions
Petitions approved	35
Petitions denied	2
Petitions incomplete	12
Total petitions submitted	49

Table 2. Non-qualifying medical conditions of CUB petitions either denied or incomplete

Non-qualifying condition	CUB disposition	
	incomplete	denied
Macular degeneration	✓	
Debilitating depression	✓	
ADHD, Impulsivity, anxiety, insomnia	✓	
Anxiety	✓	✓
Anxiety and depression	✓	
Schizoaffective disorder		✓
Insomnia	✓	
Panic disorder; generalized anxiety	✓	
Gastroparesis	✓	
OCD	✓	

Generalized anxiety disorder	✓	
Anxiety/insomnia	✓	

Regarding petitions with non-qualifying conditions approved by the CUB between October 2022 and September 2023, 2 CUB petitions involved patients with anxiety, and 1 CUB petition involved a patient with treatment-resistant depression.

Cannabis Research Review Board recommendation

The Cannabis Research Review Board (CRRB) includes 3 medical research professionals and 4 physicians. The CRRB reviews scientific research regarding medicinal cannabis treatment and develops guidelines for recommending medical providers. The [CRRB website](#) includes records of the medical conditions that the board was asked to research. Per statutory requirements, the CRRB is held to an evidentiary standard and will identify if there is high-quality evidence to support the addition of other conditions to the statute. The CRRB’s [2023 annual report](#) provides information about actions and recommendations it has taken during the past year.

The CRRB’s guidelines are found [on their website](#). The guidelines address qualifying conditions for medical cannabis established in state law. Based on its review of scientific literature published as of October 2023, the CRRB recommends that no additional medical conditions be added to the statute’s list of qualifying conditions at this time.

The CRRB voted to approve a recommendation that state lawmakers not add insomnia to the list of qualifying conditions at its board meeting in April 2023. Although the CRRB discussed how cannabis may improve sleep in patients with pain conditions, they concluded that there was insufficient scientific evidence to recommend that insomnia be considered a qualifying medical condition. The CRRB uses the National Academy of Sciences Engineering and Medicine’s classification system when determining the validity of cannabis research. The methodology

employed included systematic reviews, randomized controlled trials, and feedback from QMPs who recommend medical cannabis in their medical practice.

Analysis

Arguments for eliminating the medical cannabis qualifying condition list

- 1. Creates a patient-centered approach.** This change aims to foster a more patient-centered approach, placing a medical decision squarely in the hands of doctors and their patients rather than being dictated by the state.
- 2. Removes the state from dictating what is and what is not an appropriate medical condition for treatment with medical cannabis.** Patient advocates argue that the state's control of qualifying conditions prohibits individuals from accessing medical cannabis who may derive therapeutic benefits from its use. They argue that a patient's medical provider is better suited than lawmakers to weigh the risks with benefits and determine if a patient suffering from a medical condition should be allowed to try medical cannabis as a treatment even if there is little or no scientific evidence of it being an effective treatment for that particular medical condition.
- 3. Medical condition data will be more accurate.** To avoid having to go through the trouble of submitting a petition to the CUB, sometimes a medical provider lists chronic pain as the qualifying condition when that patient actually suffers from a non-qualifying condition, such as anxiety. This practice is dishonest but some report that it is happening. Patient advocates point out that changing the law to allow a medical provider to list any condition enables DHHS to collect the actual medical condition suffered by the patient. This change to the law may prompt some patients to engage more openly with the pharmacy medical provider, or pharmacist, at a medical cannabis

pharmacy, to identify which products are best suited to treat their medical condition.

4. Off-label prescribing is legal and common in the practice of medicine.

Some medical providers engage in off-label prescribing of FDA approved drugs to treat a condition different than those determined by the FDA. In fact, some estimate that [1 in 5 prescriptions written today are for off-label use](#). Some argue that if recommending medical providers may do this with FDA approved drugs, they should be able to do this with medical cannabis. The recommending medical provider would still be able to place restrictions on the amount and dosage type of cannabis purchased by the patient.

Arguments against eliminating the medical cannabis qualifying condition list

1. People will join the program despite little or no evidence that medical cannabis is an effective treatment for their medical condition.

Without a list of qualifying conditions, a medical provider could recommend medical cannabis for any medical condition, whether or not there is scientific evidence that the individual could ultimately benefit from its use. Removing it completely will result in more people in the program who suffer from conditions that have little or no evidence of cannabis being an effective treatment, generating public health concerns.

2. No qualifying condition list equates to a quasi-recreational program.

With no list of qualifying conditions, more recreational cannabis users are thought to likely join the medical cannabis program. Oklahoma is the one of 16 medical-only states with no qualifying condition list. It is [often cited](#) as an example of a medical-only state whose program has unintentionally created a recreational marketplace. With no qualifying conditions, [10% Oklahomans hold a medical cannabis card](#). By comparison, only 2% of Utahns have an active medical cannabis card. Although several states have gone from medical-only to adult-use, no medical-only state has ever eliminated its qualifying condition list.

3. **When compared to FDA-approved drugs, not a lot is known about medical cannabis so a list of qualifying conditions is necessary.** A list of qualifying conditions is one check on a medical provider's authority to recommend an integrative medicine that we are still learning a lot about. Restrictions such as a list of qualifying conditions seems reasonable at a time when certain types of cannabis products could have contraindications and interactions with other drugs that we are unaware of at this time.
4. **Individuals with non-qualifying conditions already may receive a medical cannabis card if their petition is approved by the CUB.** State law already has a path for individuals with non-qualifying conditions to qualify for a medical cannabis card. They must get assistance from their medical provider with submitting a petition to the CUB. This requires additional documentation and time, as medical cannabis is not a frontline treatment, but an alternative for those who haven't had their conditions respond to conventional treatment. This safeguards cannabis access, based on review by CUB medical provider members, from cases where the risks of cannabis treatment outweigh potential benefits.

Information from other states

How many states with medical cannabis programs have a qualifying condition list?

- Of the 43 U.S. jurisdictions with medical cannabis programs, 37 states and 2 territories have a list of qualifying conditions.
- 3 states and the District of Columbia don't have a qualifying conditions list. Virginia, Oklahoma, and D.C.'s medical cannabis programs were all designed from the beginning to allow medical providers to recommend medical cannabis for any condition a provider believed would benefit from cannabis treatment.

- Of the 16 U.S. jurisdictions with medical-only programs, Oklahoma is the only state without a list of qualifying conditions.
- Maine, the other state that has eliminated its list of qualifying conditions, did so in 2018, 19 years after their medical cannabis program launched, in favor of delegating recommendation authority to medical providers.
- New York and Guam both have qualifying condition lists which include a “catch-all” provision that allows a medical provider to recommend cannabis for any medical condition in which its use may provide relief.
- Massachusetts includes a law stating that medical cannabis can be recommended for debilitating diseases as determined by a patient's healthcare provider.

Qualifying conditions in other states

The following list includes the 15 most common qualifying conditions in states other than Utah and how many adult-use and medical-only states have adopted them.

Condition	Adult-Use States	Medical-Only States
Glaucoma	19	6
Parkinson’s disease	9	4
Hepatitis C	10	2
Tourette’s syndrome	6	3
Neuropathic conditions	7	2
Huntington’s disease	4	2
Sickle cell disease	3	5
Traumatic brain injury	3	3
Spinal cord injury or disease	2	3

Muscular dystrophy	3	2
Opioid use disorder	3	2
Anxiety disorder(s)	2	2
Anorexia nervosa	3	1
Migraines	3	1
Lupus	1	2

It is important to note that while other states list conditions that are not explicitly qualifying in Utah, such as fibromyalgia, the symptoms can be qualifying, such as for chronic pain or debilitating muscle spasms related to a condition not present on the Utah qualifying condition list.

Other notable qualifying conditions in other states

- **Depression** is a qualifying condition in 1 state: Alabama, a medical-only state.
- **Debilitating psychiatric disorders** is a qualifying condition in 1 state: Missouri, an adult-use and medical state.
- **Obsessive-compulsive disorder** is a qualifying condition in 1 state: Michigan, an adult-use and medical state.
- **Insomnia** and **obstructive sleep apnea** are qualifying conditions in 1 state: New Mexico, an adult-use and medical state.
- **Substance use disorder** is a qualifying condition in 1 state: New York, an adult-use and medical state.

All other conditions not listed above that are qualifying in states other than Utah may be viewed in [Attachment A](#).

Options

Here are options the board may consider recommending:

1. Maintain the existing qualifying condition list.
2. Approve an additional condition or conditions to be added to the qualifying condition list.
3. Add a special provision to the qualifying condition list allowing recommending medical providers to recommend medical cannabis for any condition in which they believe cannabis would be therapeutic or palliative.
4. Eliminate the qualifying condition list in favor of allowing medical cannabis recommendations for any condition, per the judgment of a recommending medical provider.