

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

**Rule making related to medical cannabidiol**

The Public Health Department hereby amends Chapter 154, “Medical Cannabidiol Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code chapter 124E and 2020 Iowa Acts, House File 2589.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code chapter 124E and 2020 Iowa Acts, House File 2589.

*Purpose and Summary*

These amendments update the rules pursuant to the requirements of 2020 Iowa Acts, House File 2589. These amendments:

- Remove the 3 percent tetrahydrocannabinol (THC) cap on products, replace it with a 4.5g THC/90-day purchase limit, and establish exceptions to the 4.5g THC/90-day purchase limit if a patient is terminally ill or if the patient’s health care practitioner certifies the patient for additional THC.
- Require dispensaries to employ either a pharmacist or a pharmacy technician.
- Change “untreatable pain” to “chronic pain” and add “post-traumatic stress disorder” and “severe, intractable autism with self-injurious or aggressive behaviors” to the list of debilitating medical conditions.
- Add physician assistants, advanced registered nurse practitioners, advanced practice registered nurses, and podiatrists to the list of health care practitioners who can certify patients for participation in the program.
- Add a new definition for “total tetrahydrocannabinol.”
- Make the Department, instead of the Department of Transportation, responsible for issuance of registration cards.
- Remove the felony disqualifiers for patients and primary caregivers.
- Remove the limit on the number of Medical Cannabidiol Board meetings allowed each year and require the Board to meet at least twice per year.
- Remove the requirement for manufacturers to contract specifically with the State Hygienic Laboratory and instead require that they contract with “a laboratory.”
- Provide access to the patient registry for health care practitioners for the purpose of determining whether patients have received a certification from another health care provider.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on July 15, 2020, as **ARC 5082C**. One comment was received from a member of the Administrative Rules Review Committee (ARRC), and two comments were received from MedPharm Iowa, a licensed manufacturer.

**Summary of comments:** The ARRC member asked that 2020 Iowa Acts, House File 2589, section 29, which specifically excludes FDA-approved products from regulation under the medical cannabidiol program, be implemented in these rules. MedPharm Iowa expressed concerns that a health care provider certifying a waiver for the 4.5g THC/90-day purchase limit would be at risk of violating the

Controlled Substances Act and therefore putting the provider's Drug Enforcement Administration (DEA) registration at risk. MedPharm encouraged the Department to adopt a rule giving the Department final authority in approving waivers to the 4.5g THC/90-day purchase limit stated in House File 2589. MedPharm Iowa also requested clarity concerning the Department's approval process for independent laboratories.

**Summary of changes:** A revision was made to the definition of "medical cannabidiol" to specifically implement section 29 of House File 2589 and to indicate that FDA-approved products are excluded from regulation under the medical cannabidiol program. Subrule 154.69(5) was added to clarify the process the Department will use to review applications from independent laboratories interested in conducting testing of medical cannabidiol products in Iowa. Subrule 154.69(6) was added to clarify the processes for continued oversight and review of any approved independent laboratories. These new subrules are in Item 17. In addition, the chapter implementation sentence was amended in Item 18 to reflect amendments to Iowa Code chapter 124E by 2020 Iowa Acts, House File 2589.

#### *Adoption of Rule Making*

This rule making was adopted by the State Board of Health on September 9, 2020.

#### *Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

#### *Jobs Impact*

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

#### *Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver provisions contained in 641—Chapter 178.

#### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

#### *Effective Date*

This rule making will become effective on November 11, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule **641—154.1(124E)**, definitions of "Date of issuance," "Debilitating medical condition," "Health care practitioner," "Laboratory" and "Medical cannabidiol," as follows:

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

"Debilitating medical condition" means any of the following:

1. Cancer, if the underlying condition or treatment produces one or more of the following:
  - Severe or chronic pain.
  - Nausea or severe vomiting.
  - Cachexia or severe wasting.
2. Multiple sclerosis with severe and persistent muscle spasms.
3. Seizures, including those characteristic of epilepsy.

4. AIDS or HIV as defined in Iowa Code section 141A.1.
5. Crohn's disease.
6. Amyotrophic lateral sclerosis.
7. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:

- Severe or chronic pain.
  - Nausea or severe vomiting.
  - Cachexia or severe wasting.
8. Parkinson's disease.
  9. ~~Untreatable~~ Chronic pain.
  10. Severe, intractable autism with self-injurious or aggressive behaviors.
  11. Post-traumatic stress disorder.

~~10.~~ 12. Any medical condition that is recommended by the medical cannabidiol board and adopted by the board of medicine by rule pursuant to Iowa Code section 124E.5 and that is listed in 653—subrule 13.15(1).

*"Health care practitioner"* means an individual licensed under Iowa Code chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, a physician assistant licensed under Iowa Code chapter 148C, an advanced registered nurse practitioner licensed under Iowa Code chapter 152, or an advanced practice registered nurse under Iowa Code chapter 152E, who is a patient's primary care provider or a podiatrist licensed pursuant to Iowa Code chapter 149. ~~"Health care practitioner" shall not include a physician assistant licensed under Iowa Code chapter 148C or an advanced registered nurse practitioner licensed pursuant to Iowa Code chapter 152 or 152E.~~

*"Laboratory"* means the state hygienic laboratory at the University of Iowa or any other independent medical cannabidiol testing facility accredited to Standard ISO/IEC 17025 by an ISO-approved International Organization for Standardization-approved accrediting body, with a controlled substance registration certificate from the Drug Enforcement Administration of the U.S. Department of Justice and a certificate of registration from the Iowa board of pharmacy, and approved by the department to examine, analyze, or test samples of medical cannabidiol or any substance used in the manufacture of medical cannabidiol. For the purposes of these rules, an independent laboratory is a laboratory operated by an entity that has no equity ownership in a medical cannabidiol manufacturer.

*"Medical cannabidiol"* means any pharmaceutical grade cannabinoid found in the plant *Cannabis sativa* L. or *Cannabis indica* or any other preparation thereof ~~that has a tetrahydrocannabinol level of no more than 3 percent and~~ that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and designated in this chapter. This definition shall not apply to any cannabis-derived investigational product or cannabis-derived product approved as a prescription drug medication by the United States food and drug administration.

ITEM 2. Adopt the following **new** definition of "Total tetrahydrocannabinol" in rule **641—154.1(124E)**:

*"Total tetrahydrocannabinol"* means 87.7 percent of the amount of tetrahydrocannabinolic acid plus the amount of tetrahydrocannabinol.

ITEM 3. Rescind the definitions of "Department of transportation" and "Untreatable pain" in rule **641—154.1(124E)**.

ITEM 4. Amend paragraph **154.2(1)"a"** as follows:

a. Determine, in the health care practitioner's medical judgment, whether the patient whom the health care practitioner has examined and treated suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol as defined by this chapter, and if so determined, provide the patient with a written certification of that diagnosis by completing the health care practitioner section of the application form provided for this purpose on the department's website ([www.idph.iowa.gov](http://www.idph.iowa.gov)).

(1) If the health care practitioner provides written certification that a patient's qualifying debilitating medical condition is a terminal illness with a life expectancy of less than one year, the

health care practitioner shall determine an appropriate total tetrahydrocannabinol cap. The health care practitioner shall indicate the total tetrahydrocannabinol cap on the written certification.

(2) If the health care practitioner determines that 4.5 grams of total tetrahydrocannabinol in a 90-day period is insufficient to treat a patient's qualifying debilitating medical condition and the patient has participated in the medical cannabidiol program, the health care practitioner may recommend a higher total tetrahydrocannabinol cap. The health care practitioner shall indicate the higher total tetrahydrocannabinol cap on the written certification.

ITEM 5. Amend rules 641—154.3(124E) and 641—154.4(124E) as follows:

**641—154.3(124E) Medical cannabidiol registration card—application and issuance to patient.**

**154.3(1)** Subject to subrule 154.3(7), the department may approve the issuance of issue a medical 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. Submits a written certification to the department, provided to the patient pursuant to rule 641—154.2(124E) and signed by the patient's health care practitioner certifying that the patient is suffering from a debilitating medical condition.

d. Submits an application to the department, on a form created by the department ~~in consultation with the department of transportation~~ and available at the department's website ([www.idph.iowa.gov](http://www.idph.iowa.gov)), 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,

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

3. An 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 health care practitioner.

(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.

~~e. Has not been convicted of a disqualifying felony offense.~~

~~f. e.~~ Submits the required fee, as described in subrule 154.12(1).

**154.3(2)** Upon the completion, verification, and approval of the patient's application and the receipt of the required fee, the department shall ~~notify the department of transportation that the patient may be issued~~ issue a medical cannabidiol registration card to the patient.

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

a. to c. No change.

~~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 medical cannabidiol registration card are true and correct. The patient's signature shall be captured electronically.~~

~~e. A color photograph of the patient.~~

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

**154.3(4)** Every patient 18 years of age or older must obtain a valid medical cannabidiol registration card to use medical cannabidiol in Iowa. ~~The department may waive this requirement for a patient who is unable to obtain a card because of health, mobility, or other issues, but only when the patient:~~

- ~~a. Has submitted an application for a medical cannabidiol registration card;~~
- ~~b. Has had the application approved by the department;~~
- ~~c. Has been assigned a patient registration number;~~
- ~~d. Has designated a primary caregiver whose application has been approved and whose medical cannabidiol registration card has been issued; and~~
- ~~e. Complies with all provisions of Iowa Code chapter 124E.~~

**154.3(5) and 154.3(6)** No change.

**154.3(7)** The department shall not ~~approve the issuance of~~ issue a medical cannabidiol registration card for a patient who is enrolled in a federally approved clinical trial for the treatment of a debilitating medical condition with medical cannabidiol.

**641—154.4(124E) Medical 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~~ issue a medical cannabidiol registration card ~~by the department of transportation~~ to a primary caregiver who:

- a. Is at least 18 years of age.
- b. Submits a written certification to the department, provided to the patient pursuant to rule 641—154.2(124E) and signed by the patient's health care practitioner certifying that the patient is suffering from a debilitating medical condition.
- c. Submits an application as a primary caregiver for each patient for whom the person is the primary caregiver. The primary caregiver application must be on a form created by the department ~~in consultation with the department of transportation~~ and available at the department's website ([www.idph.iowa.gov](http://www.idph.iowa.gov)) that contains all of the following:
  - (1) and (2) No change.
  - (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,
    - 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, or
    - 4. An 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 health care practitioner.
  - (5) An attestation as to the truthfulness and accuracy of the information provided by the primary caregiver on the application.

~~d. Has not been convicted of a disqualifying felony offense.~~

~~e. d.~~ Submits the required fee, as described in subrule 154.12(2).

**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~~ issue a medical cannabidiol registration card to the primary caregiver.

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

*a.* to *d.* No change.

~~*e.* 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 medical cannabidiol registration card are true and correct. The primary caregiver's signature shall be captured electronically.~~

~~*f.* A color photograph of the primary caregiver.~~

~~*g.* *e.* A statement that the medical cannabidiol registration card is not valid for identification purposes.~~

~~*h.* *f.* A statement distinguishing the medical cannabidiol registration cardholder as a primary caregiver.~~

**154.4(4)** and **154.4(5)** No change.

ITEM 6. Rescind and reserve rule **641—154.5(124E)**.

ITEM 7. Amend rule 641—154.6(124E) as follows:

**641—154.6(124E) Denial and cancellation.** The department may deny an application for a medical cannabidiol registration card, or may cancel or direct the department of transportation to cancel a medical 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 paragraph 154.3(1)“*d*”(2)“3” or 154.4(1)“*c*”(3)“4.”

3. The applicant violates or fails to satisfy any of the provisions of Iowa Code chapter 124E or these rules.

4. A patient, the patient's legal guardian, or other person with durable power of attorney requests in writing that the department cancel the patient's medical cannabidiol registration card. The department shall notify a primary caregiver in writing when the registration card of the primary caregiver's patient has been canceled.

5. A primary caregiver requests in writing that the department cancel the primary caregiver's medical cannabidiol registration card. The department shall notify a patient in writing when the registration card of the patient's primary caregiver has been canceled.

6. The department becomes aware of the death of a patient or primary caregiver.

ITEM 8. Amend rule 641—154.8(124E) as follows:

**641—154.8(124E) Duplicate card.**

**154.8(1) *Lost, stolen, or destroyed card.*** To replace a medical 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 paragraph 154.3(1)“*d*”(2)“3” or 154.4(1)“*c*”(3)“4.”

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

*a.* To replace a medical 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 paragraph 154.3(1)“*d*”(2)“3” or 154.4(1)“*c*”(3)“4.”

*b.* A patient or primary caregiver to whom a medical 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 medical 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 paragraph 154.3(1) "d"(2)"3" or 154.4(1) "c"(3)"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 medical cannabidiol registration card held by a primary caregiver to change, add, or remove a patient's medical cannabidiol registration number or the name of a patient's parent or legal guardian listed on the primary caregiver's card, the primary caregiver shall submit a new application to the department pursuant to rule 641—154.4(124E). A medical cannabidiol registration card issued pursuant to this paragraph shall not be considered a duplicate card.

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

ITEM 9. Amend rule 641—154.10(124E) as follows:

**641—154.10(124E) Confidentiality.** The department shall maintain a confidential file of the names of each patient to or for whom the department ~~approves the issuance of~~ issues a medical cannabidiol registration card and the name of each primary caregiver to whom the department issues a medical cannabidiol registration card under Iowa Code section 124E.4.

**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 Iowa Code chapter 124E and these rules.

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 medical cannabidiol registration card issued pursuant to Iowa Code chapter 124E and these rules.

c. To a patient, primary caregiver, or health care practitioner, upon written authorization of the patient or primary caregiver.

d. To a health care practitioner for the purpose of determining whether a patient seeking a written certification pursuant to Iowa Code section 124E.3 and these rules has already received a written certification from another health care practitioner.

e. To authorized employees of a medical cannabidiol dispensary, but only for the purposes of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to Iowa Code chapter 124E and these rules and that a person has not purchased total tetrahydrocannabinol in excess of the amount authorized by Iowa Code chapter 124E and these rules.

ITEM 10. Rescind and reserve rule **641—154.11(124E)**.

ITEM 11. Amend rule 641—154.14(124E) as follows:

**641—154.14(124E) Form and quantity** Allowable forms of medical cannabidiol. ~~The form and quantity of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical cannabidiol board, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.~~

**154.14(1) Quantity.** Modification of allowable forms. ~~A 90-day supply is the maximum amount of each product that shall be dispensed by a dispensary at one time. The allowable forms of medical cannabidiol authorized in this rule may be modified pursuant to recommendations by the medical~~

cannabidiol board, subsequent approval of the recommendations by the board of medicine and adoption of the recommendations by the department by rule.

**154.14(2) ~~Form.~~ Allowable forms.**

a. to c. No change.

ITEM 12. Amend subrule 154.40(4) as follows:

**154.40(4) Establishment and maintenance of a secure sales and inventory tracking system.** The department shall establish and maintain a secure, electronic system that is available 24 hours a day, seven days a week to track:

- a. Inventory of medical cannabidiol and waste material;
- b. Sales of medical cannabidiol from dispensaries to patients and primary caregivers.
- c. Total tetrahydrocannabinol purchased in the last 90 days by a patient and the patient's primary caregiver.

ITEM 13. Amend rule 641—154.41(124E) as follows:

**641—154.41(124E) Dispensary operations.**

**154.41(1) Operating documents.** The operating documents of a dispensary shall include all of the following:

a. Procedures for the oversight of the dispensary, including descriptions of operational and management practices regarding:

(1) The forms and quantities of medical cannabidiol products that will be stored and dispensed at the dispensary;

(2) The estimated forms and quantities of medical cannabidiol waste to be generated or collected;

(3) The disposal methods for all waste materials;

(4) Employee training methods for the dispensary employees;

(5) Strategies for identifying and reconciling discrepancies in inventory of medical cannabidiol;

(6) Procedures to ensure the dispensary does not dispense more than a patient's certified cap of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period;

~~(7)~~ (7) Medical cannabidiol labeling procedures;

~~(8)~~ (8) Procedures for recall or market withdrawal of medical cannabidiol;

~~(9)~~ (9) Plans for responding to a security breach at the dispensary facility;

~~(10)~~ (10) A business continuity plan; and

~~(11)~~ (11) Other information requested by the department.

b. Procedures to ensure accurate record keeping.

c. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas of the dispensary facility containing medical cannabidiol.

**154.41(2) Prohibited activities.**

a. A person or entity shall not own or operate a dispensary unless the person or entity is licensed by the department pursuant to Iowa Code chapter 124E and these rules.

b. A dispensary shall not:

(1) Dispense medical cannabidiol in any location except in those areas approved by the department;

(2) Sell, receive, transport, or distribute medical cannabidiol from any location except its dispensary;

(3) Sell, receive, or distribute medical cannabidiol from any entity other than a manufacturer licensed by the department;

(4) Sell or distribute medical cannabidiol to any person other than an approved patient or primary caregiver;

(5) Sell or distribute more than 4.5 grams of total tetrahydrocannabinol to a patient and the patient's primary caregiver(s) in a 90-day period, unless the patient's health care practitioner has certified a higher total tetrahydrocannabinol cap;



~~(5)~~ (6) Transport or deliver medical cannabidiol to any location, unless approved by the department;

~~(6)~~ (7) Sell medical cannabidiol that is not packaged and labeled in accordance with rules 641—154.21(124E) and 641—154.46(124E);

~~(7)~~ (8) Repackage medical cannabidiol or remove the manufacturer's label;

~~(8)~~ (9) Sell medical cannabidiol in any form or quantity other than a form or quantity approved by the department and adopted by rule;

~~(9)~~ (10) Permit any person to consume medical cannabidiol on the property of the dispensary;

~~(10)~~ (11) Employ a person who is under 18 years of age or who has been convicted of a disqualifying felony offense.

**154.41(3)** and **154.41(4)** No change.

**154.41(5)** *Employment of a pharmacist or pharmacy technician.* A medical cannabidiol dispensary shall employ a pharmacist or pharmacy technician licensed or registered pursuant to Iowa Code chapter 155A for the purpose of making dosing recommendations.

ITEM 14. Amend rule 641—154.46(124E) as follows:

**641—154.46(124E) Dispensing.**

**154.46(1)** *Access to all forms of product.* A dispensary shall provide access to all medical cannabidiol forms produced by each licensed manufacturer.

**154.46(2)** *Dispensing to a patient.*

a. Prior to dispensing any medical cannabidiol to a patient, a dispensary shall do all of the following:

(1) Verify the patient's identity; using a valid photo ID. Acceptable photo identification includes:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A U.S. passport,
4. A U.S. military ID or veteran ID,
5. A tribal ID card/document;

(2) Verify that the patient is registered and listed in the secure sales and inventory tracking system and has a valid medical registration card;

(3) Check the secure sales and inventory tracking system for the patient's total tetrahydrocannabinol 90-day purchase cap and the amount of total tetrahydrocannabinol that the patient and the patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the patient does not exceed the patient's cap;

~~(3)~~ (4) Assign a tracking number to any medical cannabidiol that is to be dispensed to the patient;

~~(4)~~ (5) Issue a label that contains the following information:

1. The medical cannabidiol tracking number; and
2. The patient registration number;

~~(5)~~ (6) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:

1. to 3. No change.

b. No change.

**154.46(3)** *Dispensing to a primary caregiver.*

a. Prior to dispensing any medical cannabidiol to a primary caregiver, a dispensary shall do all of the following:

(1) Verify the primary caregiver's identity; using a valid photo ID. Acceptable photo identification includes:

1. A valid Iowa driver's license,
2. A valid Iowa nonoperator's identification card,
3. A U.S. passport,
4. A U.S. military ID or veteran ID,

5. A tribal ID card/document;

(2) Verify that the patient and the primary caregiver are registered and listed in the secure sales and inventory tracking system and have valid medical registration cards;

(3) Check the secure sales and inventory tracking system for the associated patient's total tetrahydrocannabinol 90-day purchase cap and the amount of total tetrahydrocannabinol that the patient and patient's primary caregiver(s) have purchased on behalf of the patient in the past 90 days to ensure that the amount of total tetrahydrocannabinol sold by the dispensary to the primary caregiver does not exceed the patient's cap;

~~(3)~~ (4) Assign a medical cannabidiol tracking number to any medical cannabidiol that is to be dispensed to the primary caregiver;

(4) (5) Issue a label that contains the following information:

1. The medical cannabidiol tracking number; and

2. The patient registration number;

~~(5)~~ (6) Ensure the following information, which may be printed on a secondary label or package insert, is issued with dispensed medical cannabidiol:

1. to 3. No change.

b. No change.

ITEM 15. Amend subrule 154.60(2) as follows:

**154.60(2)** Responsibilities of the board include but are not limited to:

a. to e. No change.

~~f.~~ Considering recommendations to the general assembly for statutory revisions to the definition of medical cannabidiol to increase the tetrahydrocannabinol (THC) level to more than 3 percent.

~~g.~~ ~~f.~~ Submitting an annual report to the general assembly detailing the activities of the board no later than January 1.

ITEM 16. Amend subrule 154.61(4) as follows:

**154.61(4)** *Board meetings.*

a. The board shall convene at least twice ~~but no more than four times a~~ per year.

b. to e. No change.

ITEM 17. Adopt the following new subrules 154.69(5) and 154.69(6):

**154.69(5)** *Review of laboratory applications.* The department shall establish a process to review applications from prospective medical cannabidiol testing laboratories. Prospective laboratories shall submit an application to the department on a form created by the department. The department shall determine whether the laboratory meets the criteria for an independent medical cannabidiol testing facility as set forth in the definition of "laboratory" in Iowa Code section 124E.2 in addition to determining whether the laboratory meets laboratory requirements pursuant to rules 641—154.70(124E) to 641—154.76(124E).

**154.69(6)** *Regulation of independent laboratories.* The department shall determine on an annual basis whether any approved independent laboratory continues to meet criteria as set forth in the definition of "laboratory" in Iowa Code section 124E.2 and laboratory requirements pursuant to rules 641—154.70(124E) to 641—154.76(124E). The department shall establish a process for the annual review of approved independent laboratories. An independent laboratory is subject to reasonable inspection by the department, a department-approved consultant, or other agency pursuant to Iowa Code chapter 124E and these rules and as authorized by laws and regulations.

ITEM 18. Amend **641—Chapter 154**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 124E as amended by 2020 Iowa Acts, House File 2589.

[Filed 9/10/20, effective 11/11/20]

[Published 10/7/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/7/20.