

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

- 1) Heading of the Part: Compassionate Use of Medical Cannabis Patient Registry
- 2) Code Citation: 77 Ill. Adm. Code 946
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
946.30	Amendment
946.210	Amendment
946.290	Amendment
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].
- 5) Effective Date of Emergency Rulemaking:
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rulemaking will not expire before the end of the 150-day period.
- 7) Date filed with the Index Department:
- 8) A copy of the adopted emergency rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The Illinois Department of Public Health is adopting these emergency amendments to the emergency rulemaking to implement P.A. 099-0519, originally filed on August 1, 2016 to clarify the fee structure for medical cannabis registration identification cards and the process used for the review of petitions to add debilitating conditions submitted to the Department in January 2016. These clarifications are the basis of an agreement forged by the Joint Committee on Administrative Rules and the Department.

Section 5-45 of the Illinois Administrative Procedure Act (IAPA) defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The situation that requires this emergency rulemaking constitutes an "emergency" because without this amendment to the emergency rules currently enforce, patients would not be able to apply for a medical cannabis registry identification card which may have a health impact on their debilitating medical condition.
- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes a one year; two year; and three year fee structure for medical cannabis registration identification cards and specified the process to be used by the Department

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

for the review of petitions to add debilitating conditions submitted to the Department in January 2016.

11) Are there any Proposed amendments to this Part pending? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
946.10	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.25	New Section	40 Ill. Reg. 10751; August 12, 2016
946.30	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.35	New Section	40 Ill. Reg. 10751; August 12, 2016
946.60	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.200	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.201	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.205	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.210	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.220	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.240	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.290	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.310	Amendment	40 Ill. Reg. 10751; August 12, 2016
946.315	New Section	40 Ill. Reg. 10751; August 12, 2016
946.500	Amendment	40 Ill. Reg. 10751; August 12, 2016

12) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State Mandate.

13) Information and questions regarding this emergency rulemaking shall be directed to:

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Division of Legal Services
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535 W. Jefferson St., 5th Floor
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The full text of the Emergency Amendments begins on the next page:

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 946

COMPASSIONATE USE OF MEDICAL CANNABIS PATIENT REGISTRY

SUBPART A: GENERAL PROVISIONS

Section

946.10 Definitions

EMERGENCY

946.15 Referenced Materials

946.20 Debilitating Medical Conditions

946.25 Terminal Illness

EMERGENCY

946.30 Addition of Debilitating Medical Conditions

EMERGENCY

946.35 Medical Cannabis Advisory Committee

EMERGENCY

946.40 Limitations and Penalties

946.50 Notifications to the Department

946.60 Confidentiality

EMERGENCY

946.70 Applicability to the Smoke Free Illinois Act

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section

946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers

EMERGENCY

946.201 Application for Registry Identification Card for Qualifying Patients under 18 Years of Age

EMERGENCY

946.205 Deadlines for Submission of Application for Registry Identification Card

EMERGENCY

946.210 Fees

EMERGENCY

946.220 Fingerprint-Based Criminal History Records Check

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

EMERGENCY

946.230 General Provisions

946.240 Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities

EMERGENCY

946.250 Disposal of Medical Cannabis by Qualifying Patients

946.260 Responsibilities of Designated Caregivers

946.270 Revocation of a Registry Identification Card

946.275 Suspension of a Registry Identification Card

946.280 Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization

946.290 Renewal of Registry Identification Cards

EMERGENCY

SUBPART C: PHYSICIAN REQUIREMENTS

Section

946.300 Qualifications of the Certifying Physician

EMERGENCY

946.310 Physician Written Certification

EMERGENCY

946.315 Waiver for Increasing the Adequate Supply of Medical Cannabis

EMERGENCY

946.320 Records Maintained by the Physician and Department

SUBPART D: CANNABIS-INFUSED PRODUCTS

Section

946.400 Manufacture of Cannabis-Infused Products

946.410 Sale and Distribution of Cannabis-Infused Products

946.420 Preparation

946.430 Health Hazards

SUBPART E: ENFORCEMENT

Section

946.500 Circuit Court Review

EMERGENCY

AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

SOURCE: Adopted at 38 Ill. Reg. 17367, effective July 29, 2014; emergency amendment at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 7712, effective May 15, 2015; emergency amendment at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days; emergency amendment to emergency rule at 40 Ill. Reg. _____, effective _____, for the remainder of the 150 days.

SUBPART A: GENERAL PROVISIONS

Section 946.30 Addition of Debilitating Medical Conditions

EMERGENCY

Residents may petition the Department to add debilitating medical conditions to those listed in Section 10(h) of the Act and Section 946.20. The Department will accept petitions annually. The annual petition period for accepting petitions will be for a one-month period from January 1 through January 31 each year. Petitions received outside of the open periods specified in this Section will not be reviewed and will be returned to the resident submitting the petition.

- a) *During the open period, the Department will accept petitions from any resident requesting the addition of a new debilitating medical condition or disease to the list of approved debilitating medical conditions for which the use of cannabis has been shown to have a therapeutic or palliative effect. The Department shall provide public notice 30 days before the open period for accepting petitions, which shall describe the time period for submission, the required format of the submission, and the submission address, which is set forth in Section 946.205. (Section 45(b) of the Act)*
- b) *Each petition shall be limited to one proposed debilitating medical condition or disease. (Section 45(c) of the Act)*
- c) *A petitioner shall file one original petition in the format provided by the Department and in the manner specified by the Department. For a petition to be processed and reviewed, the following information shall be included: (Section 45(d) of the Act)*
 - 1) *A specific description of the medical condition or disease that is the subject of the petition. The petitioner shall not submit broad categories, e.g., all mental illnesses. Each petition shall be limited to a single condition or disease. Information about the proposed condition or disease shall include:*

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

- A) *The extent to which the condition or disease itself and/or the treatments cause severe suffering, such as severe and/or chronic pain, severe nausea and/or vomiting, or otherwise severely impair a person's ability to carry on with activities of daily living;*
 - B) *Information about why conventional medical therapies are not sufficient to alleviate the suffering caused by the disease or condition and its treatment;*
 - C) *The proposed benefits from the medical use of cannabis specific to the medical condition or disease;*
 - D) *Evidence from the medical community and other experts supporting the use of medical cannabis to alleviate suffering caused by the condition or disease and/or treatment;*
 - E) *Letters of support from physicians or other licensed health care providers knowledgeable about the condition or disease, including, if feasible, a letter from a physician with whom the petitioner has a bona-fide physician-patient relationship;*
 - F) *Any additional medical, testimonial or scientific documentation; and*
 - G) *An electronic copy of all materials submitted.*
- 2) *Upon receipt of a petition, the Department shall determine whether the petition meets the standards for submission and, if so, will accept the petition for further review; or whether the petition does not meet the standards for submission and, if so, shall deny the petition without further review.*
 - 3) *If the petition does not fulfill the standards for submission, the petition shall be considered deficient. The Department shall notify the petitioner, who may correct any deficiencies and resubmit the petition during the next open period.*
- d) The petitioner may withdraw his or her petition by submitting a written statement to the Department indicating withdrawal.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

- e) *Upon review of accepted petitions, the Director will consult with Department staff to analyze the clinical and scientific merit of the petitions. This consultation will occur before the Director renders a final decision regarding the acceptance or denial of the proposed debilitating medical conditions or diseases. (Section 45(f) of the Act) The Department's analysis will be recorded in a format prescribed by the Department.*
- f) *The Department will approve or deny a petition within 180 days after its submission. (Section 45(a) of the Act)*
- g) All petitions to add debilitating conditions submitted to the Department in January 2016 will be reviewed in accordance with the rules for the addition of debilitating medical conditions in effect at the time of submission~~Section 946.30~~.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 40 Ill. Reg., effective _____, for the remainder of the 150 days)

SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section 946.210 Fees

EMERGENCY

- a) Except as set forth in subsection (b), the registration, renewal and replacement card fees are as specified in this subsection (a). All fees submitted to the Department shall be non-refundable. Annually, the Department may revise these fees:

- 1) Qualifying patient application fee valid ~~for:(valid for three years)~~ **\$300**
 - A) One year **\$100**
 - B) Two years **\$200**
 - C) Three years **\$250**
- 2) Qualifying patient under 18 years of age application fee (includes one caregiver application fee) valid for:~~(valid for three years)~~ **\$300**

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

- | | | | |
|--|-----------|--------------------|--------------|
| | <u>A)</u> | <u>One year</u> | <u>\$100</u> |
| | <u>B)</u> | <u>Two years</u> | <u>\$200</u> |
| | <u>C)</u> | <u>Three years</u> | <u>\$250</u> |
- 3) Caregiver or second caregiver for a patient under 18 years of age application fee valid for:(valid for three years) \$75
- | | | | |
|--|-----------|--------------------|-------------|
| | <u>A)</u> | <u>One year</u> | <u>\$25</u> |
| | <u>B)</u> | <u>Two years</u> | <u>\$50</u> |
| | <u>C)</u> | <u>Three years</u> | <u>\$75</u> |
- 4) Replacement card fee \$25
- 5) Returned check fee \$35
- b) The Department may reduce registration and renewal card fees for a qualifying patient enrolled in the federal Social Security Disability Income (SSDI) or the Supplemental Security Income (SSI) disability programs, with submission of proof as described in subsection (b)(2), and for veterans with proof of service as described in subsection (b)(3).
- | | | |
|----|--|--------------|
| 1) | Reduced qualifying patient application fee | <u>\$150</u> |
| | <u>valid for:(valid for three years)</u> | |
- | | | | |
|--|-----------|--------------------|--------------|
| | <u>A)</u> | <u>One year</u> | <u>\$50</u> |
| | <u>B)</u> | <u>Two years</u> | <u>\$100</u> |
| | <u>C)</u> | <u>Three years</u> | <u>\$150</u> |
- 2) The applicant enrolled in the federal Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) disability program shall submit a "Benefit Verification Letter" from the Social Security Administration, showing the individual's name and address and the type of

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

benefits received. The letter must be dated within the last year. A copy of the letter may be obtained on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.

- 3) Veterans shall provide a copy of their DD214.
- c) Registered qualifying patients seeking to add a designated caregiver after a registry identification card has been issued shall submit a fee of ~~\$50~~^{\$75} for the designated caregiver application and an additional \$25 replacement card fee to print a new registry identification card for the registered qualifying patient. The designated caregiver registry card shall expire on the same day as the registered qualifying patient registry card expiration date.

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 40 Ill. Reg. _____, effective _____, for the remainder of the 150 days)

Section 946.290 Renewal of Registry Identification Cards

EMERGENCY

- a) Medical cannabis registry identification cards may be valid for up to three years.
- b) If the qualifying patient or designated caregiver who applied for and received a registry identification card that was approved for a 12-month period before September 12, 2016 seeks to extend his or her registry identification card for up to three years from the original effective date, then the patient or caregiver shall complete a renewal application no less than 45 days prior to the expiration date of the card. It is not necessary to provide proof of Illinois residency, obtain a physician certification or obtain a fingerprint background check. A fee is required in accordance with Section 946.210. The qualifying patient or designated caregiver may seek a renewal of the registry identification card for a period of one year or two years by paying the fee required (see Section 946.210).
- c) At the end of every three-year period, no~~No~~ less than 45 days prior to the expiration of a registry identification card, the qualifying patient and designated caregiver, if one is indicated, may apply for a new~~renewal of his or her~~ registry identification card as follows:

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

- ~~1)a)~~ Submit a completed renewal application for the qualifying patient and designated caregiver, if one is indicated, to the Department on the required forms and include:

 - ~~A)1)~~ One clear photocopy of a U.S. or State government-issued photo ID, such as a driver's license, as proof of identity;
 - ~~B)2)~~ Proof of Illinois residency by meeting the requirements specified in Section 946.200(c); and
 - ~~C)3)~~ A signed and dated written physician's certification meeting the requirements of this Part and dated not more than 90 days prior to the application renewal date. A qualifying patient who is a veteran or spouse of a veteran and receiving medical care for his or her qualifying medical condition at a VA hospital shall submit his or her official VA Medical Record instead of a written physician's certification;
- ~~2)b)~~ Designate the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis; and
- ~~3)c)~~ Pay the required application fee (see Section 946.210).
- d) If a qualified registered patient or designated caregiver who was issued a registry identification card for a period of one or two years after September 12, 2016 seeks to extend his or her registry identification card up to three-years from the registry identification card's original effective date, he or she may complete a renewal application no less than 45 days before the expiration date. It is not necessary to provide proof of Illinois residency, obtain a physician certification or obtain a fingerprint background check. The qualifying patient or designated caregiver may seek a renewal of the registry identification card for a period of one year or two years by paying the fee required by Section 946.210. Registered qualifying patient's and designated caregivers who applied and received a registry identification card, which was approved for a 12-month period, before July 31, 2016 may choose to extend their registry identification card by submitting a request for extension on forms provided by the Department and paying the difference between the fees specified in Section 946.210 and the fee already paid at the time of original application. No fingerprint background check or physician certification shall be required. The Department will issue a new registry identification card for an additional two years.

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULE

(Source: Amended by emergency rulemaking at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 40 Ill. Reg. _____, effective _____, for the remainder of the 150 days)