CANNABIS-BASED MEDICINE REGULATORY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies and enacts provisions related to cannabis-based medicine.

Highlighted Provisions:

This bill:

- directs the Department of Health to issue a medical cannabis card to a registered patient;
- directs the Division of Occupational and Professional Licensing to issue a license to operate a CBM dispensary to a person that meets certain qualifications;
- directs the Department of Agriculture and Food to issue a license to operate a cannabis producer to a person that meets certain qualifications;
- directs the Department of Financial Institutions to issue a license to a person to operate a cannabis payment processor;
- requires a CBM dispensary to report the distribution of cannabis-based medicine to an individual to the controlled substance database;
- permits a political subdivision to restrict the location of and operations of a CBM dispensary or medical cannabis-based medicine establishment through local zoning ordinances and business licenses;
- allows a licensed person to grow cannabis, to process cannabis, and to possess and sell cannabis-based medicine under certain circumstances;
- requires a physician who recommends cannabis-based medicine to a patient to:
  - receive training;
  - report adverse events to the Department of Health; and
  - limit the number of patients for whom the physician will recommend cannabis-based medicine;
- imposes a tax on the retail sale of cannabis-based medicine;
- amends provisions related to driving with a measurable metabolite of cannabis-based medicine;
creates the Medical Cannabis Restricted Account;
prohibits a court from discriminating against a parent in a child custody case based
on the parent's legal use of cannabis-based medicine; and
prohibits a peace officer or child welfare worker from removing a child from an
individual's home on the basis of the individual's lawful use of cannabis-based
medicine.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
41-6a-517, as last amended by Laws of Utah 2013, Chapter 333
62A-4a-202.1, as last amended by Laws of Utah 2012, Chapters 221 and 293
78A-6-508, as last amended by Laws of Utah 2014, Chapter 409

ENACTS:
4-42-101, Utah Code Annotated 1953
4-42-102, Utah Code Annotated 1953
4-42-103, Utah Code Annotated 1953
4-42-104, Utah Code Annotated 1953
4-42-201, Utah Code Annotated 1953
4-42-202, Utah Code Annotated 1953
4-42-203, Utah Code Annotated 1953
4-42-204, Utah Code Annotated 1953
4-42-205, Utah Code Annotated 1953
4-42-301, Utah Code Annotated 1953
4-42-302, Utah Code Annotated 1953
4-42-401, Utah Code Annotated 1953
4-42-402, Utah Code Annotated 1953
4-42-403, Utah Code Annotated 1953
4-42-404, Utah Code Annotated 1953
4-42-501, Utah Code Annotated 1953
4-42-601, Utah Code Annotated 1953
4-42-602, Utah Code Annotated 1953
4-42-603, Utah Code Annotated 1953
4-42-701, Utah Code Annotated 1953
4-42-702, Utah Code Annotated 1953
4-42-801, Utah Code Annotated 1953
4-42-802, Utah Code Annotated 1953
4-42-803, Utah Code Annotated 1953
7-26-101, Utah Code Annotated 1953
7-26-102, Utah Code Annotated 1953
7-26-201, Utah Code Annotated 1953
7-26-202, Utah Code Annotated 1953
7-26-203, Utah Code Annotated 1953
7-26-204, Utah Code Annotated 1953
7-26-301, Utah Code Annotated 1953
7-26-401, Utah Code Annotated 1953
7-26-402, Utah Code Annotated 1953
26-59-101, Utah Code Annotated 1953
26-59-102, Utah Code Annotated 1953
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26-59-202, Utah Code Annotated 1953
26-59-203, Utah Code Annotated 1953
26-59-204, Utah Code Annotated 1953
26-59-205, Utah Code Annotated 1953
26-59-206, Utah Code Annotated 1953
26-59-301, Utah Code Annotated 1953
Be it enacted by the Legislature of the state of Utah:
Section 1. Section 4-42-101 is enacted to read:

**CHAPTER 42. CANNABIS PRODUCER LICENSE**

**Part 1. General Provisions**

**4-42-101. Title.**

This chapter is known as "Cannabis Producer License."

Section 2. Section 4-42-102 is enacted to read:

**4-42-102. Definitions.**

As used in this chapter:

(1) "Agent" means an employee or independent contractor of an entity.

(2) "Cannabinoid profile" means the percentage of cannabis-based medicine, by dry weight, that is composed of the cannabinoids:

   (a) tetrahydrocannabinol or THC;
   (b) tetrahyrdocannabinolic acid or THCa;
   (c) cannabidiol or CBD;
   (d) cannabinol or CBN; and
   (e) cannabigerol or CBG.

(3) "Cannabis" means a plant that is:

   (a) cannabis sativa, or any part of the plant cannabis sativa, whether growing or not;

   and

   (b) authorized to be grown under Utah law.

(4) "Cannabis-based medicine" means a substance that is:

   (a) composed, in whole or in part, of cannabis;

   (b) is intended for medical use; and

   (c) is authorized for medical use under Utah law.

(5) "Cannabis-based medicine dispensary" or "CBM dispensary" means a person that:

   (a) sells cannabis-based medicine; or

   (b) purchases or possesses cannabis-based medicine with the intent to sell cannabis-based medicine.

(6) "Cannabis cultivation facility" means a person that:

   (a) grows cannabis; or

   (b) possesses cannabis with the intent to grow cannabis.
(7) "Cannabis laboratory" means a person that:
   (a) conducts a chemical or other analysis of cannabis-based medicine; or
   (b) possesses cannabis-based medicine with the intent to conduct a chemical or other
analysis of the cannabis-based medicine.

(8) "Cannabis payment processor" means the same as that term is defined in Section 7-26-102.

(9) "Cannabis processing facility" means a person that:
   (a) manufactures cannabis-based medicine from cannabis;
   (b) purchases or possesses cannabis with the intent to manufacture cannabis-based
medicine; or
   (c) sells or intends to sell cannabis-based medicine to a CBM dispensary.

(10) "Cannabis producer" means:
   (a) a cannabis cultivation facility;
   (b) a cannabis processing facility; or
   (c) a cannabis laboratory.

(11) "Electronic verification system" means the system described in Section 26-59-104.

(12) "Inventory control system" means the system described in Section 4-42-103.

(13) "Medical cannabis card" means the same as that term is defined in Section 26-59-102.

(14) "Medical Cannabis Restricted Account" means the account created in Section 26-59-105.

(15) "Physician" means the same as that term is defined in Section 26-59-102.

Section 3. Section 4-42-103 is enacted to read:

4-42-103. Inventory control system.

(1) The electronic verification system shall include, for each cannabis producer and CBM dispensary, an inventory control system that meets the requirements of this section.

(2) An inventory control system shall track cannabis-based medicine and the cannabis from which the cannabis-based medicine is derived, in real time, from the time that a cannabis plant is first planted as a department-certified seed or department-certified clone until the cannabis-based medicine derived from the cannabis is sold by a CBM dispensary.

(3) An inventory control system shall store, in real time, a record of the amount of
cannabis or cannabis-based medicine in a cannabis producer or CBM dispensary's possession.

(4) An inventory control system shall include a video recording system that:

(a) tracks all handling and processing of cannabis or a cannabis product in a cannabis
producer or CBM dispensary;

(b) is tamper proof; and

(c) is capable of storing a video record for 180 days.

(5) An inventory control system shall allow access by:

(a) the Department of Public Safety;

(b) the Department of Agriculture and Food;

(c) the Department of Health; and

(d) the Division of Occupational and Professional Licensing within the Department of
Commerce.

Section 4. Section 4-42-104 is enacted to read:

4-42-104. Preemption.

This chapter does not preempt an ordinance enacted by a political subdivision of the
state regarding a cannabis producer that is more restrictive than this chapter.

Section 5. Section 4-42-201 is enacted to read:

4-42-201. Cannabis producer -- License -- Renewal.

(1) A person may not act as a cannabis producer without a license issued by the
department under this chapter.

(2) Subject to Subsections (4) through (6), the department shall, within 60 days after
receiving a complete application, issue a license to operate a cannabis producer to a person that
submits to the department:

(a) a proposed name, address, and physical location where the person will operate the
cannabis producer;

(b) a bond, as required by Section 4-42-205, for each license for which the person
applies;

(c) for each location of a cannabis producer for which the person applies, evidence that
the person can obtain a business license and meet zoning requirements established by a
political subdivision;

(d) an application fee established by the department, in accordance with Section
63J-1-504, that is necessary to cover the department's cost to implement this chapter;

(e) evidence that the person can comply with the requirements in this chapter;

(f) a plan to connect to the inventory control system and electronic verification system;

and

(g) an operating plan that complies with Section 4-42-203.

(3) If the department determines that a cannabis producer is eligible for a license under this section, the department shall charge the cannabis-based medicine establishment an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.

(4) The department shall require a separate license and separate license fee for each type of cannabis producer and each location of a cannabis producer.

(5) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to be operated by:

(a) the same person at the same physical location; or

(b) the same person at separate physical locations.

(6) The department may not issue a license to operate a cannabis laboratory to a person:

(a) that holds a license for or has an ownership interest in a CBM dispensary, a cannabis processing facility, or a cannabis cultivation facility in the state;

(b) that has an owner, officer, board member, volunteer, shareholder, agent, director, or employee whose immediate family member holds a license for or has an ownership interest in a CBM dispensary, a cannabis processing facility, or a cannabis cultivation facility; or

(c) that proposes to operate the cannabis laboratory at the same physical location as a CBM dispensary, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a cannabis producer license to a person that holds a license for, or has an ownership interest in, a CBM dispensary.

(8) The department may revoke a license under this chapter if the cannabis producer is not operational within one year of the issuance of the initial license.

Section 6. Section 4-42-202 is enacted to read:


(1) Except as provided in Subsection (2), the department shall renew a person's cannabis producer license each year if, at the time of renewal:
(a) the person meets the requirements of Section 4-42-201; and
(b) the person pays the department a license renewal fee in an amount determined by
the department in accordance with Section 63J-1-504.

(2) (a) The department may not renew a cannabis producer's license for a sixth
consecutive time unless the department publishes a notice, in a newspaper of general
circulation for the geographic area in which the cannabis producer is located, one year before
the day on which the cannabis producer's license expires, that includes:
(i) the name and location of the cannabis producer;
(ii) the day on which the license for the cannabis producer will expire; and
(iii) a solicitation for cannabis producer license applicants.
(b) If, after the department publishes the notice described in Subsection (2)(a), the
department receives an application for a cannabis producer from a new applicant and also
receives an application for renewal from the existing cannabis producer, the department shall
issue the license to the applicant that the department determines best meets the criteria
established in Section 4-42-204.

(3) (a) If a licensed cannabis producer abandons the cannabis producer's license, the
department shall publish notice of an available license in the same manner as described in
Subsection (2)(a).
(b) The department may establish criteria, in accordance with Title 63G, Chapter 3,
Utah Administrative Rulemaking Act, for what actions by a cannabis producer constitute
abandonment of a cannabis producer license.

Section 7. Section 4-42-203 is enacted to read:

4-42-203. Operating plan.

(1) A person applying for a license to act as a cannabis producer shall submit to the
department, with the person's application, a proposed operating plan that includes:
(a) a description of the physical characteristics of the proposed facility;
(b) a description of the credentials and experience of any proposed cannabis producer
agent;
(c) the cannabis producer's employee training standards;
(d) a security plan;
(e) a plan to process payments through a cannabis payment processor licensed under
Section 7-26-201;

(f) for a cannabis cultivation facility, the information described in Subsection (2);

(g) for a cannabis processing facility, the information described in Subsection (3); and

(h) for a cannabis laboratory, the information described in Subsection (4).

(2) A cannabis cultivation facility's operating plan shall include the cannabis cultivation facility's proposed cannabis cultivation practices, including the cannabis cultivation facility's:

(a) pesticide and fertilizer use;

(b) proposed square footage under cultivation; and

(c) anticipated cannabis yield.

(3) A cannabis processing facility's operating plan shall include the cannabis processing facility's proposed cannabis-based medicine processing practices, including the cannabis processing facility's:

(a) proposed cannabinoid extraction method;

(b) processing equipment; and

(c) other processing techniques.

(4) A cannabis laboratory's operating plan shall include the cannabis laboratory's proposed cannabis and cannabis-based medicine product testing capability.

(5) The department may establish minimum operating plan standards by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 8. Section 4-42-204 is enacted to read:

4-42-204. Department may accept or deny a license -- Maximum number of licenses.

(1) The department may issue up to:

(a) one cannabis cultivation facility license per 750,000 residents of Utah;

(b) one cannabis processing facility license per 500,000 residents of Utah; and

(c) one cannabis laboratory license per 500,000 residents of Utah.

(2) In addition to the licenses available under Subsection (1), if the department determines that the demand for cannabis-based medicine exceeds the supply available from existing licensees, the department may issue:

(a) two cannabis cultivation facility licenses:
(b) one cannabis processing facility license; and
(c) one cannabis laboratory license.

(3) Except as provided in Subsection (4), if the department receives more applications for a license to operate a given type of cannabis producer than are available under Subsection (1) or (2), the department shall award the license to the applicant that best demonstrates:

(a) experience with:
   (i) establishing and running a business in a related field;
   (ii) operating a secure inventory control system;
   (iii) complying with a regulatory environment; and
   (iv) training, evaluating, and monitoring employees;
(b) connections to the local community;
(c) that the applicant will keep the cost of the applicant's products or services low; and
(d) that the applicant's operating plan is effective and meets the department's standards.

(4) The department is not required to issue a license under this section if the department determines that no qualified applicant has applied.

(5) A department decision to award or deny a license under this section is final and not subject to judicial review.

Section 9. Section 4-42-205 is enacted to read:

**4-42-205. Bond for a cannabis producer license.**

(1) A cannabis producer licensed under Section 4-42-201 shall post a cash bond or surety bond, payable to the department, in an amount equal to:

(a) for a cannabis cultivation facility, $2,000,000;
(b) for a cannabis processing facility, $1,000,000; and
(c) for a cannabis laboratory, $75,000.

(2) A cannabis producer licensed under Section 4-42-201 shall maintain the bond described in Subsection (1) for as long as the cannabis producer continues to operate.

(3) The department shall require a bond a cannabis producer posts under this section to be:

(a) in a form approved by the attorney general; and
(b) conditioned upon the cannabis producer's compliance with this chapter.

(4) If a bond described in Subsection (1) is canceled due to a cannabis producer's
negligence, the department may assess the cannabis producer a $300 reinstatement fee.

(5) A cannabis producer may not withdraw any part of a bond posted under Subsection (1):
   (a) during the period when the cannabis producer's license is in effect; or
   (b) while a license revocation proceeding is pending against the cannabis producer.

(6) A cannabis producer forfeits a bond posted under Subsection (1) if the cannabis producer's license is revoked.

(7) The department may, without revoking a license, make a claim against a bond posted by a cannabis producer under Subsection (1) for money the cannabis producer owes the department under this chapter.

Section 10. Section 4-42-301 is enacted to read:

Part 3. Cannabis Producer Agents

4-42-301. Cannabis producer agents.

(1) A cannabis producer licensed under Section 4-42-201 shall maintain a current list of each agent of the cannabis producer.

(2) A cannabis producer shall submit the list described in Subsection (1) to the department before:
   (a) January 1 of each year; and
   (b) July 1 of each year.

(3) In addition to the list described in Subsection (1), a cannabis producer licensed under Subsection 4-42-201 shall require each agent to submit to a criminal background check in accordance with Section 4-42-302.

(4) The department may audit the list described in Subsection (1) at any time, at random, in order to determine:
   (a) that the list is accurate; and
   (b) that each agent has submitted to a criminal background check in accordance with Section 4-42-302.

(5) A cannabis producer is guilty of an infraction if the cannabis producer:
   (a) fails to maintain an accurate list of each agent of the cannabis producer in accordance with this section; or
   (b) has an agent who has not submitted to a background check in accordance with
Section 4-42-302.

Section 11. Section 4-42-302 is enacted to read:


(1) Each cannabis producer agent shall:

(a) submit to the department:

(i) a fingerprint card in a form acceptable to the Department of Public Safety; and

(ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the agent's fingerprints are being registered in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service; and

(b) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints submitted under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation's Next Generation Identification system;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints submitted under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation's Next Generation Identification system's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification system and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the entity only receives notifications for an individual with whom the entity maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints, in accordance with this section, a fee that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification or other authorized agency provides under this section; and

(b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal Identification.
Section 12. Section 4-42-401 is enacted to read:

Part 4. General Cannabis Producer Operating Requirements

4-42-401. Cannabis producer -- General operating requirements.

(1) (a) A cannabis producer shall operate in accordance with the operating plan the cannabis producer provides to the department under Section 4-42-203.
(b) A cannabis producer shall notify the department within 30 days of any change in the cannabis producer's operation plan.
(c) The department shall review a cannabis producer's operating plan for compliance with state law and administrative rules.
(d) A cannabis producer may not operate under an operating plan until the operating plan is reviewed and approved by the department under Subsection (1)(c).

(2) Except as provided in Subsection (3), a cannabis producer shall operate:
(a) in a facility that is accessible only by an agent of the cannabis producer; and
(b) at the physical address provided to the department under Section 4-42-201.

(3) A cannabis-based medicine production facility may allow the press, a visitor, or a contractor access to the cannabis producer if:
(a) the cannabis-based medicine production facility tracks and monitors the individual at all times while the individual is in the cannabis producer; and
(b) a record of the individual's access to the cannabis producer is maintained by the cannabis producer.

(4) A cannabis producer shall have:
(a) a single, secure public entrance;
(b) a security system with a backup power source that:
(i) detects and records entry into the cannabis producer when the cannabis producer is closed; and
(ii) provides notice of an unauthorized entry to law enforcement; and
(c) a lock on any area where the cannabis producer stores cannabis or cannabis-based medicine.

(5) Except when determined by the Department of Financial Institutions under Section 7-26-204, a cannabis producer may only transmit or accept payments for cannabis-based medicine using a cannabis payment processor licensed under Section 7-26-201.
(6) The department shall establish physical facility standards for a cannabis producer
by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 13. Section 4-42-402 is enacted to read:

**4-42-402. Inspections.**

(1) Subject to Subsection (2), the department shall inspect the records and facility of a
cannabis producer in order to determine if the cannabis producer complies with the
requirements of this chapter.

(2) The department may inspect the records and facility of a cannabis producer:
(a) as many as four times per year, scheduled or unscheduled; and
(b) if the department has reason to believe that the cannabis producer has violated the
law, at any time, scheduled or unscheduled.

Section 14. Section 4-42-403 is enacted to read:

**4-42-403. Advertising.**

A cannabis producer may not advertise to the general public in any medium.

Section 15. Section 4-42-404 is enacted to read:

**4-42-404. Cannabis or cannabis-based medicine transportation.**

(1) An individual may not transport cannabis or cannabis-based medicine between two
cannabis producers, or between a cannabis producer and a CBM dispensary, unless the
individual is an agent of a licensed cannabis producer or licensed cannabis dispensary.

(2) An individual transporting cannabis-based medicine or cannabis shall keep a
transportation record that includes:
(a) a bar code or unique identifier that links the cannabis or cannabis-based medicine to
a related inventory control system;
(b) origin and destination information for any cannabis or cannabis-based medicine the
individual is transporting; and
(c) a record of the departure and arrival time of the individual transporting the cannabis
or cannabis-based medicine.

(3) In addition to the requirements in Subsections (1) and (2), the department shall
establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, requirements for transporting cannabis or cannabis-based medicine related to
safety for human cannabis-based medicine consumption.
(4) An agent of a cannabis producer is guilty of an infraction if the agent:
(a) transports cannabis or cannabis-based medicine; and
(b) does not possess, on the agent's person or in the transport vehicle, a transportation record that complies with Subsection (2).

(5) An agent who is guilty of an infraction under Subsection (4) is subject to a $100 fine.

(6) If the department or a cannabis producer or cannabis dispensary agent discovers a defect in the transportation record, the department or agent shall notify law enforcement immediately.

Section 16. Section 4-42-501 is enacted to read:

Part 5. Cannabis Cultivation Facility Operating Requirements

4-42-501. Cannabis cultivation facility -- Operating requirements.
(1) As used in this section, "low-THC cannabis" means cannabis that has a delta-9 tetrahydrocannabinol concentration of less than 0.3% by dry weight.

(2) A cannabis cultivation facility shall cultivate cannabis indoors, in a facility equipped with a carbon filtration system for air output.

(3) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from outside the cannabis cultivation facility.

(4) A cannabis cultivation facility shall use a unique identifier for:
(a) each batch of cannabis transferred to a cannabis processing facility; and
(b) each unique harvest of cannabis plants.

(5) If a cannabis cultivation facility cultivates cannabis other than low-THC cannabis, the cannabis cultivation facility shall cultivate the cannabis and low-THC cannabis in separate spaces with a physical barrier between the spaces.

(6) The department shall establish human safety standards, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a cannabis cultivation facility's:
(a) use of pesticides;
(b) use of fertilizers; and
(c) cultivation techniques.

Section 17. Section 4-42-601 is enacted to read:
Part 6. Cannabis Processing Facility Operating Requirements

4-42-601. Cannabis processing facility -- Operating requirements.
(1) A cannabis processing facility shall ensure that cannabis-based medicine that the cannabis processing facility sells or provides to a CBM dispensary complies with the requirements of this part.
(2) A cannabis processing facility shall operate in a facility with a carbon filtration system for air output.

Section 18. Section 4-42-602 is enacted to read:

4-42-602. Cannabis-based medicine -- Product requirements.
(1) A cannabis processing facility may only produce cannabis-based medicine in a medical dosage form that is:
   (a) a tablet;
   (b) a capsule;
   (c) a concentrated oil;
   (d) a trans-dermal preparation; or
   (e) a sub-lingual preparation.
(2) The Controlled Substances Advisory Committee may recommend that the Legislature approve the use of an additional medical dosage form.

Section 19. Section 4-42-603 is enacted to read:

4-42-603. Cannabis-based medicine -- Labeling and packaging.
(1) A cannabis processing facility shall ensure that all cannabis-based medicine that the cannabis processing facility distributes:
   (a) clearly and unambiguously states that the cannabis-based medicine contains cannabis;
   (b) clearly displays the cannabinoid profile of the cannabis-based medicine;
   (c) has a unique batch identifier that identifies the unique manufacturing process when the cannabis-based medicine was manufactured;
   (d) has a bar code or other identifier that allows the cannabis-based medicine to be tracked by an inventory control system and the electronic verification system; and
   (e) contains information required by the department in accordance with Subsection (3).
(2) A cannabis processing facility shall package cannabis-based medicine in a
container that:

(a) is tamper resistant and opaque; and

(b) complies with physical criteria required by the department in accordance with Subsection (3).

(3) The department shall establish cannabis-based medicine labeling and packaging standards by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 20. Section 4-42-701 is enacted to read:

Part 7. Cannabis Laboratory Operating Requirements

4-42-701. Cannabis and cannabis-based medicine testing.

(1) A cannabis laboratory shall, before cannabis-based medicine is offered for sale at a CBM dispensary, test the cannabis-based medicine as described in this section.

(2) A cannabis laboratory may not operate unless the cannabis laboratory is capable of accurately testing cannabis-based medicine as described in this section.

(3) An independent testing laboratory shall determine the cannabinoid profile of cannabis-based medicine.

(4) A cannabis laboratory shall determine if cannabis-based medicine contains, in an amount that is harmful to human health:

(a) mold;

(b) fungus;

(c) pesticides; or

(d) other microbial contaminants.

(5) For cannabis-based medicine that is manufactured using a process that involves extraction using hydrocarbons, a cannabis laboratory shall test the cannabis-based medicine for residual solvents.

(6) A cannabis laboratory shall test any cannabis that the cannabis laboratory receives from a cannabis cultivation facility using carbon stable isotope testing to determine:

(a) the origin of the cannabis;

(b) the conditions under which the cannabis was grown; and

(c) any other information required by the department under Subsection (7) about the cannabis that can be determined using stable isotope testing.
(7) The department shall determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the amount of substances described in Subsection (4) and the amount of residual solvents that are safe for human consumption;

(b) additional cannabis or cannabis-based medicine testing that a cannabis laboratory is required to perform; and

(c) minimum standards for a cannabis laboratory's testing methods and procedures.

Section 21. Section 4-42-702 is enacted to read:

4-42-702. Reporting -- Inspections.

(1) A cannabis laboratory shall report the results of each cannabis or cannabis-based medicine test to the department.

(2) A cannabis laboratory shall determine if the results of a lab test indicate that a cannabis or cannabis-based medicine batch:

(a) is unsafe for human consumption; or

(b) using a carbon stable isotope test, was not cultivated in accordance with this chapter.

(3) If a cannabis laboratory makes a determination described in Subsection (2), the cannabis laboratory may not release the batch to a cannabis processing facility or a CBM dispensary until the department has an opportunity to respond to the cannabis laboratory within a period of time determined by the department.

(4) (a) If the department determines that a cannabis or cannabis-based medicine batch is unsafe for human consumption, the department shall destroy the cannabis or cannabis-based medicine batch.

(b) If the department determines that a cannabis or cannabis-based medicine batch was not cultivated in accordance with this chapter, the department may seize, embargo, or destroy a cannabis or cannabis-based medicine batch in accordance with Section 4-42-801.

(5) The department shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the amount of time that a cannabis laboratory is required to hold a batch under Subsection (3).

(6) The department may conduct a test to:

(a) determine the accuracy of a cannabis laboratory's:
(i) cannabis or cannabis-based medicine test results; or

(ii) analytical method; or

(b) validate a cannabis laboratory's testing methods.

Section 22. Section 4-42-801 is enacted to read:

**Part 8. Enforcement**

4-42-801. Enforcement -- Fine -- Citation.

(1) The department may, for a violation of this chapter by a cannabis producer:

(a) revoke the cannabis producer's license;

(b) refuse to renew the cannabis producer's license;

(c) assess the cannabis producer an administrative penalty; or

(d) take any other appropriate administrative action.

(2) The department shall deposit an administrative penalty imposed under this section into the Medical Cannabis Restricted Account.

(3) (a) The department may take an action described in Subsection (3)(b) if the department concludes, upon inspection or investigation, that, for a person that is a cannabis producer:

(i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter;

(ii) the person prepared a cannabis or cannabis-based medicine batch in a manner, or such that the batch contains a substance, that poses a threat to human health; or

(iii) the person possessed or used a cannabis batch that was not cultivated in accordance with this chapter.

(b) If the department makes the determination about a person described in Subsection (3)(a)(i), the department shall:

(i) issue the person a citation in writing;

(ii) attempt to negotiate a stipulated settlement; or

(iii) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(c) If the department makes the determination about a person described in Subsection (3)(a)(ii), the department may:

(i) seize, embargo, or destroy a cannabis or cannabis-based medicine batch; and
(ii) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section:

(a) assess the person a fine, established in accordance with Section 63J-1-504, of up to $5,000 per violation, in accordance with a fine schedule established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(5) The department may not revoke a cannabis producer's license via a citation.

(6) If within 20 calendar days after the day on which the department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the basis of the department's final order.

(7) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license; or

(b) suspend, revoke, or place on probation the person's license.

Section 23. Section 4-42-802 is enacted to read:

4-42-802. Report to the Legislature.

The department shall report, each year before November 1, to the Health and Human Services Interim Committee on the department's administration and enforcement of this chapter.

Section 24. Section 4-42-803 is enacted to read:

4-42-803. Fees -- Deposit into Medical Cannabis Restricted Account.

The department shall deposit fees the department collects under this chapter into the Medical Cannabis Restricted Account.

Section 25. Section 7-26-101 is enacted to read:

CHAPTER 26. CANNABIS PAYMENT PROCESSOR


7-26-101. Title.

This chapter is known as "Cannabis Payment Processor."
Section 26. Section 7-26-102 is enacted to read:

7-26-102. Definitions.

As used in this chapter:

(1) "Cannabis" means a plant that is:

(a) cannabis sativa, or any part of the plant cannabis sativa, whether growing or not; and

(b) authorized to be grown under Utah law.

(2) "Cannabis-based medicine" means a substance that is:

(a) composed, in whole or in part, of cannabis;

(b) intended for medical use; and

(c) authorized for medical use under Utah law.

(3) "Cannabis cultivation facility" means the same as that term is defined in Section 4-42-102.

(4) "Cannabis payment processor" means a person that facilitates payment:

(a) without using cash;

(b) electronically, in connection with the electronic verification system; and

(c) (i) by a cannabis producer:

(A) for cannabis, from a cannabis processing facility to a cannabis cultivation facility;

(B) for cannabis or cannabis-based medicine testing, from a cannabis processing facility to a cannabis laboratory; or

(ii) by an individual with a medical cannabis card, for cannabis-based medicine, to a CBM dispensary.

(C) for cannabis-based medicine, from a CBM dispensary to a cannabis processing facility; or

(ii) by an individual with a medical cannabis card, for cannabis-based medicine, to a CBM dispensary.

(5) "Cannabis processing facility" means the same as that term is defined in Section 4-42-102.

(6) "CBM dispensary" means the same as that term is defined in Section 26-59-102.

(7) "Electronic verification system" means the same as that term is defined in Section 26-59-102.

Section 27. Section 7-26-201 is enacted to read:

Part 2. Cannabis Payment Processor License
7-26-201. Cannabis payment processor -- License.

(1) Subject to this chapter, the department shall issue a license to a person to operate as a cannabis payment processor.

(2) A person may not act as a cannabis payment processor without a license issued by the department under this section.

(3) An applicant for a cannabis payment processor license shall:

(a) submit to the department:

(i) the applicant's name, business address, and place of incorporation;

(ii) the name of each owner, officer, director, board member, shareholder, agent, employee, or volunteer of the applicant; and

(iii) a fee in accordance with Section 7-1-401; and

(b) present evidence to the department that:

(i) the applicant is capable of electronically receiving funds from, and distributing funds to:

(A) a cannabis producer;

(B) a CBM dispensary; and

(C) an individual with a medical cannabis card;

(ii) the applicant has a partnership, service agreement, or service contract with a federally insured depository institution that agrees to clear cannabis-based medicine transactions;

(iii) the applicant is able to interface with the electronic verification system to enable an individual with a medical cannabis card to:

(A) add funds, using a bank wire or a credit card, to an account with the applicant associated with the medical cannabis card; and

(B) use the medical cannabis card to pay for cannabis-based medicine at a CBM dispensary using the funds in the individual's account with the cannabis payment processor; and

(iv) the applicant is, at minimum:

(A) a level one payment card industry data security standard-validated provider;

(B) certified by Europay, MasterCard, and Visa; and

(C) capable of integrating with 50 payment processors.
(4) A license issued under this section is valid for two years.

(5) The department may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) any additional information an applicant for a cannabis payment processor is required to submit to the department; and

(b) procedural requirements for an applicant for a license under this chapter.

(6) An applicant for a cannabis payment processor license under this section may request that the department treat information that the applicant submits to the department as confidential under Section 7-1-802.

Section 28. Section 7-26-202 is enacted to read:


(1) Except as provided in Subsection (2), the department shall renew a person's cannabis payment processor license every two years if, at the time of renewal, the person:

(a) meets the requirements of Section 7-26-201;

(b) demonstrates the criteria described in Subsection 7-26-203(2); and

(c) pays the department a license renewal fee in an amount determined by the department in accordance with Section 7-1-401.

(2) (a) The department may not renew a cannabis payment processor's license for a consecutive time unless the department publishes a notice, in a newspaper of general circulation for the geographic area in which the cannabis payment processor is located, one year before the day on which the cannabis payment processor's license expires, that includes:

(i) the name and location of the cannabis payment processor;

(ii) the day on which the license for the cannabis payment processor will expire; and

(iii) a solicitation for cannabis payment processor license applicants.

(b) If, after the department publishes the notice described in Subsection (2)(a), the department receives an application for a cannabis payment processor license from a new applicant and also receives an application for renewal from the existing cannabis producer, the department may issue the license to the applicant that the department determines best meets the criteria established in Section 7-26-203.

(3) (a) If a person who is a licensed cannabis payment processor abandons the person's cannabis payment processor license, or has the person's license revoked, the department shall
publish notice of an available license in the same manner as described in Subsection (2)(a).

(b) The department may establish criteria, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for what actions by a cannabis payment processor constitute abandonment of a cannabis payment processor license.

Section 29. Section 7-26-203 is enacted to read:

7-26-203. Number of licenses -- Criteria for awarding a license.

(1) The department may only issue one cannabis payment processor license under this chapter.

(2) The department shall evaluate an applicant for a cannabis payment processor license to determine to what extent the applicant has demonstrated:

(a) experience with:

(i) establishing and running a business in a related field;

(ii) operating a payment processing system;

(iii) complying with a regulatory environment; and

(iv) training, evaluating, and monitoring employees;

(b) connections to the local community;

(c) that the applicant will keep the cost of the applicant's products or services low; and

(d) that the applicant will maximize convenience, efficiency, and security for processing cannabis-based medicine payments.

(3) After a department official reviews an applicant's application under Section 7-26-201 and evaluates the application for the criteria described in Subsection (2), the official shall submit the department's findings and recommendations to the commissioner.

(4) After reviewing the findings and recommendations described in Subsection (3), the commissioner shall make a final determination that awards or denies a cannabis payment processor license to an applicant.

(5) In making a recommendation of which applicant to award a cannabis payment processor license under Subsection (1), the department shall consult, to the extent that the consultation involves compatibility and coordination of a cannabis payment processor licensee with other state cannabis-based medicine regulation, with:

(a) the executive director of the Department of Commerce or the executive director's designee:
(b) the chair of the State Tax Commission or the chair's designee;
(c) the chief information officer of the Department of Technology Services or the chief information officer's designee;
(d) the executive director of the Department of Health or the executive director's designee;
(e) the commissioner of the Department of Agriculture and Food or the commissioner's designee; and
(f) the commissioner of the Department of Public Safety or the commissioner's designee.

(6) An applicant for which the department denies an application is entitled to judicial review under Section 7-1-714.

Section 30. Section 7-26-204 is enacted to read:

7-26-204. Cash system if no cannabis payment processor available.

(1) The department shall determine if no qualified cannabis payment processor submitted an application for a license under this chapter.

(2) If the department makes the determination described in Subsection (1), the department shall issue a statement that a cannabis payment processor is not available and that a cannabis producer, CBM dispensary, or individual with a medical cannabis card may use cash to pay for cannabis, cannabis-based medicine, or services related to cannabis or cannabis-based medicine.

Section 31. Section 7-26-301 is enacted to read:

Part 3. Operating Requirements

7-26-301. Operating requirements.

(1) A cannabis payment processor may not accept or disburse cash in a transaction involving cannabis-based medicine.

(2) A cannabis payment processor may not act as a cannabis payment processor for a person unless the person is:

(a) an individual with a medical cannabis card issued by the Department of Health under Title 26, Chapter 59, Cannabis-Based Medicine Act; or

(b) a person who is licensed under:

(i) Title 4, Chapter 42, Cannabis Producer License; or
(ii) Title 58, Chapter 87, CBM Dispensary License.

(3) A cannabis payment processor shall maintain interoperability with the electronic verification system.

Section 32. Section 7-26-401 is enacted to read:

Part 4. Enforcement

7-26-401. Examination -- Administrative action.

(1) The department may examine the records or activities of a cannabis payment processor at any time in order to determine if the cannabis payment processor is complying with this chapter.

(2) If the department determines that a person is acting as a cannabis payment processor without a license issued under this section, the department may:

(a) order the person to cease and desist from acting as a cannabis payment processor;

and

(b) assess the person a fine in an amount determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) If the department determines that a person with a cannabis payment processor license issued by the department has violated this chapter, the department may:

(a) order the person to cease and desist from the violation;

(b) assess the person a fine in an amount determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(c) revoke the person's license.

Section 33. Section 7-26-402 is enacted to read:

7-26-402. Fees -- Deposit into Medical Cannabis Restricted Account.

The department shall deposit fees the department collects under this chapter into the Medical Cannabis Restricted Account.

Section 34. Section 26-59-101 is enacted to read:

CHAPTER 59. CANNABIS-BASED MEDICINE ACT


26-59-101. Title.

This chapter is known as "Cannabis-Based Medicine Act."
Section 35. Section 26-59-102 is enacted to read:


(1) "Agent" means an employee or independent contractor of an entity.

(2) "Cannabinoid profile" means the percentage of cannabis-based medicine, by dry weight, that is composed of the cannabinoids:

(a) tetrahydrocannabinol or THC;
(b) tetrahyrocannabinolic acid or THCa;
(c) cannabidiol or CBD;
(d) cannabinol or CBN; and
(e) cannabigerol or CBG.

(3) "Cannabis" means a plant that is:

(a) cannabis sativa, or any part of the plant cannabis sativa, whether growing or not; and
(b) authorized to be grown under Utah law.

(4) "Cannabis-based medicine" means a substance that is:

(a) composed, in whole or in part, of cannabis;
(b) intended for medical use; and
(c) authorized for medical use under Utah law.

(5) "Cannabis-based medicine dispensary" or "CBM dispensary" means a person that:

(a) sells cannabis-based medicine; or
(b) purchases or possesses cannabis-based medicine with the intent to sell cannabis-based medicine.

(6) "Cannabis cultivation facility" means the same as that term is defined in Section 4-42-102.

(7) "Cannabis laboratory" means the same as that term is defined in Section 4-42-102.

(8) "Cannabis payment processor" means the same as that term is defined in Section 7-26-102.

(9) "Cannabis processing facility" means the same as that term is defined in Section 4-42-102.

(10) "Cannabis producer" means:

(a) a cannabis cultivation facility:
(b) a cannabis processing facility; or

c) a cannabis laboratory.

(11) "Designated caregiver" means an individual authorized by a registered patient under Section 26-59-202 to retrieve the registered patient's cannabis-based medicine on the registered patient's behalf.

(12) "Electronic verification system" means the system described in Section 26-59-104.

(13) "Inventory control system" means the system described in Section 4-42-103.

(14) "Medical cannabis card" means a card issued by the department under Section 26-59-201 to a patient who qualifies for treatment with cannabis-based medicine.

(15) "Medical Cannabis Restricted Account" means the account created in Section 26-59-105.

(16) "Physician" means an individual who:

(a) is licensed to practice:

(i) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) complies with Section 58-67-807 or Section 58-68-807.

(17) "Qualifying illness" means a condition for which treatment with cannabis-based medicine is authorized under Utah law.

(18) "Registered patient" means an individual with a valid medical cannabis card issued by the department under Section 26-59-201.

Section 36. Section 26-59-103 is enacted to read:

26-59-103. Local ordinances.

This chapter does not prohibit a political subdivision from enacting an ordinance, which restricts the location of, or operating requirements of, a CBM dispensary, that is more restrictive than this chapter.

Section 37. Section 26-59-104 is enacted to read:

26-59-104. Electronic verification system.

(1) The Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Division of Occupational and Professional Licensing:

(a) shall enter into a memorandum of understanding in order to determine the function
and operation of a state-owned electronic verification system for tracking:

(i) cannabis grown and processed in the state;
(ii) the production and sale of cannabis-based medicine;
(iii) registered patients and the purchase of cannabis-based medicine by registered patients; and
(iv) payments for cannabis and cannabis-based medicine;

(b) shall direct the Department of Technology Services to work with a third-party provider to develop and maintain the electronic verification system;
(c) in accordance with procurement methods and procedures described in Title 63G, Chapter 6a, Utah Procurement Code, shall coordinate with the Division of Purchasing and General Services within the Department of Administrative Services to select and contract with a third-party provider described in Subsection (1)(b); and
(d) may create, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, transaction fee requirements to cover the cost of operating and maintaining the electronic verification system, in amounts determined by the Department of Health, the Department of Agriculture, and the Division of Occupational and Professional Licensing under Section 63J-1-504.

(2) The electronic verification system described in Subsection (1) shall, at minimum:
(a) connect a registered patient's medical cannabis card to a system that tracks, in real time, each purchase by the registered patient of cannabis-based medicine, including:
(i) the time and date of the purchase;
(ii) the quantity and type of cannabis-based medicine purchased; and
(iii) a cannabis producer or CBM dispensary associated with the cannabis-based medicine;
(b) provide access to an entity described in Subsection (1) to the extent necessary for the entity to carry out the functions and responsibilities given to the entity under this chapter;
(c) provide access to state or local law enforcement;
(d) have the capability of interfacing with a cannabis payment processor to facilitate payment for cannabis-based medicine services; and
(e) incorporate the inventory control system described in Section 4-42-103.

(3) The Department of Health may release the data collected by the electronic
verification system for the purpose of conducting medical research, if the medical research is
approved by an institutional review board associated with a university medical school.

Section 38. Section 26-59-105 is enacted to read:

**26-59-105. Medical Cannabis Restricted Account -- Creation.**

(1) There is created in the General Fund a restricted account known as the "Medical
Cannabis Restricted Account."

(2) The account created in this section is funded from:

(a) money deposited by the State Tax Commission under Title 59, Chapter 28, Medical
Cannabis Tax Act;

(b) money deposited into the account by the Department of Agriculture and Food under
Title 4, Chapter 42, Cannabis Producer License;

(c) money deposited into the account by the Department of Financial Institutions under
Title 7, Chapter 26, Cannabis Payment Processor;

(d) money deposited into the account by the department under Title 26, Chapter 59,
Cannabis-Based Medicine Act;

(e) money deposited into the account by the Division of Occupational and Professional
Licensing under Title 58, Chapter 87, CBM Dispensary License;

(f) appropriations made to the account by the Legislature; and

(g) the interest described in Subsection (3).

(3) Interest earned on the account is deposited into the account.

(4) The money in the account may only be used to fund, upon appropriation:

(a) the cost of state regulation of cannabis-based medicine under:

(i) Title 4, Chapter 42, Cannabis Producer License;

(ii) Title 7, Chapter 26, Cannabis Payment Processor;

(iii) Title 26, Chapter 59, Cannabis-Based Medicine Act;

(iv) Title 58, Chapter 87, CBM Dispensary License; and

(v) Title 59, Chapter 28, Medical Cannabis Tax Act;

(b) the cost to the attorney general for investigation and enforcement related to medical
cannabis; and

(c) cannabis abuse prevention and cannabis education programs developed by the state.

(5) At the end of fiscal year 2019 and fiscal year 2020 the director of the Division of
Finance shall transfer into the General Fund from the Medical Cannabis Restricted Account an amount equal to the General Fund appropriation in fiscal year 2017 and fiscal year 2018 to implement the programs described in Subsection (4).

Section 39. Section 26-59-201 is enacted to read:

Part 2. Medical Cannabis Card

26-59-201. Medical cannabis card -- Application -- Renewal.

(1) The department shall, within 45 days after an individual submits an application in compliance with this section, issue a medical cannabis card, via the electronic verification system described in Section 26-59-104, to an individual if the individual:

(a) is at least 18 years old;

(b) is a Utah resident;

(c) submits to the department, via the electronic verification system, a recommendation electronically signed by a physician that indicates that the individual:

(i) (A) suffers from a qualifying illness, including the type of qualifying illness; and

(B) may benefit from treatment with cannabis-based medicine; or

(ii) qualifies for a medical cannabis card under Section 26-59-205;

(d) pays the department a fee established by the department in accordance with Section 63J-1-504; and

(e) submits an application to the department, using the electronic verification system that contains:

(i) the individual's name, gender, age, and address; and

(ii) a copy of the individual's photo identification.

(2) A medical cannabis card that the department issues under Subsection (1) is valid for one year.

(3) The department may renew an individual's medical cannabis card if, at the time of renewal, the individual meets the requirements of Subsection (1).

(4) The department may revoke an individual's medical cannabis card if the individual violates this chapter.

Section 40. Section 26-59-202 is enacted to read:

(1) A registered patient who a physician determines is unable to obtain cannabis-based medicine from a CBM dispensary may register with the department, via the electronic verification system, one individual to serve as the registered patient's designated caregiver.

(2) An individual registered as a designated caregiver of a registered patient under this section may:

   (a) carry the registered patient's medical cannabis card; and

   (b) purchase and possess cannabis-based medicine, in accordance with this chapter, on behalf of the registered patient.

(3) An individual may serve as a designated caregiver under Subsection (1) if the individual:

   (a) is at least 18 years old; and

   (b) is a Utah resident.

Section 41. Section 26-59-203 is enacted to read:

**26-59-203. Medical cannabis card -- Patient and designated caregiver requirements.**

(1) A registered patient or designated caregiver of the registered patient who possesses cannabis-based medicine outside of the registered patient's residence shall:

   (a) carry the registered patient's medical cannabis card on the registered patient's or designated caregiver's person at all times;

   (b) carry, with the cannabis-based medicine, the cannabis-based medicine label or packaging that includes a unique identifier that links the cannabis-based medicine to the electronic verification system; and

   (c) possess no more than a 30-day supply of cannabis-based medicine as established by the recommendation of a physician for the registered patient's treatment.

(2) A registered patient or designated caregiver may only purchase cannabis-based medicine via a cannabis payment processor licensed under Section 7-26-201.

(3) A registered patient or designated caregiver of a registered patient is guilty of an infraction if the registered patient or designated caregiver:

   (a) possesses cannabis-based medicine outside of the registered patient's residence; and

   (b) (i) does not possess, on the registered patient's or designated caregiver's person, the registered patient's medical cannabis card; or
(ii) does not possess a label that complies with Subsection (1)(b).

(4) An individual who is guilty of an infraction under Subsection (3) is subject to a $100 fine.

Section 42. Section 26-59-204 is enacted to read:

**26-59-204. Cannabis-based medicine specialist -- Expanded access for a patient with a terminal or intractable disease.**

(1) As used in this section:

(a) "Cannabis-based medicine specialist" means a physician with a cannabis-based medicine specialist certification issued by the division under Subsection (2).

(b) "Division" means the Division of Occupational and Professional Licensing within the Department of Commerce.

(2) The division may issue a cannabis-based medicine certification to a physician who:

(a) demonstrates, to the satisfaction of the division, that the physician has expertise and experience in treating a patient with cannabis-based medicine; and

(b) completes training in cannabis-based medicine developed by the division in coordination with the department and required by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) A cannabis-based medicine specialist may recommend treatment with cannabis-based medicine to a patient who is referred to the cannabis-based medicine specialist by the patient's primary care physician if:

(a) the patient's primary care physician diagnosed the patient with an intractable or terminal condition; and

(b) the patient will, in the opinion of the cannabis-based medicine specialist, benefit from treatment with cannabis-based medicine.

(4) A cannabis-based medicine specialist may recommend treatment with cannabis-based medicine to a patient who is less than 18 years old and who is referred to the cannabis-based medicine specialist by the patient's primary care physician if:

(a) the cannabis-based medicine specialist is board-certified in pediatrics;

(b) the patient's primary care physician diagnosed the patient with an intractable or terminal condition; and

(c) the patient will, in the opinion of the cannabis-based medicine specialist, benefit
from treatment with cannabis-based medicine.

(5) A patient to whom a physician recommends cannabis-based medicine under Subsection (3) or (4) is eligible for a medical cannabis card under this section.

Section 43. Section 26-59-205 is enacted to read:

26-59-205. Insurance coverage.

An insurance carrier, third-party administrator, or employer is not required to provide reimbursement for treatment of an individual with cannabis-based medicine under this chapter.

Section 44. Section 26-59-206 is enacted to read:


The department shall, before November 1 each year, report to the Health and Human Services Interim Committee on the department's administration and enforcement of this chapter.

Section 45. Section 26-59-301 is enacted to read:

26-59-301. Fees -- Deposit into Medical Cannabis Restricted Account.

The department shall deposit fees the department collects under this chapter into the Medical Cannabis Restricted Account.

Section 46. Section 41-6a-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" [has] means the same [meaning] as that term is defined as in Section 58-37-2.

(b) "Practitioner" [has] means the same [meaning] as that term is defined as in Section 58-37-2.

(c) "Prescribe" [has] means the same [meaning] as that term is defined as in Section 58-37-2.

(d) "Prescription" [has] means the same [meaning] as that term is defined as in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any
measurable controlled substance or metabolite of a controlled substance in the person’s body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused; or

(c) cannabis-based medicine recommended by a physician and the person holds a valid medical cannabis card under Title 26, Chapter 59, Cannabis-Based Medicine Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer’s presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:
(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:
   (a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or
   (b) revoke, until the person is 21 years of age, the driver license of a person if:
      (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
      (ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:
   (a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or
   (b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:
      (i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and
      (ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:
   (a) completes at least six months of the license suspension;
   (b) completes a screening;
(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);
(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);
(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;
(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);
(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and
(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or
(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).
(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.
(13) (a) The court shall notify the Driver License Division if a person fails to:
(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or
(ii) pay all fines and fees, including fees for restitution and treatment costs.
(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).
(14) The court shall order supervised probation in accordance with Section 41-6a-507
for a person convicted under Subsection (2).

Section 47. Section 53-1-106.5 is enacted to read:

53-1-106.5. Cannabis-based medicine -- Department duties.

In addition to the duties described in Section 53-1-106, the department shall provide standards for the training of peace officers and law enforcement agencies in the use of the electronic verification system described in Section 26-59-104.

Section 48. Section 58-37f-204 is enacted to read:

58-37f-204. Controlled substance database and cannabis-based medicine.

(1) (a) The division shall establish a process for a CBM dispensary agent to submit, at a specified time during each 24-hour period, the information required by this section.

(b) A CBM dispensary shall comply with the process established by the division under Subsection (1)(a).

(2) A CBM dispensary shall, each time the CBM dispensary dispenses cannabis-based medicine to an individual with a medical cannabis card, submit to the division the following information:

(a) the name of the physician who recommended the cannabis-based medicine and the unique number identifying the recommendation;

(b) the date of the recommendation;

(c) the date the cannabis-based medicine was dispensed;

(d) the name of the individual with the medical cannabis card;

(e) positive identification of the individual who receives the cannabis-based medicine, including the type of identification and any identifying numbers on the identification;

(f) the amount of cannabis-based medicine dispensed;

(g) the dosage, quantity, and frequency recommended by the physician;

(h) the name of the CBM dispensary dispensing the cannabis-based medicine;

(i) the name of the CBM dispensary agent who dispensed the cannabis-based medicine;

and

(j) any other information required by the division under Subsection (8).

(3) If an individual's cannabis-based medicine record is in the controlled substance database:

(a) the individual may obtain the record by requesting the record from the division in
writing; and

(b) the individual may request, in writing, with the individual's postal address included, that the division correct any incorrect information about the individual contained in the database.

(4) For a request described in Subsection (3), the division shall:

(a) grant or deny the request no later than 30 days after the day on which the division receives the request; and

(b) notify the individual who submitted the request of the division's decision by mail postmarked no later than 35 days after the day on which the division received the request.

(5) If the division denies a request described in Subsection (3), or does not respond to the request within the time period described in Subsection (4), the individual who submitted the request may, no later than 60 days after the day on which the individual's initial request is postmarked, submit an appeal to the Department of Commerce.

(6) The division shall ensure that the database system records and maintains for reference:

(a) the identity of and a form of identification for each individual who requests information from the database;

(b) the information accessed by the individual described in Subsection (6)(a); and

(c) the date and time the individual described in Subsection (6)(a) made the request.

(7) A CBM dispensary agent may access the controlled substance database in the same manner and for the same purpose as a pharmacist may access the database under Subsection 58-37f-301(2)(i).

(8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) requirements for the form and manner of submission of information submitted to the database under this section; and

(b) for the purpose of collecting health data on cannabis-based medicine, additional information that a CBM dispensary is required to submit to the controlled substance database.

Section 49. Section 58-67-807 is enacted to read:

A physician may recommend the use of cannabis-based medicine to a patient in accordance with Title 26, Chapter 59, Cannabis-Based Medicine Act, if the physician:

(a) registers with the division and the Department of Health as a physician who recommends cannabis-based medicine;

(b) completes the training required under Subsection (3); and

(c) complies with Section 26-59-205.

A physician who recommends cannabis-based medicine shall:

(a) recommend cannabis-based medicine to no more than an amount of patients determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) consult the controlled substance database before recommending cannabis-based medicine to a patient to determine if the patient is abusing cannabis-based medicine;

(c) report an adverse event experienced by a patient related to the patient's cannabis-based medicine use to the Department of Health; and

(d) report other data on cannabis-based medicine required by Title 26, Chapter 59, Cannabis-Based Medicine Act.

The division shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, training requirements for a physician that recommends cannabis-based medicine.

(b) The division shall include, in the training requirements the division establishes under Subsection (3)(a), training on using caution when recommending cannabis-based medicine to avoid patient cannabis-based medicine abuse.

It is not a breach of the applicable standard of care for a physician to recommend treatment with cannabis-based medicine to an individual under this section and Title 26, Chapter 59, Cannabis-Based Medicine Act.

A physician who recommends treatment with cannabis-based medicine to an individual under this section and Title 26, Chapter 59, Cannabis-Based Medicine Act, may not, solely based on that recommendation, be subject to:

(a) civil liability;

(b) criminal liability; or

(c) licensure sanctions under this chapter.
Section 50. Section 58-68-807 is enacted to read:

**58-68-807. Recommendation of cannabis-based medicine -- Registration with division and Department of Health.**

(1) A physician may recommend the use of cannabis-based medicine to a patient in accordance with Title 26, Chapter 59, Cannabis-Based Medicine Act, if the physician:

(a) registers with the division and the Department of Health as a physician who recommends cannabis-based medicine;

(b) completes the training required under Subsection (3); and

(c) complies with Section 26-59-205.

(2) A physician who recommends cannabis-based medicine shall:

(a) recommend cannabis-based medicine to no more than an amount of patients determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) consult the controlled substance database before recommending cannabis-based medicine to a patient to determine if the patient is abusing cannabis-based medicine;

(c) report an adverse event experienced by a patient related to the patient's cannabis-based medicine use to the Department of Health; and

(d) report other data on cannabis-based medicine required by Title 26, Chapter 59, Cannabis-Based Medicine Act.

(3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, training requirements for a physician that recommends cannabis-based medicine.

(b) The division shall include, in the training requirements the division establishes under Subsection (3)(a), training on using caution when recommending cannabis-based medicine to avoid patient cannabis-based medicine abuse.

(4) It is not a breach of the applicable standard of care for a physician to recommend treatment with cannabis-based medicine to an individual under this section and Title 26, Chapter 59, Cannabis-Based Medicine Act.

(5) A physician who recommends treatment with cannabis-based medicine or a cannabis-based medicine product to an individual under this section and Title 26, Chapter 59, Cannabis-Based Medicine Act, may not, solely based on that recommendation, be subject to:
(a) civil liability;
(b) criminal liability; or
(c) licensure sanctions under this chapter.
Section 51. Section 58-87-101 is enacted to read:

CHAPTER 87. CBM DISPENSARY LICENSE


58-87-101. Title.
This chapter is known as "CBM Dispensary License."
Section 52. Section 58-87-102 is enacted to read:

As used in this chapter:
(1) "Agent" means an employee or independent contractor of an entity.
(2) "Cannabis" means a plant that is:
(a) cannabis sativa, or any part of the plant cannabis sativa, whether growing or not;
and
(b) authorized to be grown under Utah law.
(3) "Cannabis-based medicine" means a substance that is:
(a) composed, in whole or in part, of cannabis;
(b) is intended for medical use; and
(c) is authorized for medical use under Utah law.
(4) "Cannabis-based medicine dispensary" or "CBM dispensary" means a person that:
(a) sells cannabis-based medicine; or
(b) purchases or possesses cannabis-based medicine with the intent to sell
(cannabis-based medicine.
(5) "Cannabis cultivation facility" means the same as that term is defined in Section 4-42-102.
(6) "Cannabis laboratory" means the same as that term is defined in Section 4-42-102.
(7) "Cannabis payment processor" means the same as that term is defined in Section 7-26-102.
(8) "Cannabis processing facility" means the same as that term is defined in Section 4-42-102.
(9) "Cannabis producer" means:
(a) a cannabis cultivation facility;
(b) a cannabis processing facility; or
(c) a cannabis laboratory.
(10) "Electronic verification system" means the system described in Section 26-59-104.
(11) "Inventory control system" means the system described in Section 4-42-103.
(12) "Medical cannabis card" means the same as that term is defined in Section 26-59-102.
(13) "Medical Cannabis Restricted Account" means the account created in Section 26-59-105.
(14) "Physician" means the same as that term is defined in Section 26-59-102.
(15) "Registered patient" means an individual with a valid medical cannabis card issued by the department under Section 26-59-201.

Section 53. Section 58-87-201 is enacted to read:

Part 2. License and Eligibility

58-87-201. CBM dispensary -- License -- Eligibility.
(1) A person may not operate as a CBM dispensary without a license from the division issued under this part.
(2) Subject to the requirements of this part, the division shall, within 60 business days after receiving a complete application, issue a license to operate a CBM dispensary to a person who submits to the division:
(a) a proposed name, address, and physical location where the person will operate the CBM dispensary;
(b) a bond, as required by Section 58-87-205, for each license for which the person applies;
(c) evidence that the person:
(i) can comply with the operating requirements for a CBM dispensary described in this chapter;
(ii) will implement an inventory control system at the CBM dispensary; and
(iii) can obtain a business license and meet zoning requirements established by a political subdivision;
(d) an application fee, in an amount determined by the division in accordance with Section 63J-1-504, that is necessary to cover the division's cost to implement this part; and

(e) an operating plan that complies with Section 58-87-203.

(3) If the division determines that a CBM dispensary is eligible for a license under this section, the division shall charge the CBM dispensary an initial license fee in an amount determined by the division in accordance with Section 63J-1-504.

(4) The division may revoke a license under this chapter if the CBM dispensary is not operational within one year of the issuance of the initial license.

Section 54. Section 58-87-202 is enacted to read:


(1) Except as provided in Subsection (2), the division shall renew a person's license under this part each year if, at the time of renewal:

(a) the person meets the requirements of Section 58-87-201; and

(b) the person pays the division a license renewal fee in an amount determined by the division in accordance with Section 63J-1-504.

(2) (a) The division may not renew a CBM dispensary's license for a sixth consecutive time unless the division publishes a notice, in a newspaper of general circulation for the geographic area in which the CBM dispensary is located, one year before the day on which the CBM dispensary's license expires, that includes:

(i) the name and location of the CBM dispensary;

(ii) the day on which the license for the CBM dispensary will expire; and

(iii) a solicitation for CBM dispensary license applicants.

(b) If, after the division publishes the notice described in Subsection (2)(a), the division receives an application for a CBM dispensary from a new applicant and also receives an application for renewal from the existing CBM dispensary, the division shall issue the license to the applicant that the division determines best meets the criteria established in Section 58-87-204.

(3) (a) If a licensed CBM dispensary abandons the CBM dispensary's license, the division shall publish notice of an available license in the same manner as described in Subsection (2)(a).

(b) The division may establish criteria, in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, for what actions by a CBM dispensary constitute abandonment of a CBM dispensary license. Section 55. Section 58-87-203 is enacted to read:

**58-87-203. Operating plan.**

(1) A person applying for a CBM dispensary license shall submit to the division a proposed operating plan for the CBM dispensary.

(2) The operating plan described in Subsection (1) shall include:

(a) a description of the CBM dispensary's employee training standards;

(b) a security plan for the CBM dispensary;

(c) a plan to process payments through a cannabis payment processor licensed under Section 7-26-201;

(d) the time period in which the person estimates the CBM dispensary will become operational; and

(e) the products, and anticipated sources of the products, that a CBM dispensary plans to sell.

(3) The division shall develop minimum operating plan standards by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 56. Section 58-87-204 is enacted to read:

**58-87-204. Division may accept or deny a license -- Maximum number of licenses.**

(1) The division may issue one CBM dispensary license per 600,000 residents of Utah at any given time.

(2) Except as provided in Subsection (3), if the division receives more applications for a CBM dispensary license than are available under Subsection (1), the division shall award the license to the applicant that best demonstrates:

(a) experience with:

(i) establishing and running a business in a related field;

(ii) operating a secure inventory control system;

(iii) complying with a regulatory environment; and

(iv) training, evaluating, and monitoring employees;

(b) connections to the local community;

(c) that the applicant will keep the cost of cannabis-based medicine low; and
(d) that the applicant's operating plan is effective and meets the division's standards.

(3) The division is not required to issue a license under this section if the division determines that no qualified applicant has applied.

(4) A division decision to award or deny a license under this section is final and not subject to judicial review.

Section 57. Section 58-87-205 is enacted to read:

58-87-205. Bond for a CBM dispensary license.

(1) A CBM dispensary licensed under Section 58-87-201 shall post a cash bond or surety bond, payable to the division, in an amount equal to $750,000.

(2) A CBM dispensary licensed under Section 4-42-201 shall maintain the bond described in Subsection (1) for as long as the CBM dispensary continues to operate.

(3) The division shall require a bond a CBM dispensary posts under this section to be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the CBM dispensary's compliance with this chapter.

(4) If a bond described in Subsection (1) is canceled due to a CBM dispensary's negligence, the division may assess the CBM dispensary a $300 reinstatement fee.

(5) A CBM dispensary may not withdraw any part of a bond posted under Subsection (1):

(a) during the period when the CBM dispensary's license is in effect; or

(b) while a license revocation proceeding is pending against the CBM dispensary.

(6) A CBM dispensary forfeits a bond posted under Subsection (1) if the CBM dispensary's license is revoked.

(7) The division may, without revoking a license, make a claim against a bond posted by a CBM dispensary under Subsection (1) for money the CBM dispensary owes the division under this chapter.

Section 58. Section 58-87-301 is enacted to read:

Part 3. CBM Dispensary Agents

58-87-301. CBM dispensary agents.

(1) A CBM dispensary licensed under Section 58-87-201 shall maintain a current list of each agent of the CBM dispensary.

(2) A CBM dispensary shall submit the list described in Subsection (1) to the division
before:

(a) January 1 of each year; and

(b) July 1 of each year.

(3) In addition to the list described in Subsection (1), a CBM dispensary licensed under Subsection 58-87-201 shall require each agent to submit to a criminal background check in accordance with Section 58-87-302.

(4) The division may audit the list described in Subsection (1) at any time, at random, in order to determine:

(a) that the list is accurate; and

(b) that each agent has submitted to a criminal background check in accordance with Section 58-87-302.

(5) A CBM dispensary is guilty of an infraction if the CBM dispensary:

(a) fails to maintain an accurate list of each agent of the CBM dispensary in accordance with this section; or

(b) has an agent who has not submitted to a background check in accordance with Section 58-87-302.

Section 59. Section 58-87-401 is enacted to read:

**Part 4. CBM Dispensary Operation Requirements**

**58-87-401. Operating requirements -- General.**

(1) (a) A CBM dispensary shall operate in accordance with the operating plan that the CBM dispensary provides to the department under Section 58-87-203.

(b) A CBM dispensary shall notify the department within 30 days of any change in the CBM dispensary's operation plan.

(c) The division shall review a CBM dispensary's operating plan for compliance with state law and administrative rules.

(d) A CBM dispensary may not operate under an operating plan until the operating plan is reviewed and approved by the division under Subsection (1)(c).

(2) Except as provided in Subsection (3), a CBM dispensary shall operate:

(a) in a facility that is accessible only by an agent of a CBM dispensary or by an individual with a medical cannabis card; and

(b) at the physical address provided to the department under Section 58-87-201.
(3) A CBM dispensary may allow the press, a visitor, or a contractor access to the CBM dispensary if:

(a) the CBM dispensary tracks and monitors the individual at all times while the individual is in the CBM dispensary; and

(b) a record of the individual's access to the CBM dispensary is maintained by the CBM dispensary.

(4) A CBM dispensary may not operate without:

(a) a security system with a backup power source in the event of a power outage to:

(i) detect and record entry at all times the CBM dispensary is closed; and

(ii) provide notice of unauthorized entry to local law enforcement;

(b) a lock on any entrance to the area of the CBM dispensary where cannabis-based medicine is stored; and

(c) an inventory control system that complies with Section 4-42-104;

(5) Except as provided in Subsection (6), a physician may not:

(a) serve as a CBM dispensary agent; or

(b) except online, advertise that the physician may or will recommend cannabis-based medicine.

(6) (a) A CBM dispensary shall employ an individual licensed as a pharmacist under Title 58, Chapter 17b, Pharmacy Practice Act, to act as a consultant.

(b) The individual described in Subsection (6)(a) shall:

(i) review the records of each individual with a medical cannabis card who purchases cannabis-based medicine from the CBM dispensary; and

(ii) answer questions for an individual with a medical cannabis card.

(7) Except when determined by the Department of Financial Institutions under Section 7-26-204, a CBM dispensary may only transmit or accept payment for cannabis-based medicine through a cannabis payment processor licensed under Section 7-26-201.

(8) A CBM dispensary may not allow any individual to consume cannabis-based medicine on the property or premises of the establishment.

(9) A CBM dispensary shall require any CBM dispensary agent to wear a white lab coat at all times while the CBM dispensary agent is in the view of a customer at the CBM dispensary.
(10) The division shall establish requirements by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, related to:
   (a) CBM dispensary patient counseling;
   (b) cannabis-based medicine labeling; and
   (c) record keeping.

Section 60. Section 58-87-402 is enacted to read:

58-87-402. Dispensing -- Amount a CBM dispensary may dispense -- Reporting --

Form of cannabis or cannabis product.

(1) A CBM dispensary may only sell, subject to this chapter:
   (a) cannabis-based medicine; or
   (b) educational materials related to the medical use of cannabis-based medicine.

(2) A CBM dispensary may only sell cannabis-based medicine to:
   (a) an individual with a medical cannabis card issued by the department;
   (b) an individual with a valid hemp extract registration card issued under Title 26, Chapter 56, Hemp Extract Registration Act; or
   (c) a person conducting an approved study under Section 26-59-208.

(3) A CBM dispensary may not dispense on behalf of any one registered patient, in any one 30-day period, an amount of cannabis-based medicine that exceeds a 30-day supply of the dosage recommended by the registered patient's physician.

(4) An individual with a medical cannabis card may not purchase more cannabis-based medicine than the amounts designated in Subsection (3).

(5) A designated caregiver designated by a registered patient may not purchase, for the registered patient, an amount of cannabis-based medicine that exceeds the amounts designated in Subsection (3).

(6) A CBM dispensary shall:
   (a) submit a record to the electronic verification system of each time the CBM dispensary dispenses cannabis-based medicine to a registered patient;
   (b) access the electronic verification system before dispensing cannabis-based medicine to a registered patient in order to determine if the registered patient has exceeded the amount of cannabis or cannabis products described in Subsection (3); and
   (c) comply with Section 58-37f-204.
Section 61. Section 58-87-403 is enacted to read:


(1) A CBM dispensary may not sell or offer to sell cannabis-based medicine unless:

(a) the cannabinoid profile of the cannabis-based medicine is clearly and accurately
stated on the cannabis-based medicine packaging; and

(b) the cannabis-based medicine is sealed in a tamper resistant, resealable container
with a label that includes a bar code or unique identifier that links the cannabis-based medicine
to the CBM dispensary's inventory control system.

(2) A CBM dispensary may only sell cannabis-based medicine that has been inspected
by a cannabis laboratory in accordance with Section 4-42-701.

Section 62. Section 58-87-404 is enacted to read:


(1) Except as provided in Subsection (2), a CBM dispensary may not advertise in any
medium.

(2) A CBM dispensary may advertise using a:

(a) sign on the outside of the CBM dispensary that includes only the CBM dispensary's
name and hours of operation; and

(b) website that includes information about the location of the dispensary, products and
services available at the dispensary, and educational materials related to the use of
cannabis-based medicine.

Section 63. Section 58-87-405 is enacted to read:

58-87-405. Inspections.

(1) The division shall inspect, in accordance with Subsection (2), a CBM dispensary's
facility and records in order to determine if the CBM dispensary complies with the
requirements of this chapter.

(2) The division may inspect the records and facility of a CBM dispensary:

(a) as many as four times per year, scheduled or unscheduled; and

(b) if the division has reason to believe that the CBM dispensary has violated the law,
at any time, scheduled or unscheduled.

Section 64. Section 58-87-406 is enacted to read:
Cannabis-based medicine transportation.

(1) An individual may not transport cannabis or cannabis-based medicine between two cannabis producers, or between a cannabis producer and a CBM dispensary, unless the individual is an agent of a licensed cannabis producer or licensed cannabis dispensary.

(2) An individual transporting cannabis-based medicine shall keep a transportation record that includes:

(a) a bar code or unique identifier that links the cannabis-based medicine to a relevant inventory control system;

(b) origin and destination information for any cannabis-based medicine the individual is transporting; and

(c) a record of the departure and arrival time of the individual transporting the cannabis-based medicine.

(3) In addition to the requirements in Subsections (1) and (2), the Department of Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis-based medicine related to human consumption safety.

(4) A CBM dispensary agent is guilty of an infraction if the CBM dispensary agent:

(a) transports cannabis or cannabis-based medicine; and

(b) does not possess, on the CBM dispensary agent's person or in the transport vehicle, a transportation record that complies with Subsection (2).

(5) A CBM dispensary agent who is guilty of an infraction under Subsection (4) is subject to a $100 fine.

Section 65. Section 58-87-501 is enacted to read:

Part 5. Enforcement

58-87-501. Enforcement -- Fine -- Citation.

(1) The division may, for a violation of this chapter by a person that is a CBM dispensary:

(a) revoke the person's license;

(b) refuse to renew the person's license;

(c) assess the person an administrative penalty; or

(d) take any other appropriate administrative action.
(2) The division shall deposit an administrative penalty imposed under this section into
the General Fund as a dedicated credit to be used by the division to administer and enforce this
chapter.

(3) The division may, for a person subject to an uncontested citation, a stipulated
settlement, or a finding of a violation in an adjudicative proceeding under this section:
(a) assess the person a fine, established in accordance with Section 63J-1-504, of up to
$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
(b) order the person to cease and desist from the action that creates a violation.

(4) The division may not revoke a CBM dispensary's license via a citation.

(5) If within 20 calendar days after the day on which the division serves a citation for a
violation of this chapter, the person that is the subject of the citation fails to request a hearing
to contest the citation, the citation becomes the basis of the division's final order.

(6) The division may, for a person who fails to comply with a citation under this
section:
(a) refuse to issue or renew the person's license; or
(b) suspend, revoke, or place on probation the person's license.

Section 66. Section 58-87-502 is enacted to read:

**58-87-502. Fees -- Deposit into Medical Cannabis Restricted Account.**
The division shall deposit fees the division collects under this chapter into the Medical
Cannabis Restricted Account.

Section 67. Section 59-12-104.7 is enacted to read:

**59-12-104.7. Exemption from sales tax for medical cannabis.**

(1) As used in this section:
(a) "Cannabis-based medicine" means a substance that is:
(i) composed, in whole or in part, of cannabis;
(ii) intended for medical use; and
(iii) authorized for medical use under Utah law.
(b) "CBM dispensary" means the same as that term is defined in Section 26-59-102.

(2) In addition to the exemptions described in Section 59-12-104, the sale, by a
licensed CBM dispensary, of cannabis-based medicine is not subject to the taxes imposed by
this chapter.

Section 68. Section 59-28-101 is enacted to read:

CHAPTER 28. MEDICAL CANNABIS TAX ACT

59-28-101. Title.
This chapter is known as the "Medical Cannabis Tax Act."

Section 69. Section 59-28-102 is enacted to read:

As used in this chapter:

(1) "Cannabis-based medicine" means a substance that is:
(a) composed, in whole or in part, of cannabis;
(b) intended for medical use; and
(c) authorized for medical use under Utah law.

(2) "CBM dispensary" means the same as that term is defined in Section 26-59-102.

(3) "Medical Cannabis Restricted Account" means the account created in Section 26-59-105.

Section 70. Section 59-28-103 is enacted to read:

59-28-103. Imposition of tax -- Rate.
There is imposed a tax on the retail purchaser of cannabis-based medicine at a CBM dispensary in the state in an amount equal to 5.77% of amounts paid or charged for the cannabis-based medicine.

Section 71. Section 59-28-104 is enacted to read:

A CBM dispensary shall:

(1) collect the tax imposed by Section 59-28-103 from a cannabis-based medicine purchaser; and
(2) pay the tax collected under Subsection (1):
(a) to the commission quarterly on or before the last day of the month immediately following the last day of the previous quarter; and
(b) using a form prescribed by the commission.

Section 72. Section 59-28-105 is enacted to read:

59-28-105. Deposit of tax revenue.
The commission shall deposit revenues generated by the tax imposed by this chapter into the Medical Cannabis Restricted Account.

Section 73.  Section 59-28-106 is enacted to read:


(1) A CBM dispensary shall maintain any record typically considered necessary to determine the amount of tax that the CBM dispensary is required to remit to the commission under this chapter.

(2) The commission may require a CBM dispensary to keep any record the commission reasonably considers necessary to constitute sufficient evidence of the amount of tax the CBM dispensary is required to remit to the commission under this chapter:
   (a) by notice served upon the CBM dispensary; or
   (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Upon notice by the commission, a CBM dispensary shall open the CBM dispensary's records for examination by the commission.

Section 74.  Section 59-28-107 is enacted to read:


The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) implement the tax imposed by this chapter; and
(2) enforce payment of the tax imposed by this chapter.

Section 75.  Section 59-28-108 is enacted to read:

59-28-108. Penalties and interest.

A CBM dispensary that fails to comply with any provision of this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Section 76.  Section 62A-4a-202.1 is amended to read:

62A-4a-202.1. Entering home of a child -- Taking a child into protective custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or emergency placement.

(1) A peace officer or child welfare worker may not:
(a) enter the home of a child who is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless authorized under Subsection 78A-6-106(2); or

(b) remove a child from the child's home or take a child into custody under this section solely on the basis of:

   (i) educational neglect, truancy, or failure to comply with a court order to attend school;

   (ii) the possession or use of cannabis-based medicine in the home, if the use and possession of the cannabis-based medicine is in compliance with Title 26, Chapter 59, Cannabis-Based Medicine Act.

(2) A child welfare worker within the division may take action under Subsection (1) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.

(3) (a) If possible, consistent with the child's safety and welfare, before taking a child into protective custody, the child welfare worker shall also determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

   (b) If the services described in Subsection (3)(a) are reasonably available, they shall be utilized.

   (c) In determining whether the services described in Subsection (3)(a) are reasonably available, and in making reasonable efforts to provide those services, the child's health, safety, and welfare shall be the child welfare worker's paramount concern.

(4) (a) A child removed or taken into custody under this section may not be placed or kept in a secure detention facility pending court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

   (b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:

   (i) a shelter facility; or

   (ii) an emergency placement in accordance with Section 62A-4a-209.

   (c) When making a placement under Subsection (4)(b), the Division of Child and Family Services shall give priority to a placement with a noncustodial parent, relative, or
friend, in accordance with Section 62A-4a-209.

(d) If the child is not placed with a noncustodial parent, a relative, or a designated
friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
explaining why a different placement was in the child's best interest.

(5) When a child is removed from the child's home or school or taken into protective
custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:
(a) the parent's rights under this part, including the right to be present and participate in
any court proceeding relating to the child's case;
(b) that it may be in the parent's best interest to contact an attorney and that, if the
parent cannot afford an attorney, the court will appoint one;
(c) the name and contact information of a division employee the parent may contact
with questions;
(d) resources that are available to the parent, including:
(i) mental health resources;
(ii) substance abuse resources; and
(iii) parenting classes; and
(e) any other information considered relevant by the division.

(6) The pamphlet or flier described in Subsection (5) shall be:
(a) evaluated periodically for its effectiveness at conveying necessary information and
revised accordingly;
(b) written in simple, easy-to-understand language; and
(c) available in English and other languages as the division determines to be
appropriate and necessary.

Section 77. Section 78A-6-508 is amended to read:

78A-6-508. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie
evidence of abandonment that the parent or parents:
(a) although having legal custody of the child, have surrendered physical custody of the
child, and for a period of six months following the surrender have not manifested to the child
or to the person having the physical custody of the child a firm intention to resume physical
custody or to make arrangements for the care of the child;

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(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior; or

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent because of the parent's possession or consumption of cannabis-based medicine, in accordance with Title 26, Chapter 59, Cannabis-Based Medicine Act.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care
decision is not reasonable and informed.

(b) Nothing in Subsection [(4)] [(5)](a) may prohibit a parent from exercising the right to obtain a second health care opinion.

[(5)] (6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

[(6)] (7) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.