

Medical Marijuana

Identification Card

Program (MMIC)

Update



January 19, 2018

Proposition 64 – Adult Use of Marijuana Act

In 2016, California voters approved ballot proposition 64, the Adult Use of Marijuana Act. Prop 64 made several changes to the Medical Marijuana Identification Card (MMIC) program established in 2003 (SB 420/Vasconcellos) including:

- Eliminated CDPH's ability to charge application or renewal fees for the MMIC;
- Limited county LHDs fees to no more than \$100, Medi-Cal patients fees reduced 50%, and CMSP patient fees waived;
- Requirement for county health departments to develop protocols, starting 1/1/18, that all id cards issued are supported by a physician's recommendation; and
- Provides sales tax exemption on retail sale of medicinal cannabis/products for qualified patients with both a MMIC and valid government issued identification.

MMIC Program Fees

- Prop 64 eliminated CDPH's fees, but they are still responsible for processing and issuing the cards.
- Counties limited to a maximum of \$100 for new cards or renewals.
 - Medi-Cal patients - fee reduced by 50%
eg: total fee \$88; Medi-Cal \$44
 - CMSP patients – fees waived
- If fees collected by an LHD do not cover administrative costs, LHDs may request reimbursement from the Legislature for their “reasonable” administrative costs.

MMIC Patient Information

- Deems any information collected by the MMIC program (name, address, patient social security number, medical condition, or primary caregiver name) medical information and may not be disclosed except in accordance with the Confidentiality of Medical Information Act.
- Requires LHDs or CDPH to contact a MMIC patient, within 24 hours of any request, regarding a request made to disclose above information. A copy of a written request must also be provided to a patient if available.

MMIC County Protocols

- Requires county health departments to develop protocols, by 1/1/18, that all MMICs issued in California are supported by a physician's recommendation.
- All physician recommendations must be in compliance with Business & Professions Code Sections §2525-2525.5. These provisions include the following:
 - Unlawful for a physician recommending cannabis to accept, solicit, or offer any form of remuneration to or from a state licensed cannabis facility if that physician (or immediate family) has a financial interest in the facility.
 - Requires the CA Medical Board to develop and adopt medical guidelines for the appropriate administration and use of medical cannabis.
 - Requires physicians not recommend medical cannabis to anyone other than a patient.

MMIC County Protocols continued

- Unprofessional conduct for physicians to not conduct an appropriate prior exam of the patient and if patient lacks a medical indication for use.
- Unprofessional conduct if physicians recommending medical cannabis are employed by or enter into agreements with any person or entity dispensing medical cannabis.
- Prohibits physicians from distributing advertising materials without required consumer notification language. All medical cannabis advertising required to follow existing laws prohibiting false or deceptive public communications.

Sample MMIC Physician Attestation

Medical Marijuana Identification Card Program

Doctor Attestation

Instructions

This form must be completed by a MMICP applicant's physician recommending the use of medical cannabis as appropriate for one or more serious medical conditions. Physicians or surgeons, recommending medical cannabis for their patients, who knowingly provide inaccurate or false information are in violation of Business and Professions Code laws, Penal Code laws, and the California False Claims Act.

Certification

By signing below, I hereby certify that I am in compliance with all provisions of [Business and Professions Code Division 2, Chapter 5, Article 25, Recommending Medical Cannabis](#).

2525.

(a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01.

(c) A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.1. The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.2. An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.3. Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.4. It is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with, any person or entity dispensing medical cannabis.

(Added by Stats. 2015, Ch. 719, Sec. 5. Effective January 1, 2016.)

2525.5. (a) A person shall not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use cannabis for medical purposes where medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code. Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law.

(b) Advertising for attending physician recommendations for medical cannabis shall meet all of the requirements in Section 651. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements of a similar nature.

Physician or Surgeon Signature _____

Date: ___/___/___

MM DD YYYY

Examples from the Field: Los Angeles County

- Effective 1/1/2018, responsibility to administer the MMIC was transferred to the Environmental Health Division (EH).
- MMIC is aligned with EH's Cannabis Compliance and Enforcement Program.
- MMIC offers various locations throughout Los Angeles County for clients to submit applications, ensuring:
 - Improved service delivery and
 - Enhanced customer experience.
- As of 1/17/2018, EH has:
 - Scheduled 209 appointments;
 - Accepted 86 applications; and
 - Issued 24 MMIC.

Examples from the Field: Los Angeles County

- Phase 1 Go-Live: **January 1, 2018**

FACILITY	ADDRESS	CITY	ZIP
BALDWIN PARK	5050 COMMERCE DRIVE	BALDWIN PARK	91706
METROPLEX	3530 WILSHIRE BLVD, 11TH FLOOR	LOS ANGELES	90010
INGLEWOOD	9800 SOUTH LA CIENEGA BLVD, #850	INGLEWOOD	90301
CULVER CITY	6101 WEST CENTINELA AVE, #300	CULVER CITY	90230
BURBANK	1101 WEST MAGNOLIA BLVD	BURBANK	91506
PANORAMA CITY	14500 ROSCOE BLVD, 5TH FLOOR	PANORAMA CITY	91402
CANOGA PARK	21515 VANOWEN STREET, SUITE 116	CANOGA PARK	91303

- Goal is a total of 14 locations able to accept MMIC applications.
- Locations will be rolled out in phases to be completed by July 1, 2018.

Examples from the Field: Los Angeles County

- Reimbursement from Legislature
 - Conducting time study by gathering data in *EnvisionConnect*.
- Implementation of the Physicians Attestation Form
 - Form is required as part of the application process and verifies that physician's license is in good standing.
 - Complaints referred to:
 - CA Medical Board
 - DPH Chief Medical Officer

Los Angeles County • Department of Public Health
Environmental Health Division

Medical Marijuana Program
5050 Commerce Drive, Baldwin Park, CA 91706
Phone (866) 621-2204

Physician Attestation

This form must be completed by a medical marijuana identification card applicant's physician recommending the use of medical cannabis as appropriate for one or more serious medical conditions. Physicians or surgeons recommending medical cannabis for their patients who knowingly provide inaccurate or false information are in violation of the Business and Professions Code and the Health and Safety Code.

Certification

Attending Physician Name			Office Telephone Number		
Mailing Address			Office Fax Number		
City	State	Zip Code	Cell Number or Email Address		
California Medical License Number					
Licensed By (check one):					
<input type="checkbox"/> Medical Board of California			<input type="checkbox"/> Osteopathic Medical Board of California		
Patient Name			Patient Date of Birth		

I hereby certify that in recommending medicinal cannabis to the patient named above, I have complied with all provisions of the [Business and Professions Code Division 2, Chapter 5, Article 25, Recommending Medical Cannabis](#) as outlined below.

Physician or Surgeon Signature: _____
Date (MM/DD/YYYY) _____

Attachment II

[Article 25, Recommending](#)

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Attachment II

Examples from the Field: San Bernardino County

Local considerations when developing your protocols:

- Fee requirements – consider if the fee cannot support a “stand-alone” program and consider combining the counter service.
- Consider pre-2018 contact with the physician’s office

Step	Action
8	Receive written documentation or a Written Documentation of Patient’s Medical Records form completed by the applicant’s attending physician which states: <ul style="list-style-type: none">• Diagnosis of a serious medical condition, and• That medical use of marijuana is appropriate.
9	<ul style="list-style-type: none">• Fax the “Physician Attestation” form to the physician to confirm the recommendation for use of medicinal marijuana.• Ensure the returned form is complete and signed by the attending physician.

Examples from the Field: San Bernardino County

Local considerations when developing your protocols (continued):

- Include information privacy safeguards to be in compliance with CMIA.

Confidentiality
and disclosure

Staff will protect confidential information contained in patient charts. Information must not be disclosed without a valid authorization except as authorized by the patient or by law. Confidential information includes, but is not limited to, information that identifies the patient's:

- Name,
- Address,
- Social Security Number,
- Medical condition, or
- Primary caregivers.

Note: Contact the DPH Compliance Officer with disclosure questions prior to releasing information.

Examples from the Field: San Bernardino County

Local considerations when developing your protocols (continued):

- Consider the processing time for applications to comply with the code. For example, if information is missing from the application, we must request the information from the applicant - then we have 14 days to approve or deny.
- Disclosure requests (we ensured that we give the patient at least 10 days notice prior to releasing their information in response to a subpoena)

ID Card Issues to Consider

- How will the new regulations impact the number of applications for MMID cards at the local level given the sales tax exemption?
- How will costs be tracked at the local level to evaluate whether program costs exceed revenues?
- What challenges do you foresee in working with physicians who are issuing medicinal marijuana recommendations?
- Has anyone considered an on-line portal for applications?
- What other challenges are you facing in implementing the MMID Program

Questions ?