

*Title:* COVID-19 Public Health Emergency:  
Recommendations for Therapeutic Marijuana

Policy No. I.D.22

Issued: 04-14-2020  
Ratified: 05-27-2020  
Extended: 11-18-2020

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1. The Board office received requests from some of the marijuana pharmacies relative to the mode of transmission of recommendations for therapeutic marijuana from the physicians.
  2. The La. State Board of Medical Examiners licenses and regulates physicians authorized to issue recommendations for therapeutic marijuana. Their rules, more specifically at LAC 46:XLV.7721.C, requires the transmission of recommendations by facsimile or other electronic manner that provides for the privacy and security of the medical and health information contained therein.
  3. Some physician's offices are operating almost exclusively with telemedicine capacity which means facsimile transmission is not always available. Physicians offered to send email communications to the pharmacies with the written recommendation forms as attachments to the email.
  4. The Board President took note of the medical board rule as well as the business interruptions caused by the public health emergency; he directed staff to issue guidance to the marijuana pharmacies allowing them to receive and execute recommendations for therapeutic marijuana attached to email communications in lieu of facsimile communications.

*Note*

- Act 286 of the 2020 Legislature made several significant changes to the medical marijuana law, one of which was the removal of the authority for the Board of Medical Examiners to license and regulate any activity by physicians relative to the issuance of recommendations for therapeutic marijuana. The act became effective on August 1, 2020. Therefore, the medical board rule cited in Item 2 above, which was promulgated on the basis of that board's previous authority in the medical marijuana law, became null and void on August 1, 2020.
- During the Board's July 28 meeting, the members voted to adopt and issue an Emergency Rule which amends the Board's rules for marijuana pharmacies to provide for the transmission of marijuana recommendations to marijuana pharmacies. The Emergency Rule became effective August 1, 2020. The relevant portion of that proposed rule is presented here:

**§2457. Standards of Practice**

A. - D.5. ...

**E. Professional Practice Standards**

1. Recommendation/opinion/referral (hereinafter, "request") for Therapeutic Marijuana
  - a. The pharmacist may accept any request for a marijuana product which has been:
    - i. Issued by a physician in possession of a current and unrestricted license to practice medicine from the Louisiana State Board of Medical Examiners as well as a current and unrestricted state controlled substance license with therapeutic marijuana privileges from the board; and
    - ii. Received directly from the physician and not from the patient or any third party other than the entity transmitting the request, either by electronic means conforming with the provisions of 21 CFR 1311 or its successor, or in the alternative, by facsimile bearing a handwritten or digital signature of the physician.
  - b. The request shall disclose the following information, at a minimum:
    - i. Name, address, telephone number, and national provider identifier (NPI) number of the physician issuing the request;
    - ii. Name, address and date of birth (or age) of the patient for whom the request was issued;
    - iii. Identification of the debilitating medical condition for which the treatment has been requested;
    - iv. Treatment requested;
    - v. Date request was issued;
    - vi. Self-certification the physician holds a current and unrestricted license to practice medicine issued by the Louisiana State Board of Medical Examiners; and
    - vii. Signature of the physician issuing the recommendation, excluding any proxy or agent.
  - c. Requests for marijuana products shall expire one year after the date of issue, unless a shorter period of time is indicated by the physician. A pharmacist may dispense marijuana product on multiple occasions as indicated by the physician and needed by the patient until the request expires; however the pharmacist shall not dispense more than a 90-day supply of marijuana product at one time nor more than a one year supply of marijuana product pursuant to a single request. A pharmacist shall not dispense marijuana product pursuant to an expired request.

2. - 6.e.iv. ...

- During their August 27, 2020 meeting, the Occupational Licensing Review Commission approved the initiation of *Regulatory Project 2020-8 ~ Marijuana Recommendations*.
  - The Board re-published the original Emergency Rule on November 25, 2020. It was scheduled to expire on March 25, 2021; however, the Emergency Rule was cancelled on February 20, 2021 with the promulgation of the Final Rule.
5. During their November 18, 2020 meeting, the members voted to extend this interim policy until the conclusion of the public health emergency unless terminated sooner.