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To: Medical Cannabis Policy Advisory Board

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Subject: **Telehealth renewals for medical cannabis recommendations**

Introduction

The board may consider the following options about making a recommendation for a statutory change regarding telehealth renewals for medical cannabis recommendations:

1. Allow medical cannabis patients to renew their medical cannabis card with any recommending medical provider through telehealth.
2. Continue to require that if a patient renews their medical cannabis card with a recommending medical provider different from their initial recommending medical provider, they must conduct the recommendation in-person (status quo).

Background

Utah Code [26B-4-204](#), [26B-4-213](#) and [26B-4-202](#) require recommending medical providers to conduct a face-to-face consultation for all initial medical cannabis recommendation visits. Medical providers have a limited allowance for telehealth consultations for initial visits in the case of an individual residing in an assisted living facility/nursing care facility, undergoing hospice care, or has a terminal illness.

Per Utah Code 26B-4-213(6), a medical cannabis patient card can be renewed via telehealth if the patient returns to visit with their initial provider who made the recommendation and the provider is okay with the renewal visit being through phone or video conference. If the patient decides to renew their medical cannabis

card with a different provider, however, the renewal must be conducted face-to-face, barring the exempting circumstances listed above.

Analysis

Federal law and telehealth prescriptions

The Ryan Haight Online Pharmacy Consumer Protection Act of 2008 states that a prescribing practitioner, with few exceptions, may prescribe controlled substances to a patient only if the practitioner has previously conducted an in-person evaluation of that patient. The Act, in letter and spirit, controls practitioner ability to prescribe a controlled substance when no previous in-person medical evaluation has been conducted. However, the Drug Enforcement Administration (DEA) temporarily allowed exceptions to the Act due to the coronavirus pandemic. In May of 2023, [DEA and the U.S. Department of Health and Human Services \(HHS\) promulgated new temporary rules](#) allowing for the telemedicine prescription of non-narcotic schedule III-V controlled substances when certain circumstances are met, and impose an initial limit on telemedicine prescriptions for a controlled substance to a 30-day supply.

More information may be found on page 52211 of this [Federal Register](#).

While federal law may seem out of place to apply to cannabis, as it remains a schedule I controlled substance, the Utah medical cannabis law appears to have medical providers treat medical cannabis products like FDA-approved drugs. There is a question of whether medical cannabis recommendations should be subject to allowances similar to those allowed for the traditional prescription process applicable to non-narcotic schedule III-V controlled substances.

Arguments for allowing patients to renew their card via telehealth with a different provider

- 1. Face-to-face regulations make renewal inconvenient for experienced patients.** Some patients who feel confident in their understanding of how to use medical cannabis for their qualifying condition don't believe visiting a new medical provider in person is necessary, as they will be reassessed. If a patient is renewing with a new provider due to moving, less cost, or other reasons, and is an experienced medical cannabis user, requiring them to meet face-to-face is unnecessarily burdensome.
- 2. Telehealth is a common practice.** Even with the prescription-related restrictions of the DEA and HHS listed above, if medical cannabis is supposed to be aligned with conventional medications, why require renewals with new providers to be in person? Telehealth is an increasingly common practice and should be integrated into medical cannabis renewals.

Arguments against allowing patients to renew their card via telehealth with a different provider

- 1. Medical providers conducting an in-person examination in a clinical setting ensures an accurate assessment.** Recommending medical providers meeting with a patient for the first time often conduct a physical evaluation, complete vitals, run tests, take samples, and perform other critical functions in order to build a holistic and detailed assessment of a new patient. They do this even when the patient has met with other providers. This is especially necessary if the second provider has no access to information collected during the patient's first appointment with a different provider. It is common for a provider to have no access to information provided during a prior appointment with a different medical provider. With no requirement to meet a new patient face-to-face, a provider virtually

meeting with a patient for the first time can't perform standard evaluatory procedures for the sake of the patient's health.

- 2. There are concerns about the comprehensiveness of telehealth cannabis recommendations.** The CMC has received complaints from patients and pharmacy medical providers regarding a lack of information provided to patients in what can often be a brief telehealth medical cannabis recommendations by some medical providers. Face-to-face settings allow a provider to engage in a more substantive and personal conversation. The medical provider and clinic staff are able to provide the patient new literature and resources on cannabis treatment. Visits completed via telehealth are typically not as comprehensive and do not result in some of the benefits of in-person visits.
- 3. Cannabis contains psychoactive substances and recommending its medicinal use shouldn't be taken lightly.** Cannabis isn't a standard medicine, nor a standard treatment. Some medical professionals argue that allowing a patient to renew their medical cannabis card with a new recommending medical provider via telehealth is too lax given the fact cannabis is psychoactive and understudied for application for specific conditions.
- 4. Telehealth visits with a medical provider are always possible for a renewal visit if the patient has already met at least once in-person with the medical provider.** The law is already flexible enough to allow for telehealth visits in cases when the patient has already met once with the medical provider in-person.

Options

Should the board want to approve a recommendation regarding telehealth renewals for medical cannabis recommendations, it may consider the following questions:

1. Allow medical cannabis patients to renew their medical cannabis card with any recommending medical provider through telehealth.
2. Continue to require that if a patient renews their medical cannabis card with a recommending medical provider different from their initial recommending medical provider, they must conduct the recommendation in-person (status quo).