PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of 2014 Iowa Acts, Senate File 2360, section 6, the Department of Public Health hereby adopts new Chapter 154, "Medical Cannabidiol Act Registration Card Program," Iowa Administrative Code.

These rules implement the Medical Cannabidiol Act, 2014 Iowa Acts, Senate File 2360, which permits the possession and use of cannabidiol as defined in the legislation. The rules add the definitions of "cannabidiol," "department," "intractable epilepsy," "neurologist," and "primary caregiver" as provided for in Senate File 2360, as well as definitions for "date of expiration," "date of issuance," "department of transportation," "patient," "permanent resident," and "state." The rules provide for the receipt by the Department of a written recommendation from a neurologist and the process for the issuance of a cannabidiol registration card to a patient or primary caregiver. The rules further provide for the protection of confidential patient and primary caregiver information.

Notice of Intended Action was published in the August 6, 2014 Iowa Administrative Bulletin as **ARC 1571C**. A total of forty-one written and oral comments were received from thirty-one individuals. The majority of comments recommended changes to the legislation and therefore fell outside of the scope of the administrative rules. Examples include but are not limited to expression of support for implementation of medical marijuana laws that cover additional medical conditions, concerns over the ease with which Cannabidiol oil can be accessed, and encouragement for the development of an electronic application system. Several comments did pertain to the noticed administrative rules. They included the following:

- Recommended changes to the definition of "permanent resident,"

- Inclusion of additional options for acceptable forms of valid photo identification in the application process,
- Request for an expedited renewal process,
- Inclusion of the recommending neurologist's contact information on the Medical Cannabidiol Act Registration Card,
- Concerns over having to go to a physical location (e.g. a local Department of Transportation driver's license issuance sites),
- Removal of the requirement that a patient must be physically examined by the recommending neurologist before a written recommendation is issued,
- Suggested language to ensure access to public information upon request that is appropriate to provide about the program.

Changes to the noticed administrative rules include a revised definition of "permanent resident" and inclusion of an additional option for valid photo identification in the application process. These revisions were based on review of similar requirements by the Department of Transportation as well as examples from other states. Language was revised relating to the renewal process to allow for increased flexibility. The department also removed the requirement for the recommending neurologist to physically examine a patient before issuing a written recommendation to better align with SF 2360 and added additional language to clarify that aggregate and statistical information that does not provide any patient identifiers can be made available to the public upon request.

After analysis and review of this rule making, no impact on jobs in Iowa has been found.

The State Board of Health adopted these amendments on September 10, 2014.

These rules are intended to implement 2014 Iowa Acts, Senate File 2360.

These rules will become effective on January 30, 2015.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 154:

CHAPTER 154

MEDICAL CANNABIDIOL ACT REGISTRATION CARD PROGRAM

641—154.1(85GA,SF2360) Definitions. For the purposes of these rules, the following definitions shall apply:

"Cannabidiol" means a nonpsychoactive cannabinoid found in the plant *Cannabis sativa L.* or *Cannabis indica* or any other preparation thereof that is essentially free from plant material, and has a tetrahydrocannabinol level of no more than 3 percent.

"Date of expiration" means one year from the date of issuance of the cannabidiol registration card by the department of transportation.

"Date of issuance" means the date of issuance of the cannabidiol registration card by the department of transportation.

"Department" means the Iowa department of public health.

"Department of transportation" means the Iowa department of transportation.

"Intractable epilepsy" means an epileptic seizure disorder for which standard medical treatment does not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results in harmful side effects.

"Neurologist" means an allopathic or osteopathic physician board-certified in neurology in good standing and licensed under Iowa Code chapter 148.

"Patient" means a person who is a permanent resident of the state of Iowa who suffers from intractable epilepsy and has received a recommendation from a neurologist for the medical use of cannabidiol pursuant to 2014 Iowa Acts, Senate File 2360.

"Permanent resident" means a natural person who physically resides in Iowa as the person's principal and primary residence and who establishes evidence of such residency by providing the department with one of the following:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A valid Iowa voter registration card,
4. A current Iowa vehicle registration certificate,
5. A utility bill,
6. A statement from a financial institution,
7. A residential lease agreement,
8. A check or pay stub from an employer,
9. A child's school or child care enrollment documents,
10. Valid documentation establishing a filing for homestead or military tax exemption on property located in Iowa, or
11. Other valid documentation as deemed acceptable by the department to establish residency.

"Primary caregiver" means a person, at least 18 years of age, who has been designated by a patient's neurologist or a person having custody of a patient, as being necessary to take responsibility for managing the well-being of the patient with respect to the medical use of cannabidiol pursuant to the provisions of 2014 Iowa Acts, Senate File 2360.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

641—154.2(85GA,SF2360) Neurologist recommendation—medical use of cannabidiol.

154.2(1) A neurologist who has examined and treated a patient suffering from intractable epilepsy may provide, but has no duty to provide, a written recommendation for the patient's medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy if no other satisfactory treatment options exist for the patient and all of the following conditions apply:

a. The patient is a permanent resident of Iowa.

b. A neurologist has treated the patient for intractable epilepsy for at least six months. For purposes of this treatment period, and notwithstanding 2014 Iowa Acts, Senate File 2360, section 3, subsection 4, treatment provided by a neurologist may include treatment by a neurologist licensed in another state and in good standing.

c. The neurologist has tried and documented alternative treatment options that have not alleviated the patient's symptoms.

d. The neurologist determines the risks of recommending the medical use of cannabidiol are reasonable in light of the potential benefit for the patient and has documented a discussion of the risks and benefits with the patient or the patient's parent or legal guardian.

e. The neurologist maintains a patient treatment plan. The neurologist shall have the sole, exclusive authority to recommend the use and amount of cannabidiol, if any, in the treatment plan, and shall recommend in the treatment plan only the oral or transdermal administration of cannabidiol.

f. The neurologist shall be available to provide follow-up care and treatment to the patient, including but not limited to patient examinations; however, this rule shall not restrict the authority of a neurologist to terminate the physician-patient relationship, provided that such termination is effectuated in accordance with rule 653—13.7(147,148,272C).

154.2(2) The neurologist is required to use the written recommendation section of the application form provided for this purpose on the department's Web site (www.idph.state.ia.us).

154.2(3) The neurologist, or authorized persons in the neurologist's office or clinic, is required to complete the written recommendation section of the application form and send the application to the department's address as provided on the application form.

154.2(4) A neurologist who provides a written recommendation pursuant to this chapter shall maintain a record-keeping system for all patients for whom the neurologist has recommended the medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy.

154.2(5) A neurologist who provides a written recommendation pursuant to this chapter is required to participate in any survey that will be conducted by the department on the implementation of the medical cannabidiol act. Any such survey will adhere to the federal Health Insurance Portability and Accountability Act of 1996.

641—154.3(85GA,SF2360) Cannabidiol registration card—application and issuance to patient.

154.3(1) The department may approve the issuance of a cannabidiol registration card by the department of transportation to a patient who:

a. Is at least 18 years of age.

b. Is a permanent resident of Iowa.

c. Requests the patient's neurologist to submit to the department, pursuant to rule 641—154.2(85GA,SF2360), a written recommendation signed by the neurologist that the patient may benefit from the medical use of cannabidiol.

d. Is listed as the patient on the application form submitted to the department, on a form created by the department in consultation with the department of transportation and available at the department's Web site (www.idph.state.ia.us) that contains all of the following:

(1) The patient's full legal name, Iowa residence address, mailing address (if different from the patient's residence address), telephone number, date of birth, and sex designation. The patient shall not provide as a mailing address an address for which a forwarding order is in place.

(2) A copy of the patient's valid photo identification. Acceptable photo identification includes:

1. A valid Iowa driver's license, or

2. A valid Iowa nonoperator's identification card.

3. Alternative form of valid photo identification. A patient who possesses or is eligible for an Iowa driver's license or an Iowa nonoperator's identification card shall present such document as valid photo identification. A patient who is ineligible to obtain an Iowa driver's license or an Iowa nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. A patient who applies for an exemption is subject to verification of the patient's identity through a process established by the department and the department of transportation to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.

(3) Full name, address, and telephone number of the patient's neurologist.

(4) Full legal name, residence address, date of birth, and telephone number of each primary caregiver of the patient, if any.

(5) An attestation as to the truthfulness and accuracy of the information provided by the patient on the application.

154.3(2) Upon the completion, verification, and approval of the patient's application, the department shall notify the department of transportation that the patient may be issued a cannabidiol registration card.

154.3(3) A cannabidiol registration card issued to a patient by the department of transportation shall contain all of the following:

a. The patient's full legal name, Iowa residence address, date of birth, and sex designation, as shown on the patient's Iowa driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to subrule154.3(1)(d)(3). If the patient's name, Iowa residence address, date of birth, or sex designation has changed since the issuance of the patient's Iowa driver's license, nonoperator's identification card, or alternative form of valid photo identification, the patient shall first update the patient's Iowa driver's license or nonoperator's identification card to reflect the current information, according to the procedures set forth in 761—subrule 605.11(2), 761—subrule 605.25(4), or rule 761—630.3(321), or shall update the alternative form of valid photo identification in accordance with the process of the issuing agency.

b. The date of issuance and the date of expiration.

c. A distinguishing registration number that is not the patient's social security number.

d. The patient's signature. The signature shall be without qualification and shall contain only the patient's usual signature without any other titles, characters, or symbols. The patient's

signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the patient's application for a cannabidiol registration card are true and correct. The patient's signature shall be captured electronically.

e. A color photograph of the patient.

f. A statement that the cannabidiol registration card is not valid for identification purposes.

154.3(4) A patient in possession of a valid cannabidiol registration card issued pursuant to this rule shall not possess a quantity of cannabidiol oil in excess of 32 ounces.

154.3(5) An authorization to use cannabidiol or marijuana for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of 2014 Iowa Acts, Senate File 2360, or these rules for the issuance of a cannabidiol registration card.

641—154.4(85GA,SF2360) Cannabidiol registration card—application and issuance to primary caregiver.

154.4(1) For a patient in a primary caregiver's care, the department may approve the issuance of a cannabidiol registration card by the department of transportation to a primary caregiver who:

a. Is at least 18 years of age.

b. Requests the patient's neurologist to submit to the department, pursuant to rule 641—154.2(85GA,SF2360), a written recommendation signed by the neurologist that the patient may benefit from the medical use of cannabidiol pursuant to 2014 Iowa Acts, Senate File 2360, section 4.

c. Is listed as a primary caregiver on the application form submitted to the department, on a form created by the department in consultation with the department of transportation and available at the department's Web site (www.idph.state.ia.us) that contains all of the following:

(1) The primary caregiver's full legal name, residence address, mailing address (if different from the primary caregiver's residence address), telephone number, date of birth, and sex designation. The primary caregiver shall not provide as a mailing address an address for which a forwarding order is in place.

(2) The patient's full legal name.

(3) A copy of the primary caregiver's valid photo identification. Acceptable photo identification includes:

1. A valid Iowa driver's license,

2. A valid Iowa nonoperator's identification card, or

3. If the primary caregiver is not a resident of the state of Iowa, a valid state-issued driver's license or nonoperator's identification card issued by a state other than Iowa.

4. Alternative form of valid photo identification. A primary caregiver who possesses or is eligible for a driver's license or a nonoperator's identification card shall present such document as valid photo identification. A primary caregiver who is ineligible to obtain a driver's license or a nonoperator's identification card may apply for an exemption and request submission of an alternative form of valid photo identification. A primary caregiver who applies for an exemption is subject to verification of the primary caregiver's identity through a process established by the department and the department of transportation to ensure the genuineness, regularity, and legality of the alternative form of valid photo identification.

(4) Full name, address, and telephone number of the patient's neurologist.

(5) An attestation as to the truthfulness and accuracy of the information provided by the primary caregiver on the application.

154.4(2) Upon the completion, verification, and approval of the primary caregiver's application, the department shall notify the department of transportation that the primary caregiver may be issued a cannabidiol registration card.

154.4(3) A cannabidiol registration card issued to a primary caregiver by the department of transportation shall contain all of the following:

a. The primary caregiver's full legal name, current residence address, date of birth, and sex designation, as shown on the primary caregiver's state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to subrule 154.4(1)(c)(4). If the primary caregiver's name, current residence address, date of birth, or sex designation has changed since issuance of the primary caregiver's Iowa-issued driver's license, nonoperator's identification card, or other form of valid photo identification, the primary caregiver shall first update the primary caregiver's Iowa-issued driver's license or nonoperator's identification card according to the procedures set forth in 761—subrule 605.11(2), 761—subrule 605.25(4), or rule 761—630.3(321), or update the alternative form of valid photo identification in accordance with the process of the issuing agency.

b. The date of issuance and the date of expiration.

c. A distinguishing registration number that is not the primary caregiver's social security number.

d. The primary caregiver's signature. The signature shall be without qualification and shall contain only the primary caregiver's usual signature without any other titles, characters, or symbols. The primary caregiver's signature certifies, under penalty of perjury and pursuant to the

laws of the state of Iowa, that the statements made and information provided in the primary caregiver's application for a cannabidiol registration card are true and correct. The primary caregiver's signature shall be captured electronically.

e. A color photograph of the primary caregiver.

f. A statement that the cannabidiol registration card is not valid for identification purposes.

g. A statement distinguishing the cannabidiol registration cardholder as a primary caregiver.

h. The full name of each patient in the primary caregiver's care, as approved by the department in its notice to the department of transportation.

154.4(4) A primary caregiver in possession of a valid cannabidiol registration card issued pursuant to this rule shall not possess a quantity of cannabidiol oil in excess of 32 ounces per patient.

154.4(5) An authorization to use, or to act as a primary caregiver for a patient authorized to use, cannabidiol or marijuana for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of 2014 Iowa Acts, Senate File 2360, or these rules for the issuance of a cannabidiol registration card.

641—154.5(85GA,SF2360) Tamperproofing. The department of transportation shall issue a cannabidiol registration card by a method or process which prevents as nearly as possible the alteration, reproduction, or superimposition of a photograph on the cannabidiol registration card without ready detection.

641—154.6(85GA,SF2360) Denial and cancellation. The department may deny an application for a cannabidiol registration card, or may cancel or direct the department of transportation to cancel a cannabidiol registration card, for any of the following reasons:

1. Information contained in the application is illegible, incomplete, falsified, misleading, deceptive, or untrue.

2. The department or the department of transportation is unable to verify the identity of the applicant from the photo identification or other documentation presented pursuant to subrule 154.3(1)(d)(2) or 154.4(1)(c)(4).

3. The applicant violates or fails to satisfy any of the provisions of 2014 Iowa Acts, Senate File 2360, or these rules.

641—154.7(85GA,SF2360) Appeal. If the department denies an application for or cancels a cannabidiol registration card, the department shall inform the applicant or cardholder of the denial or cancellation and state the reasons for the denial or cancellation in writing. An applicant or cardholder may appeal the denial or cancellation of a cannabidiol registration card by submitting a request for appeal to the department by certified mail, return receipt requested, within 20 days of receipt of the notice of denial or cancellation. The department's address is Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. Upon receipt of a request for appeal, the department shall forward the request within five working days to the department of inspections and appeals. A contested case hearing shall be conducted in accordance with 641—Chapter 173.

641—154.8(85GA,SF2360) Duplicate card.

154.8(1) *Lost, stolen, or destroyed card.* To replace a cannabidiol registration card that is lost, stolen, or destroyed, a cardholder shall present to the department of transportation the

cardholder's valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to subrule 154.3(1)(d)(3) or 154.4(1)(c)(4).

154.8(2) *Change in card information and voluntary replacement.*

a. To replace a cannabidiol registration card that is damaged, the cardholder shall surrender to the department of transportation the card to be replaced and present the cardholder's valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to subrule 154.3(1)(d)(3) or 154.4(1)(c)(4).

b. A patient or primary caregiver to whom a cannabidiol registration card is issued shall notify the department of a change in current residence address, name, or sex designation listed on the card, within ten calendar days of the change. To replace a cannabidiol registration card to change the current residence address, name, or sex designation listed on the card, the cardholder shall surrender to the department of transportation the card to be replaced and present a valid state-issued driver's license, nonoperator's identification card, or alternative form of valid photo identification provided pursuant to subrule 154.3(1)(d)(3) or 154.4(1)(c)(4), that has been updated according to the procedures established by the state or agency of issuance to reflect the requested residence address, name, or sex designation.

c. To replace a cannabidiol registration card held by a primary caregiver to change the patient or patients listed on the primary caregiver's card, the primary caregiver shall submit a new application to the department pursuant to rule 641—154.4(85GA,SF2360). A cannabidiol registration card issued pursuant to this paragraph shall not be considered a duplicate card.

154.8(3) *Expiration date.* A duplicate cannabidiol registration card shall have the same expiration date as the cannabidiol registration card being replaced, changed, or amended.

641—154.9(85GA,SF2360) Renewal. A cannabidiol registration card shall be valid for one year from the date of issuance unless canceled pursuant to rule 641—154.6(85GA,SF2360).

154.9(1) A cardholder seeking renewal of a cannabidiol registration card shall submit a renewal application to the department at least 60 days prior to the date of expiration.

a. A patient applying for renewal of a cannabidiol registration card shall submit a renewal application to the department on a form approved by the department.

b. A primary caregiver applying for a renewal of a cannabidiol registration card shall submit a renewal application to the department on a form approved by the department.

154.9(2) A cardholder who fails to renew the cannabidiol registration card may not lawfully possess cannabidiol pursuant to this chapter.

641—154.10(85GA,SF2360) Confidentiality. The department shall maintain a confidential file of the names of each patient to or for whom the department approves the issuance of a cannabidiol registration card and the name of each primary caregiver to whom the department issues a cannabidiol registration card under 2014 Iowa Acts, Senate File 2360, section 5.

154.10(1) Personally identifiable information of patients and primary caregivers shall be maintained as confidential and is not accessible to the public. The department and the department of transportation shall release aggregate and statistical information regarding the medical cannabidiol act registration card program in a manner which prevents the identification of any patient or primary caregiver.

154.10(2) Personally identifiable information of patients and primary caregivers may be disclosed under the following limited circumstances:

a. To authorized employees or agents of the department and the department of transportation as necessary to perform the duties of the department and the department of transportation pursuant to this chapter.

b. To authorized employees of state or local law enforcement agencies located in Iowa, solely for the purpose of verifying that a person is lawfully in possession of a cannabidiol registration card issued pursuant to this chapter.

c. To a patient, primary caregiver, or neurologist, upon written authorization of the patient or primary caregiver.

641—154.11(85GA,SF2360) Agreement with department of transportation. The department may enter into a chapter 28E agreement with the department of transportation to facilitate the issuance of cannabidiol registration cards. The agreement may include provisions which govern the issuance, denial, and cancellation of cannabidiol registration cards and the sharing of information between the department and the department of transportation.

These rules are intended to implement 2014 Iowa Acts, Senate File 2360.