

## SB0073S03 compared with SB0073S02

~~{deleted text}~~ shows text that was in SB0073S02 but was deleted in SB0073S03.

inserted text shows text that was not in SB0073S02 but was inserted into SB0073S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Senator Mark B. Madsen}~~Representative Gage Froerer proposes the following substitute bill:

### MEDICAL CANNABIS ACT

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Gage Froerer

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#### LONG TITLE

##### General Description:

This bill modifies and enacts provisions related to medical cannabis.

##### Highlighted Provisions:

This bill:

- ▶ allows an individual with a qualifying illness who registers with the Department of Health to possess and use, under certain circumstances, a cannabis product or a medical cannabis device;
- ▶ directs the Department of Health, the Department of Agriculture and Food, the Department of Public Safety, and the Department of Technology Services to:
  - determine the function and operation of a state electronic verification system;
  - and

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- select a third party provider to develop and maintain the state electronic verification system;
- ▶ directs the Department of Health to issue:
  - a license to operate a cannabis dispensary to a person who meets certain qualifications; and
  - to an individual who meets certain qualifications, a registration card to act as an agent of a cannabis dispensary;
- ▶ directs the Department of Agriculture and Food to issue, to a person who meets certain qualifications, a license to operate a cannabis production establishment, including:
  - a cannabis cultivation facility;
  - a cannabis processing facility; or
  - an independent cannabis testing laboratory;
- ▶ directs the Department of Agriculture and Food to issue, to an individual who meets certain qualifications, a registration card to act as an agent of a cannabis production establishment;
- ▶ directs the Department of Health to issue a medical cannabis card to an individual who meets the requirements of:
  - a qualified patient;
  - a parent or guardian of a minor who is a qualified patient; or
  - a designated caregiver of a qualified patient;
- ▶ allows a licensed cannabis dispensary to possess a cannabis product or a medical cannabis device, and to sell the cannabis product or medical cannabis device to an individual with a medical cannabis card;
- ▶ allows a licensed cannabis cultivation facility to grow cannabis, possess cannabis, and sell the cannabis to a licensed cannabis processing facility;
- ▶ allows a licensed cannabis processing facility to possess cannabis, process cannabis into a cannabis product, and sell the cannabis product to a licensed cannabis dispensary;
- ▶ allows a licensed independent cannabis testing laboratory to possess cannabis or a cannabis product for the purpose of testing the cannabis or cannabis product for

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content and safety;

- ▶ allows an individual driving with a measurable metabolite of cannabis to assert, as an affirmative defense, that the individual used the cannabis pursuant to Utah law or the law of another state;
- ▶ prohibits a court from discriminating against a parent in a child custody case based on the parent's lawful possession or use of a cannabis product;
- ▶ 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 possession or use of a cannabis product;
- ▶ imposes a tax on the sale of a cannabis product or a medical cannabis device at a cannabis dispensary;
- ▶ exempts from sales and use tax the sale of a cannabis product or a medical cannabis device by a cannabis dispensary;
- ▶ creates the Medical Cannabis Restricted Account, consisting of:
  - proceeds of the medical cannabis tax;
  - medical cannabis card application fees;
  - cannabis dispensary application and licensing fees;
  - cannabis production establishment application and licensing fees; and
  - fines collected for violations of state medical cannabis law; and
- ▶ repeals and replaces, after state medical cannabis regulation is implemented, the Hemp Extract Regulation Act.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

### **Utah Code Sections Affected:**

AMENDS:

**30-3-10**, as last amended by Laws of Utah 2014, Chapter 409

**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

**63I-1-226**, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

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**63I-1-258**, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,  
and 432

**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

**4-42-201**, Utah Code Annotated 1953

**4-42-202**, Utah Code Annotated 1953

**4-42-203**, Utah Code Annotated 1953

**4-42-301**, Utah Code Annotated 1953

**4-42-302**, Utah Code Annotated 1953

**4-42-303**, 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

**26-58-101**, Utah Code Annotated 1953

**26-58-102**, Utah Code Annotated 1953

**26-58-103**, Utah Code Annotated 1953

**26-58-104**, Utah Code Annotated 1953

**26-58-105**, Utah Code Annotated 1953

**26-58-106**, Utah Code Annotated 1953

**26-58-107**, Utah Code Annotated 1953

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**26-58-108**, Utah Code Annotated 1953  
**26-58-201**, Utah Code Annotated 1953  
**26-58-202**, Utah Code Annotated 1953  
**26-58-203**, Utah Code Annotated 1953  
**26-58-204**, Utah Code Annotated 1953  
**26-58-301**, Utah Code Annotated 1953  
**26-58-302**, Utah Code Annotated 1953  
**26-58-303**, Utah Code Annotated 1953  
**26-58-304**, Utah Code Annotated 1953  
**26-58-401**, Utah Code Annotated 1953  
**26-58-402**, Utah Code Annotated 1953  
**26-58-403**, Utah Code Annotated 1953  
**26-58-501**, Utah Code Annotated 1953  
**26-58-502**, Utah Code Annotated 1953  
**26-58-503**, Utah Code Annotated 1953  
**26-58-504**, Utah Code Annotated 1953  
**26-58-505**, Utah Code Annotated 1953  
**26-58-601**, Utah Code Annotated 1953  
**53-1-106.5**, Utah Code Annotated 1953  
**58-37-3.6**, Utah Code Annotated 1953  
**58-37-3.7**, Utah Code Annotated 1953  
**59-12-104.7**, Utah Code Annotated 1953  
**59-28-101**, Utah Code Annotated 1953  
**59-28-102**, Utah Code Annotated 1953  
**59-28-103**, Utah Code Annotated 1953  
**59-28-104**, Utah Code Annotated 1953  
**59-28-105**, Utah Code Annotated 1953  
**59-28-106**, Utah Code Annotated 1953  
**59-28-107**, Utah Code Annotated 1953  
**59-28-108**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 4-42-101 is enacted to read:

### CHAPTER 42. CANNABIS PRODUCTION ESTABLISHMENTS

#### Part 1. General Provisions

#### 4-42-101. Title.

(1) This chapter is known as "Cannabis Production Establishments."

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

#### 4-42-102. Definitions.

As used in this chapter:

(1) "Cannabinoid profile" means the percentage of ~~cannabis or~~ a cannabis product, by weight, that is composed of the cannabinoids:

(a) Tetrahydrocannabinol or THC;

(b) Tetrahydrocannabinolic acid or THCa;

(c) Cannabidiol or CBD;

(d) Cannabinol or CBN; and

(e) Cannabigerol or CBG.

(2) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

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

(a) grows cannabis; or

(b) possesses cannabis with the intent to grow cannabis.

(4) "Cannabis cultivation facility agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of a cannabis cultivation facility.

(5) "Cannabis dispensary" means the same as that term is defined in Section 26-58-102.

(6) "Cannabis dispensary agent" means the same as that term is defined in Section 26-58-102.

(7) "Cannabis processing facility" means a person that:

(a) manufactures a cannabis product from unprocessed cannabis;

(b) purchases or possesses cannabis with the intent to manufacture a cannabis product;

or

(c) sells or intends to sell a cannabis product to a cannabis dispensary.

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(8) "Cannabis processing facility agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of a cannabis processing facility.

(9) "Cannabis product" means the same as that term is defined in Section 58-37-3.6.

(10) "Cannabis production establishment" means:

(a) a cannabis cultivation facility;

(b) a cannabis processing facility; or

(c) an independent cannabis testing laboratory;

(11) "Cannabis production establishment agent" means:

(a) a cannabis cultivation facility agent;

(b) a cannabis processing facility agent; or

(c) an independent cannabis testing laboratory agent.

(12) "Cannabis production establishment agent registration card" means a registration card, issued by the department, that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(13) "Independent cannabis testing laboratory" means a person that:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) possesses cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) "Independent cannabis testing laboratory agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of an independent cannabis testing laboratory.

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

(16) "Medical cannabis card" means the same as that term is defined in Section 26-58-102.

(17) "Medical Cannabis Restricted Account" means the account created in Section 26-58-108.

(18) "Physician" means the same as that term is defined in Section 26-58-201.

(19) "State electronic verification system" means the system described in Section 26-58-103.

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

### **4-42-103. Inventory control system.**

(1) A cannabis production establishment and a cannabis dispensary shall maintain an inventory control system that meets the requirements of this section.

(2) An inventory control system shall track cannabis, using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the cannabis is sold, in the form of a cannabis product, to an individual with a medical cannabis card.

(3) An inventory control system shall store in real time a record of the amount of cannabis and cannabis products in the cannabis production establishment's or cannabis 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 the cannabis production establishment or cannabis dispensary;

(b) is tamper proof;

(c) is capable of storing a video record for 45 days.

(5) An inventory control system installed in a cannabis production establishment or cannabis dispensary shall maintain compatibility with the state electronic verification system.

(6) A cannabis production establishment or cannabis dispensary shall allow the department or The Department of Health access to the cannabis production establishment's or cannabis dispensary's inventory control system during an inspection.

(7) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

### **Part 2. Cannabis Production Establishment**

#### **4-42-201. Cannabis production establishment -- License.**

(1) In order to operate a cannabis production establishment, a person shall obtain a license issued by the department under this chapter.

(2) Subject to Subsections (6) and (7), the department shall, within 30 days after receiving a complete application, issue a license to operate a cannabis production establishment



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to a person who submits to the department:

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

(b) an operating plan that complies with Section 4-42-203;

(c) evidence that the person possesses or controls a minimum of \$250,000 in liquid assets for each license for which the person applies;

(d) for each location of a cannabis production establishment for which the person applies, a complete application for a local business license;

(e) an application fee:

(i) before January 1, 2017, of \$5,000; and

(ii) after January 1, 2017, in an amount established by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this chapter; and

(f) the result of a criminal background check for each proposed cannabis production establishment agent for the cannabis production establishment.

(3) If the department determines that a cannabis production establishment is eligible for a license under this section, the department shall:

(a) before January 1, ~~2017~~2018, charge the cannabis production establishment an initial license fee of \$65,000; and

(b) on or after January 1, ~~2017~~2018, charge the cannabis 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 application license and a separate license application fee under Subsection (3) for each type of cannabis production establishment and each location of a cannabis production establishment.

(5) The department may issue any combination of a cannabis cultivation facility license, a cannabis processing facility license, and a cannabis dispensary license to a person to operate:

(a) at the same physical location; or

(b) at separate physical locations.

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

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

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

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

Section 5. Section **4-42-202** is enacted to read:

### **4-42-202. Renewal.**

(1) The department shall renew a person's license issued under Section 4-42-201 every two years, if, at the time of renewal, the person meets the requirements of Section 4-42-201.

(2) The department shall charge a cannabis production establishment that the department determines is eligible for license renewal a license renewal fee in an amount determined by the department in accordance with Section 63J-1-504.

Section 6. Section **4-42-203** is enacted to read:

### **4-42-203. Operating plan.**

(1) A person applying for a license to operate a cannabis production facility shall submit to the department, with the person's application, a proposed operation plan that includes:

(a) drawings of the physical characteristics of the proposed facility, including a site plan, floor plan and architectural elevations which indicate compliance with the requirements of this chapter;

(b) a description of the credentials and experience of:

(i) each officer, director, or owner of the proposed cannabis production establishment;

and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a banking and financial services plan;

(f) a description of the cannabis production establishment's inventory control system,

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including a plan to make the inventory control system compatible with the state electronic verification system;

(g) a cannabis or cannabis product disposal plan;

(~~g~~h) for a cannabis cultivation facility, the information described in Subsection (2);

(~~h~~i) for a cannabis processing facility, the information described in Subsection (3);

and

(~~i~~j) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) A cannabis cultivation facility's operating plan shall include:

(a) evidence that the cannabis cultivation facility has entered into a preliminary agreement with a cannabis processing facility or a cannabis dispensary in the state to purchase the cannabis cultivation facility's output; and

(b) the cannabis cultivation facility's intended cannabis cultivation practices, including the cannabis cultivation facility's intended:

(i) pesticide use;

(ii) fertilizer use;

(iii) square footage under cultivation; and

(iv) anticipated cannabis yield.

(3) A cannabis processing facility's operating plan shall include:

(a) evidence that the cannabis processing facility has entered into a preliminary agreement:

(i) with a cannabis cultivation facility in the state to purchase unprocessed cannabis input; and

(ii) with a cannabis dispensary in the state to purchase the cannabis processing facility's output;

(b) the cannabis processing facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(i) offered variety of cannabis product;

(ii) cannabinoid extraction method;

(iii) cannabinoid extraction equipment;

(iv) processing equipment;

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(v) processing techniques; and

(vi) sanitation and food safety procedures;

(4) An independent cannabis testing laboratory's operating plan shall include:

(a) evidence that the independent cannabis testing laboratory agreement with a cannabis production establishment to provide testing services; and

(b) the independent cannabis testing laboratory's intended:

(i) cannabis and cannabis product testing capability; and

(ii) cannabis and cannabis product testing equipment.

(5) The department may require, by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, additional operating standards for a cannabis production establishment's operating plan that are related to safety for human cannabis product consumption.

Section 7. Section 4-42-301 is enacted to read:

### **Part 3. Cannabis Production Establishment Agents**

#### **4-42-301. Cannabis production establishment agent -- Registration.**

(1) In order to act as a cannabis production establishment agent, an individual shall register with the department as a cannabis production establishment agent.

(2) A physician may not serve as a cannabis production establishment agent.

(3) An independent cannabis testing laboratory agent may not act as an agent for a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

(4) The department shall, within 30 business days after receiving a complete application, register and issue a cannabis production establishment agent registration card to an individual who:

(a) has not been convicted of an offense that is a felony under either state or federal law;

(b) provides to the department:

(i) the individual's name and address; and

(ii) the name and location of a licensed cannabis production establishment where the individual seeks to act as the cannabis production establishment's agent;

(c) pays the department a fee:

(i) before January 1, ~~2017~~2018, of \$250; and

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(ii) on or after January 1, ~~2017~~2018, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part; and

(d) complies with the requirement for and passes a criminal background check described in Section 4-42-302.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card the name and type of any cannabis production establishment where the individual is registered as an agent.

(6) A cannabis production establishment agent shall comply with a certification standard developed by the department or with a third party certification standard approved by the department.

(7) The certification standard described in Subsection (6) shall address:

(a) Utah medical cannabis law;

(b) for a cannabis cultivation facility agent, cannabis cultivation best practices;

(c) for a cannabis processing facility agent, cannabis processing, food safety, and sanitation best practices; and

(d) for an independent cannabis testing laboratory agent, cannabis testing best practices.

(8) The department may revoke or refuse to issue a cannabis production establishment agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted of an offense, that is a felony under state or federal law, that involves a drug or violent crime.

Section 8. Section **4-42-302** is enacted to read:

**4-42-302. Cannabis production establishment agent -- Criminal background checks.**

(1) An individual that applies for registration as a cannabis production establishment agent under Section 4-42-301 shall:

(a) submit, at the time of application, a fingerprint card in a form acceptable to the department; and

(b) consent to a fingerprint background check by:

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(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for the individual described in Subsection (1).

Section 9. Section **4-42-303** is enacted to read:

**4-42-303. Cannabis production establishment agent registration card --**

### **Rebuttable presumption.**

(1) A cannabis production establishment agent who is registered with the department under Section 4-42-301 shall carry the individual's cannabis production establishment agent registration card with the individual at all times when:

(a) the individual is on the premises of the cannabis production establishment where the individual is a cannabis production establishment agent; and

(b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.

(2) If an individual handling cannabis, a cannabis product, or a medical cannabis device at a cannabis production establishment, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) A cannabis production establishment agent registered with the department is guilty of an infraction if the registered cannabis production establishment agent:

(a) (i) is on the premises of a cannabis production establishment where the individual is registered as an agent; or

(ii) transports cannabis, a cannabis product, or a medical cannabis device; and

(b) does not possess, on the registered cannabis production establishment agent's

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person, a valid cannabis production establishment agent registration card.

(4) A registered cannabis production establishment agent who is guilty of an infraction under Subsection (3) is subject to a fine of no more than \$100.

Section 10. Section 4-42-401 is enacted to read:

### **Part 4. General Cannabis Production Establishment Operating Requirements**

#### **4-42-401. Cannabis production establishment -- General operating requirements.**

(1) (a) A cannabis production establishment shall operate in accordance with the operating plan provided to the department under Section 4-42-203.

(b) A cannabis production establishment shall notify the department no longer than 30 days after a change in the cannabis production establishment's operating plan.

(2) A cannabis production establishment shall operate:

(a) except as provided in Subsection (3), in a facility with a controlled entrance that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-42-301; and

(b) at the physical address provided to the department under Section 4-42-201.

(3) A cannabis production establishment may allow an individual who is a visitor, a contractor, or a member of the press to access the cannabis production establishment if the cannabis production establishment:

(a) ensures that the individual is accompanied by a cannabis production establishment agent at all times while the individual is at the cannabis production establishment; and

(b) maintains a record of the individual's access.

(4) A cannabis production establishment shall operate in a facility that has:

(a) no exterior signage that indicates the type of business;

(b) a single, secure public entrance;

(c) a security system with a backup power source that:

(i) detects and records entry into the cannabis production establishment during business hours; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and

(d) a locked and reinforced area where the cannabis production establishment stores cannabis or a cannabis product.

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(5) A cannabis production establishment may not operate:

(a) within 600 feet of a community location, as defined in Section 32B-1-102, that is not a public or private school; or

(b) within 1000 feet of a public or private school.

Section 11. 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 production establishment in order to determine if the cannabis production establishment complies with the licensing requirements of this chapter.

(2) The department may inspect the records and facility of a cannabis production establishment at any time, scheduled or unscheduled.

Section 12. Section **4-42-403** is enacted to read:

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

(1) A cannabis production establishment may not advertise to the general public in any medium.

(2) Notwithstanding Subsection (1), a cannabis production establishment may advertise employment opportunities at the cannabis production facility.

Section 13. Section **4-42-404** is enacted to read:

### **4-42-404. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) Except for an individual or a designated caregiver with a medical cannabis card who possesses cannabis or a cannabis product in accordance with Section 26-58-204, an individual may only transport cannabis, a cannabis product, or a cannabis device between cannabis production establishments or between a cannabis production establishment and a cannabis dispensary if the individual is:

(a) a registered cannabis production establishment agent; or

(b) a registered cannabis dispensary agent.

(2) An individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a related inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or



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medical cannabis device the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device that are related to safety for human consumption of cannabis or cannabis products.

(4) A cannabis production establishment agent registered with the department is guilty of an infraction if the registered cannabis production establishment agent:

(a) transports cannabis, a cannabis product, or a medical cannabis device; and

(b) does not possess, on the registered cannabis production establishment agent's person or in the transport vehicle, a manifest that complies with Subsection (3).

(5) A registered cannabis production establishment agent who is guilty of an infraction under Subsection (3) is subject to a \$100 fine.

Section 14. Section **4-42-501** is enacted to read:

### **Part 5. Cannabis Cultivation Facility Operating Requirements**

#### **4-42-501. Cannabis cultivation facility -- Operating requirements.**

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is screened from view at the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system for:

(a) beginning at the time a cannabis plant is 8 inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants; and

(c) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing facility, or an independent cannabis testing laboratory.

(4) The department shall review a cannabis cultivation facility's operating plan submitted under Section 4-42-203 for the purpose of ensuring that the cannabis that a cultivation facility cultivates is safe for human use.

(5) The department may determine standards, by rule made in accordance with Title

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### 63, Chapter 3, Utah Administrative Rulemaking Act, for a cannabis cultivation facility's pesticide use.

Section 15. Section **4-42-601** is enacted to read:

#### **Part 6. Cannabis Processing Facility Operating Requirements**

##### **4-42-601. Cannabis processing facility -- Operating requirements -- General.**

(1) A cannabis processing facility shall ensure that a cannabis product that the cannabis processing facility sells or provides to a cannabis dispensary complies with the requirements of this part.

(2) If a cannabis processing facility extracts cannabinoids from cannabis using a hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a blast hood.

(3) The department shall review a cannabis processing facility's operating plan submitted under Section 4-42-203 for the purpose of ensuring that a cannabis product that the cannabis processing facility produces is safe for human consumption.

Section 16. Section **4-42-602** is enacted to read:

##### **4-42-602. Cannabis product -- Labeling and packaging.**

(1) A cannabis product shall have a label that:

(a) clearly and unambiguously states that the cannabis product contains cannabis;

(b) clearly displays:

(i) the total amount of cannabinoids by weight in the cannabis product;

(ii) the cannabinoid profile of the cannabis product; and

(iii) the number of doses, and the milligrams in each dose, in the cannabis product;

(c) has a unique batch identifier that is connected to the cannabis processing facility's inventory control system.

(d) identifies the cannabinoid extraction method that the cannabis processing facility used to create the cannabis product;

(e) if the cannabis processing facility used a hydrocarbon extraction process to create the cannabis product, a certification that the product contains a level of residual solvents that is safe for human consumption;

(f) does not display images, words, or phrases that are:

(i) intended to appeal to children; or

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(ii) similar to words or phrases used on candy labels; and

(g) certifies that the cannabis product is free from microbiological contaminants.

(2) A cannabis processing facility shall package a cannabis product in a container that:

(a) is tamper evident;

(b) is not appealing to children or similar to a candy container;

(c) is opaque; and

(d) complies with child-resistant special packaging standards described in 16 C.F.R.

Sec. 1700.15 that apply to a controlled drug as described in 16 C.F.R. Sec. 1700.14.

Section 17. Section **4-42-603** is enacted to read:

### **4-42-603. Cannabis product -- Product quality.**

(1) A cannabis processing facility may not produce a cannabis product in a physical form that:

(a) is intended to appeal to children; or

(b) is designed to mimic or be mistaken for an existing candy product.

(2) A cannabis processing facility may not manufacture a cannabis product by applying a cannabis agent only to the surface of a pre-manufactured food product that is not produced by the cannabis processing facility.

(3) A cannabis product may vary in the cannabis product's labeled cannabis profile by up to 15% of the indicated amount of a given cannabinoid, by weight.

(4) The department shall adopt, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human consumption safety standards for a cannabis product that are consistent, to the extent possible, with standards adopted by the United States Food and Drug Administration for products that are similarly applied or ingested.

Section 18. Section **4-42-701** is enacted to read:

### **Part 7. Independent Cannabis Testing Laboratories**

#### **4-42-701. Cannabis and cannabis product testing.**

(1) An independent cannabis testing laboratory shall, before a cannabis product is offered for sale at a cannabis dispensary, accurately test and certify the cannabis product as provided in this section.

(2) An independent cannabis testing laboratory shall determine the cannabinoid profile of a cannabis product.

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(3) An independent cannabis testing laboratory shall determine if a cannabis product contains, in an amount that is harmful to human health:

- (a) mold;
- (b) fungus;
- (c) pesticides; or
- (d) microbial contaminants.

(4) For a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, an independent cannabis testing laboratory shall test the cannabis product for an unhealthy level of a residual solvent.

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

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

~~(a) a substance described in Subsection (3); and~~

~~(b) a residual solvent~~ (b) additional cannabis or cannabidiol testing that an independent cannabidiol testing laboratory is required to perform; and

(c) minimum standards for an independent cannabidiol testing laboratory's testing methods and procedures.

(6) The State Chemistry Lab may possess cannabis or a cannabis product for the purpose of a department test under Subsection (5).

(7) An independent cannabis testing laboratory shall test any cannabis that the independent cannabis testing 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 about the cannabis required by the department, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that can be determined using carbon stable isotope testing.

Section 19. Section 4-42-702 is enacted to read:

### **4-42-702. Reporting -- Inspections -- Seizure by the department.**

(1) If an independent cannabis testing laboratory determines that the results of a lab test

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indicate that a cannabis product batch may be unsafe for human consumption **or, using a carbon stable isotope test, that the cannabis was not cultivated in accordance with this chapter:**

(a) the independent cannabis testing laboratory shall report the results and the cannabis product batch simultaneously to:

(i) the department; and

(ii) the cannabis production establishment that prepared the cannabis product batch;

(b) retain possession of the cannabis product batch for one week in order to investigate the cause of the defective **or non-complying** batch and to make a determination; and

(c) allow the cannabis production establishment that prepared the cannabis product batch to appeal the determination described in Subsection (1)(b), and, if necessary following the appeal, allow the independent cannabis testing laboratory to retest the cannabis product batch.

(2) If, under Subsection (1)(b), the department determines, following an appeal, that a cannabis product prepared by a cannabis production establishment is unsafe for human consumption **or was not cultivated in accordance with this chapter**, the department may seize, embargo, or destroy a cannabis product batch.

Section 20. Section **4-42-801** is enacted to read:

### **Part 8. Enforcement**

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

(1) For a violation of the licensing provisions of this chapter by a person that is a cannabis production establishment or a cannabis production establishment agent:

(a) revoke the person's cannabis production establishment license or cannabis production establishment agent registration card;

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

(c) assess the person an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section in 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 production establishment or a cannabis production establishment agent:

(i) the person has violated the provisions of this chapter, a rule made under this

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chapter, or an order issued under this chapter; ~~or~~

(ii) the person produced a cannabis product batch that a test shows contains a contaminant described in Section 4-42-701 ~~or~~; 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 written citation;

(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 the cannabis or cannabis product batch as described in Subsection 4-42-702(2); 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, and cure, the action that creates a violation.

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

(6) If within 20 calendar days after the day on which a 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 department shall use the citation as the basis for the department's final order.

(7) The department may, for a person who fails to cure the violation that the basis is for

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the citation under this section:

(a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis production establishment registration card.

Section 21. Section **26-58-101** is enacted to read:

### CHAPTER 58. MEDICAL CANNABIS ACT

#### Part 1. General Provisions

##### **26-58-101. Title.**

This chapter is known as "Medical Cannabis Act."

Section 22. Section **26-58-102** is enacted to read:

##### **26-58-102. Definitions.**

As used in this chapter:

(1) "Cannabinoid profile" means the percentage of cannabis or a cannabis product, by weight, that is composed of the cannabinoids:

(a) Tetrahydrocannabinol or THC;

(b) Tetrahydrocannabinolic acid or THCa;

(c) Cannabidiol or CBD;

(d) Cannabinol or CBN; and

(e) Cannabigerol or CBG.

(2) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

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

(4) "Cannabis dispensary" means a person that:

(a) sells cannabis, a cannabis product, or a medical cannabis device; or

(b) purchases or possesses cannabis, a cannabis product, or a medical cannabis device, with the intent to sell the cannabis, cannabis product, or medical cannabis device.

(5) "Cannabis dispensary agent" means an owner, officer, director, board member, or employee of, or a volunteer at, a cannabis dispensary.

(6) "Cannabis dispensary agent registration card" means a registration card, issued by the department, that identifies an individual as a cannabis dispensary agent.

## **SB0073S03 compared with SB0073S02**

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

(8) "Cannabis product" means the same as that term is defined in Section 58-37-3.6.

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

(10) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-42-102.

(11) "Designated caregiver" means an individual:

(a) whom a patient with a medical cannabis card designates as the patient's caregiver; and

(b) registers with the department under Section 26-58-202.

(12) "Independent cannabis testing laboratory" means the same as that term is defined in Section 4-42-102.

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

(14) "Medical cannabis card" means an official, tamper proof document or card, issued by the department to an individual with a qualifying illness or the individual's designated caregiver under this chapter, that is connected to the electronic verification system.

(15) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.6(1)(b).

(16) "Medical Cannabis Restricted Account" means the account created in Section 26-58-108.

(17) "Participating entity" means:

(a) the Department of Agriculture and Food;

(b) the Department of Health; and

(c) the Department of Technology Services.

(18) "Physician" means an individual who is qualified to recommend cannabis under Section 26-58-207.

(19) "Qualifying illness" means a condition described in Section 26-58-104.

(20) "State electronic verification system" means the system described in Section 26-58-103.

Section 23. Section **26-58-103** is enacted to read:



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### **26-58-103. State electronic verification system.**

(1) The Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of an electronic verification system;

(b) coordinate with the Division of Purchasing under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third party provider to develop and maintain an electronic verification system in coordination with the Department of Technology Services;

(c) select a third party provided described in Subsection (1)(b); and

(d) take the actions described in Subsections (1)(a), (b), and (c) according to the following schedule:

(i) no later than 75 days after the effective date of the bill, enter into the memorandum of understanding described in Subsection (1)(a);

(ii) no later than 60 days after taking the action described in Subsection (1)(d)(i), issue the request for proposals for a third party provider described in Subsection (1)(b);

(iii) 30 days after taking the action described in Subsection (1)(d)(ii), close bidding for the request for proposals;

(iv) 90 days after taking the action described in Subsection (1)(d)(iii), select a third party provider;

(v) 300 days after taking the action described in Subsection (1)(d)(iv), require the third party provider to have a working prototype of a state electronic verification system and begin training state employees on the state electronic verification system;

(vi) 90 days after taking the action described in Subsection (1)(d)(v), require the third party provider to successfully integrate any cannabis production establishment or cannabis dispensary licensee's inventory control system into the state electronic verification system; and

(vii) 30 days after taking the action described in Subsection (1)(d)(vi), require the state electronic verification system and any associated system or process to be fully operational.

(2) The electronic verification system described in Subsection (1) shall:

(a) allow an individual, with the individual's physician in the physician's office, to apply for a medical cannabis card;

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(b) allow a physician to:

(i) electronically recommend, during a visit with a patient, treatment with a cannabis product for the patient; ~~and~~

(ii) see, on a screen where the physician inputs a recommendation, simultaneously while the physician inputs the recommendation, the patient's cannabis dispensing history; and

(iii) access data about the physician's patient stored in the state electronic verification system via an electronic or mobile platform that allows for:

(A) a patient to voluntarily submit outcome information and ask questions;

(B) a physician to respond to the patient and use the patient-submitted information for the purpose of quality improvement; and

(C) patient cannabis dispensing data to be automatically displayed when a physician accesses the Controlled Substance Database;

(c) issue a medical cannabis card to an individual if the individual meets the requirements described in Section 26-58-201;

(d) issue to a designated caregiver, if the designated caregiver meets the requirements in Section 26-58-202, a medical cannabis card on behalf of a named patient;

(e) connect with an inventory control system used by each cannabis dispensary and cannabis production establishment to track, in real time, for the purchase of a cannabis product by a medical cannabis card holder:

(i) the time and date of the purchase;

(ii) the quantity and type of a cannabis product purchased; and

(iii) any cannabis production establishment or cannabis dispensary that cultivated, processed, tested, or sold the cannabis product;

(f) provide access to the Department of Health and the Department of Agriculture and Food to the extent necessary to carry out the Department of Health's and the Department of Agriculture and Food's functions and responsibilities under:

(i) this chapter; and

(ii) Title 4, Chapter 42, Cannabis Production Establishment;

(g) provide access to state or local law enforcement:

(i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is complying with state medical cannabis law; or

## **SB0073S03 compared with SB0073S02**

(ii) after obtaining a warrant;

(h) create a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records are accessed; and

(i) transmit an individual's cannabis product purchase history to the controlled substance database created in Section 58-37f-203.

(3) The Department of Health may release de-identified data collected by the system under Subsection (2) for the purpose of conducting medical research.

Section 24. Section **26-58-104** is enacted to read:

### **26-58-104. Qualifying illness.**

(1) For the purposes of this chapter, the following conditions are considered a qualifying illness:

(a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer, cachexia, or such condition manifest by physical wasting, nausea, or malnutrition associated with chronic disease;

(e) Crohn's disease or a similar gastrointestinal disorder;

(f) epilepsy or a similar condition that causes debilitating seizures;

(g) multiple sclerosis or a similar condition that causes persistent and debilitating muscle spasms;

(h) post-traumatic stress disorder related to military service; and

(i) chronic pain in an individual, if:

(A) a physician determines that the individual is at greater risk of becoming addicted to, chemically dependent on, or overdosing on, opiate-based pain medication; or

(B) a physician determines that the individual is allergic to opiates, or is otherwise medically unable to use opiates.

(2) In addition to the conditions described in Subsection (1), a condition approved under Section 26-58-105, in an individual, on a case-by-case basis, is considered a qualifying illness for the purposes of this chapter.

Section 25. Section **26-58-105** is enacted to read:

### **26-58-105. Compassionate Use Board.**

## **SB0073S03 compared with SB0073S02**

(1) The department shall establish a Compassionate Use Board consisting of:

(a) five physicians who are knowledgeable about the medical use of cannabis and certified in one of the following specialties:

(i) neurology;

(ii) pain medicine and pain management;

(iii) medical oncology;

(iv) psychiatry;

(v) infectious disease;

(vi) internal medicine; and

(vii) pediatrics;

(b) the director of the Department of Health or the director's designee as a non-voting member; and

(c) two medical research professionals with expertise in cannabinoids or a qualifying illness, including one medical research professional who is affiliated with a research-based higher education institution.

(2) The department shall appoint at least one member of the board who has a specialty in addiction medicine.

(3) (a) Four of the members of the board first appointed shall serve for a term of three years and three of the members of the board first appointed shall serve for a term of four years.

(b) After the first members' terms expire, members of the board shall serve for a term of four years and shall be eligible for reappointment.

(c) Any member of the board may serve until a successor is appointed.

(d) The director of the Department of Health or the director's designee shall serve as the nonvoting chair of the board.

(4) A quorum of the Compassionate Use Board shall consist of five members.

(5) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

## **SB0073S03 compared with SB0073S02**

(6) The Compassionate Use Board shall:

(a) review and recommend to the department approval for an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) the individual and the individual's physician appear before the board and offer, in the board's discretion, satisfactory evidence that the individual suffers from a condition:

(A) that substantially impairs the individual's quality of life;

(B) that is intractable;

(C) that is not responsive to other treatments; and

(D) for which it is reasonably likely the condition will respond to treatment with cannabis.

(ii) the board determines it is in the best interest of the patient to allow the compassionate use of medical cannabis;

(b) meet to receive or review compassionate use petitions:

(i) quarterly, unless no petitions are pending; or

(ii) as often as necessary if there are more petitions than the board can receive or review during the board's regular schedule;

(c) report before November 1 of each year, to the Legislature's Health and Human Services Interim Committee, the number of compassionate use approvals the board issued during the past year and the types of conditions for which the board approved compassionate use; and

(d) evaluate whether the number of cannabis dispensaries in a geographic area meets the needs for a geographic area and recommend to the Legislature whether the number of cannabis dispensaries should be increased in a geographic area;

(e) evaluate physician variances under Subsection 26-58-106(5).

(7) The department shall review any compassionate use recommended by the board under this section to confirm if the board properly exercised the board's discretion under this section.

(8) If the department determines the board properly approved an individual for a compassionate use under this section, the department shall issue the individual a provisional medical cannabis card in accordance with this chapter that is valid for one year.

## **SB0073S03 compared with SB0073S02**

(9) Any individually identifiable health information contained in a petition received under this section shall be a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(10) The Compassionate Use Board shall, before November 1 of each year, recommend to the Legislature:

(a) a condition to designate as a qualifying illness under Section 26-58-104; or

(b) a condition to remove as a qualifying illness under Section 26-58-104.

Section 26. Section **26-58-106** is enacted to read:

### **26-58-106. Physician qualification.**

(1) For the purposes of this section, a physician means an individual who is licensed to practice:

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

(b) osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) A physician may recommend cannabis if the physician:

(a) completes the training requirements described in Subsection (3); and

(b) except as described in Subsection (4), recommends cannabis to no more than 250 of the physician's patients at any given time.

(3) (a) A physician shall complete, before recommending cannabis to a patient, a training program in cannabis recommendation best practices that is approved by the department, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall issue an endorsement to a physician that completes the training program described in Subsection (3)(a)

(c) The endorsement described in Subsection (3)(b) entitles a physician to use a medical cannabis endorsement image developed by the department on the physician's website.

(4) A physician may recommend cannabis to greater than 20% of the physician's patients if the physician:

(a) is certified in one of the following specialties:

(i) anesthesiology;

(ii) gastroenterology;

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(iii) neurology;

(iv) oncology;

(v) pain and palliative care;

(vi) physiatry;

(vii) psychiatry; or

(viii) addiction medicine;

(b) appears before the Compassionate Use Board described in Section 26-58-105; and

(c) demonstrates, to the satisfaction of the board and with the department's approval,

that:

(i) the physician's practice has unique characteristics that warrant allowing the physician to recommend cannabis to greater than 250 of the physician's patients; and

(ii) the physician has established expertise in medical cannabis.

(5) (a) Except as provided in Subsection (5)(b), a physician eligible to recommend cannabis or a cannabis product under this section may not advertise that the physician recommends cannabis or a cannabis product.

(b) A physician may advertise via a website that displays only:

(i) a green cross;

(ii) the physician's office's hours of operation;

(iii) the medical cannabis endorsement image described in Subsection (3)(c);

(iv) a qualifying illness that the physician treats;

(v) scientific studies regarding cannabis use; and

(vi) current studies on treatment with cannabis being conducted on patients.

Section 27. Section **26-58-107** is enacted to read:

**26-58-107. Standard of care -- Medical practitioners not liable -- No private right of action -- Insurance coverage.**

(1) It is not a breach of the applicable standard of care for a physician to recommend treatment with a cannabis product to an individual under this chapter.

(2) A physician who recommends treatment with a cannabis product to an individual in accordance with this chapter may not, based solely on the reason that the recommendation is for a cannabis product, be subject to:

(a) civil liability;

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(b) criminal liability; or

(c) licensure sanctions under:

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

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(3) An insurance carrier, third-party administrator, or employer is not required to provide reimbursement for a cannabis product or a medical cannabis device, under this chapter.

Section 28. Section **26-58-108** is enacted to read:

**26-58-108. 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;

(b) money deposited into the account by the Department of Agriculture and Food under Section 4-42-801;

(c) money deposited into the account by the department under Section 26-58-601;

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

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

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

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

(a) the state licensing and regulation cost of the state medical cannabis program established in:

(i) Title 26, Chapter 58, Medical Cannabis Act;

(ii) Title 4, Chapter 42, Cannabis Production Establishments; and

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

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

(5) At the end of fiscal year 2018, 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 2016 and fiscal year 2017 to implement the provisions of this bill.



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Section 29. Section **26-58-201** is enacted to read:

### Part 2. Medical Cannabis Card Registration

#### **26-58-201. Medical cannabis card -- Application -- Fees -- Database.**

(1) The department shall ~~+~~:

~~— (a) begin issuing medical cannabis cards under this section no later than December 1, 2016; and~~

~~— (b) + issue a medical cannabis card, via the electronic verification system, to an individual who complies with this section no later than 45 days after the day on which the individual submits a complete application.~~

(2) An individual is eligible for a medical cannabis card if the individual:

(a) is at least 18 years old;

(b) is a Utah resident; and

(c) recommended by the individual's physician under Subsection (5).

(3) An individual who is the parent or legal guardian of a minor is eligible for a medical cannabis card if:

(a) the individual is at least 18 years old;

(b) the individual is a Utah resident; and

(c) recommended by the minor's physician under Subsection (5).

(4) An individual who is eligible for a medical cannabis card under Subsection (2) or (3) shall submit an application for a medical cannabis card to the department:

(a) with the recommending physician, in the recommending physician's office;

(b) via an electronic application connected to the electronic verification system;

(c) that includes:

(i) the individual's name, gender, age, address, and for the purpose of being notified about a recall or a research study, the individual's contact information; and

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

(5) A physician who recommends treatment with medical cannabis to an individual or minor shall:

(a) input in the physician's diagnosis that the individual suffers from a qualifying illness:

(i) the type of qualifying illness; and

## **SB0073S03 compared with SB0073S02**

(ii) a recommendation that the individual try a cannabis product; and

(b) look up the individual in the controlled substance database created in Section 58-37f-201 to check for potential interactions or warning signs.

(6) A medical cannabis card the department issues under this section is valid for the lesser of:

(a) an amount of time determined by the physician who recommends treatment with a cannabis product under Subsection (5); or

(b) two years.

(7) An individual may not ingest cannabis or a cannabis product:

(a) in public view; or

(b) while the individual operates a motor vehicle.

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

(9) The department may establish procedures, by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the medical cannabis card application and issuance provisions of this Section.

(10) (a) A person may submit, to the department, a request to conduct a medical research study using medical cannabis cardholder data contained in the electronic verification system.

(b) The department shall review a request submitted under Subsection (10)(a) to determine if the medical research study is valid.

(c) If the department determines that a medical research study is valid under Subsection (10)(b), the department shall notify a relevant medical cannabis cardholder asking for the medical cannabis cardholder's participation in the study.

(d) The department may release, for the purposes of a study, information about a medical cannabis cardholder who consents to participation under Subsection (10)(c).

(e) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 30. Section **26-58-202** is enacted to read:

**26-58-202. Medical cannabis card --- Designated caregiver -- Registration -- Renewal -- Revocation.**

## **SB0073S03 compared with SB0073S02**

(1) An individual may designate up to two individuals to serve as designated caregivers of the individual if:

(a) the individual has a valid medical cannabis card under Section 26-58-201; and

(b) a physician determines that, due to physical impossibility or undue hardship, the individual is unable to obtain a cannabis product from a cannabis dispensary.

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

(a) carry a valid medical cannabis card with the designated caregiver's name for the purpose of transporting cannabis or a cannabis product to a designating patient or assisting a designating patient in administering the cannabis product; and

(b) purchase and possess, in accordance with this chapter, a cannabis product or a medical cannabis device on behalf of the designating patient.

(3) The department shall register an individual designated as a caregiver under Subsection (1) if the individual:

(a) is at least 18 years old;

(b) is a Utah resident;

(c) applies online, with the department, through the electronic verification system, for a medical cannabis card as a designated caregiver;

(d) pays, to the department, a fee established by the department in accordance with Section 63J-1-504, plus the cost of a criminal background check;

(e) complies with Section 26-58-205; and

(f) completes a training program for designated caregivers established by the department that includes an endorsement that the individual understands state law for caregivers.

(4) The department shall issue, to an individual who registers under this section, a medical cannabis card that:

(a) is connected to the electronic verification system; and

(b) includes the individual's name.

(5) A medical cannabis card is renewable for a designated caregiver if, at the time of renewal:

(a) an individual with a medical cannabis card described in Subsection (1) renews the caregiver's designation; and

## **SB0073S03 compared with SB0073S02**

(b) the designated caregiver meets the requirements of Subsection (3).

(6) A designated caregiver may charge an individual to act as the individual's designated caregiver.

(7) The Department of Health may revoke an individual's medical cannabis card if the individual:

(a) violates this chapter; or

(b) is convicted of a felony that is:

(i) a crime of involving the use of force or violence against another person; or

(ii) a felony conviction of a state or federal law pertaining to controlled substances.

Section 31. Section **26-58-203** is enacted to read:

### **26-58-203. Designated caregiver -- Criminal background check.**

(1) An individual registered as a designated caregiver under Section 26-58-202 shall submit to a criminal background check in accordance with Subsection (2).

(2) Each designated caregiver shall:

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

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(3) The Department of Public Safety shall complete a Federal Bureau of Investigation Criminal Background Check for each designated caregiver under Subsection (2) and report the results of the background check to the department.

Section 32. Section **26-58-204** is enacted to read:

### **26-58-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.**

(1) An individual who has a medical cannabis card and who possesses a cannabis product outside of the individual's residence shall:

(a) carry, with the individual at all times, the individual's medical cannabis card; and

(b) carry, with the cannabis product, a label that identifies that the cannabis product was originally sold from a department licensed cannabis dispensary, including the bar code or identification number that links the cannabis or cannabis product to the dispensary's inventory

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control system.

(2) If an individual possesses a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis product:

(a) there is a rebuttable presumption that the individual possesses the cannabis product or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis product or medical cannabis device, to believe that the individual is engaging in illegal activity.

(3) (a) If a law enforcement officer stops an individual who possesses a cannabis product or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine the individual's identity and whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify the identity of the individual described in Subsection (3)(a), and that the individual holds a valid medical cannabis card, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of a cannabis product or a medical cannabis device; and

(ii) may not seize the cannabis product or medical cannabis device.

(4) An individual who has a valid medical cannabis card is guilty of an infraction if the individual:

(a) possesses a cannabis product or a medical cannabis device; and

(b) (i) does not possess the individual's medical cannabis card on the individual's person; or

(ii) does not possess a label that complies with Subsection (1)(b).

(5) (a) Except as described in Subsection (5)(b), an individual who has a valid medical cannabis card is guilty of an infraction if the individual uses a cannabis product or a medical cannabis device in public view.

(b) An individual may use a cannabis product or a medical cannabis device in public

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view in the event of a medical emergency.

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

Section 33. Section **26-58-301** is enacted to read:

### **Part 3. Cannabis Dispensary License**

#### **26-58-301. Cannabis dispensary -- License -- Eligibility.**

(1) In order to operate as a cannabis dispensary, a person shall obtain a license from the department issued under this part.

(2) Subject to the requirements of this part, the department shall, within 30 business days after receiving a complete application, issue a license to operate a cannabis dispensary to a person who submits to the department:

(a) a proposed name and address of the cannabis dispensary;

(b) evidence that the person:

(i) possesses or controls a minimum of \$500,000 in liquid assets for each application submitted to the department; and

(ii) can comply with the operating requirements for a cannabis dispensary described in this chapter;

(c) a complete application for a local business license;

(d) an application fee:

(i) before January 1, ~~2017~~2018, of \$5,000; and

(ii) after January 1, ~~2017~~2018, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part;

(e) an operating plan that complies with Section 26-58-303; and

(f) the results of a criminal background check for each cannabis dispensary agent.

(3) If the department determines that a cannabis dispensary is eligible for a license under this section, the department shall:

(a) before January 1, ~~2017~~2018, charge the cannabis dispensary an initial license fee of \$65,000; and

(b) on or after January 1, ~~2017~~2018, charge the cannabis dispensary an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.

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(4) The department shall require a separate license and a separate license fee under Subsection (3) for each location of a cannabis dispensary.

(5) The department may revoke a license under this part if the cannabis dispensary is not operating within one year of the issuance of the initial license.

(6) The department shall deposit the proceeds of a fee imposed by this section in the Medical Cannabis Restricted Account.

Section 34. Section **26-58-302** is enacted to read:

### **26-58-302. Renewal.**

(1) Except as provided in Subsection (3), the department shall renew a person's license under this part every two years if, at the time of renewal:

(a) the person meets the requirements of Section 26-58-301; 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 dispensary'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 dispensary is located, one year before the day on which the cannabis dispensary's license expires, that includes:

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

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

(iii) a solicitation for cannabis dispensary license applicants.

(b) If, after the department publishes the notice described in Subsection (2)(a), the department receives an application for a cannabis dispensary from a new applicant and also receives an application for renewal from the existing cannabis dispensary, the department shall issue the license to the applicant that the department determines best meets the criteria established in Section 26-58-304.

(3) (a) If a licensed cannabis dispensary abandons the cannabis dispensary's license or has the cannabis dispensary 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 dispensary constitute abandonment of a cannabis dispensary license.

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Section 35. Section **26-58-303** is enacted to read:

### **26-58-303. Operating plan.**

(1) A person applying for a cannabis dispensary license shall submit to the department a proposed operation plan for the cannabis dispensary that complies with this section.

(2) A cannabis dispensary's operating plan shall include:

(a) a description of the physical characteristics of the proposed facility, including a floor plan and architectural elevations that indicate compliance with the requirements of this chapter;

(b) a description of the credentials and experience of:

(i) each officer, director, or owner of the proposed cannabis dispensary; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis dispensary's employee training standards;

(d) a security plan;

(e) a banking plan;

(f) a description of the cannabis dispensary's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system; and

(g) that the cannabis processing facility has entered into a preliminary agreement with a cannabis processing facility in the state to purchase a cannabis product that the cannabis dispensary intends to sell.

(3) The department may require, by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, additional operating standards for a cannabis production establishment's operating plan that are related to safety for human cannabis product consumption.

Section 36. Section **26-58-304** is enacted to read:

### **26-58-304. Maximum number of licenses.**

(1) The department may not issue more than the greater of, in each county in the state:

(a) one cannabis dispensary license; or

(b) an amount of cannabis dispensary licenses equal to the number of residents in the county divided by 200,000, rounded up to the nearest greater whole number.

(2) If more than one applicant for a license in a geographic area meets the



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qualifications of this chapter for a cannabis dispensary, the department shall evaluate the applicants, and award the license to the applicant that best demonstrates:

(a) experience with:

(i) establishing and running a similar cannabis based business;

(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) the extent to which the applicant can reduce the cost of cannabis products to a patient; and

(d) the extent to which the applicant's business plan reflects cannabis industry best practices.

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

Section 37. Section **26-58-401** is enacted to read:

### **Part 4. Cannabis Dispensary Agents**

#### **26-58-401. Cannabis dispensary agent -- Registration card.**

(1) An individual may only act as a cannabis dispensary agent of a cannabis dispensary if the individual is registered by the department as a cannabis dispensary agent.

(2) A physician may not act as a cannabis dispensary agent.

(3) The department shall, within 30 days after receiving a complete application, register and issue a cannabis dispensary agent registration card to an individual who:

(a) provides to the department:

(i) the individual's name and address; and

(ii) the name and location of the licensed cannabis dispensary where the individual seeks to act as the cannabis dispensary agent;

(b) pays a fee to the department:

(i) before January 1, ~~2017~~2018, of \$250; and

(ii) on or after January 1, ~~2017~~2018, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part; and

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(c) complies with Section 26-58-402.

(4) A cannabis dispensary agent shall comply with a certification standard developed by the department, or a third party certification standard approved by the department.

(5) The certification standard described in Subsection (4) shall address:

(a) Utah medical cannabis law;

(b) cannabis dispensary best practices; and

(c) resources available to help patients.

(6) The department may revoke or refuse to issue the cannabis dispensary agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted of a felony under state or federal law that involves a drug or violent crime that is a felony under state or federal law.

Section 38. Section **26-58-402** is enacted to read:

### **26-58-402. Cannabis dispensary agents -- Criminal background checks.**

(1) An individual applying for a cannabis dispensary agent registration card under this chapter shall:

(a) submit, at the time of application, a fingerprint card in a form acceptable to the department; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each cannabis dispensary agent registration card applicant.

(3) The department may revoke or refuse to issue an individual's cannabis dispensary agent registration card if the individual has been convicted of an offense that is a felony under state or federal law that is related to drugs or a violent crime.

Section 39. Section **26-58-403** is enacted to read:

**26-58-403. Cannabis dispensary agent registration card -- Rebuttable presumption.**

(1) An individual who has a cannabis dispensary agent registration card shall carry the

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individual's cannabis dispensary agent registration card with the individual at all times when:

(a) the individual is on the premises of a cannabis dispensary; and

(b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.

(2) If an individual handling cannabis, a cannabis product, or a medical cannabis device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause to believe that the individual is engaging in illegal activity, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1).

(3) A cannabis dispensary agent registered with the department is guilty of an infraction if the registered cannabis dispensary agent:

(a) (i) is on the premises of a cannabis dispensary where the individual is registered as an agent; or

(ii) transports cannabis, a cannabis product, or a medical cannabis device; and

(b) does not possess, on the registered cannabis dispensary agent's person, a valid cannabis dispensary agent registration card.

(4) A registered cannabis dispensary agent who is guilty of an infraction under Subsection (3) is subject to a fine of no more than \$100.

Section 40. Section **26-58-501** is enacted to read:

### **Part 5. Cannabis Dispensary Operation**

#### **26-58-501. Operating requirements -- General.**

(1) (a) A cannabis dispensary shall operate in accordance with the operating plan provided to the department under Section 26-58-303.

(b) A cannabis dispensary shall notify the department no longer than 30 days after a change in the cannabis dispensary's operating plan.

(2) A cannabis dispensary shall operate:

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(a) except as provided in Subsection (3), in a facility that is accessible only by an individual with a valid cannabis dispensary agent registration card issued under Section 26-58-401 or a medical cannabis card issued under Section 26-58-201; and

(b) at the physical address provided to the department under Section 26-58-301.

(3) A cannabis dispensary may allow an individual who is a visitor, a contractor, or a member of the press to access the cannabis dispensary if the cannabis dispensary:

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

(b) maintains a record of the individual's access.

(4) A cannabis dispensary shall operate in a facility that has:

(a) a single, secure public entrance with a checkpoint;

(b) a security system with a backup power source that:

(i) detects and records entry into the cannabis dispensary during business hours; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis dispensary is closed; and

(c) a reinforced and locked area where the cannabis dispensary stores cannabis or a cannabis product.

(5) A cannabis dispensary shall post, clearly and conspicuously in the cannabis dispensary, the limit on the purchase of cannabis described in Subsection 26-58-502(3),

(6) A cannabis dispensary may not allow any individual to consume cannabis on the property or premises of the establishment.

(7) A cannabis dispensary may not, on an interior or exterior space, display or offer anything that glorifies or trivializes cannabis or that promotes a recreational cannabis lifestyle.

(8) A cannabis dispensary shall:

(a) have a clinical, medical appearance; and

(b) require any employee to wear a white lab coat.

(9) A cannabis dispensary may not operate:

(a) within 600 feet of a community location, as defined in Section 32B-1-102, that is not a public or private school; or

(b) within 1000 feet of a public or private school.

Section 41. Section **26-58-502** is enacted to read:

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### 26-58-502. Dispensing -- Amount a cannabis dispensary may dispense --

#### **Reporting -- Form of cannabis or cannabis product.**

(1) A cannabis dispensary may only sell, subject to this chapter:

(a) a cannabis product;

(b) a medical cannabis device; or

(c) educational materials related to the medical use of cannabis.

(2) A cannabis dispensary may only sell a cannabis product or a medical cannabis device to an individual with a medical cannabis card issued by the department.

(3) A cannabis dispensary may not dispense on behalf of any one individual with a medical cannabis card, in any one 30-day period an amount of cannabis products that contains, in total, greater than 10 grams of cannabinoids by weight.

(4) An individual with a medical cannabis card may not purchase more cannabis products than the amount designated in Subsection (3).

(5) A designated caregiver designated by any individual with a medical cannabis card may not purchase, for the individual, an amount of cannabis products that exceeds the amount designated in Subsection (3).

(6) A cannabis dispensary shall:

(a) access the electronic verification system before dispensing a cannabis product to an individual with a medical cannabis card in order to determine if the individual has already met the maximum amount of cannabis products described in Subsection (3); and

(b) submit a record to the electronic verification system each time the cannabis dispensary dispenses a cannabis product to an individual with a medical cannabis card.

(7) (a) Except as provided in Subsection (7)(b), a cannabis dispensary may not sell a cannabis product that is intentionally designed or fabricated to resemble a cigarette, or made to resemble or be mistaken for a cigarette.

(b) A cannabis dispensary may sell a cannabis product with a thin, cylindrical configuration that warms a cannabis product into a vapor that is ingested into an individual's respiratory system.

(8) A cannabis dispensary may not sell a medical cannabis device that produces a vapor with an odor or flavor.

(9) A cannabis dispensary may give to an individual with a medical cannabis card, at

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no cost, a product that the cannabis dispensary may sell under Subsection (1).

Section 42. Section **26-58-503** is enacted to read:

### **26-58-503. Advertising and signage.**

(1) Except as provided in Subsections (2) and (3) a cannabis dispensary may not advertise in any medium.

(2) A cannabis dispensary may display signage on the outside of the cannabis dispensary that includes only:

(a) the cannabis dispensary's name and hours of operation; and

(b) a green cross.

(3) A cannabis dispensary may maintain a website that includes information about:

(a) the location and hours of the cannabis dispensary;

(b) the products and services available at the cannabis dispensary;

(c) personnel affiliated with the cannabis dispensary;

(d) best practices that the cannabis dispensary upholds;

(e) educational materials related to the medical use of cannabis; and

(f) employment opportunities with the cannabis dispensary.

Section 43. Section **26-58-504** is enacted to read:

### **26-58-504. Inspections.**

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

(2) The department may inspect the records and facility of a cannabis dispensary at any time, scheduled or unscheduled.

Section 44. Section **26-58-505** is enacted to read:

**26-58-505. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) Except for an individual or designated caregiver with a medical cannabis card who possesses cannabis or a cannabis product in accordance with Section 26-58-204, an individual may only transport cannabis, a cannabis product, or a cannabis device between cannabis production establishments or between a cannabis production establishment and a cannabis dispensary if the individual is:

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(a) a registered cannabis production establishment agent; or

(b) a registered cannabis dispensary agent.

(2) An individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a related inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device that reflect best practices for cannabis or cannabis product transportation for safety for human cannabis or cannabis product consumption.

(4) A cannabis dispensary agent registered with the department is guilty of an infraction if the registered cannabis dispensary agent:

(a) transports cannabis, a cannabis product, or a medical cannabis device; and

(b) does not possess, on the registered cannabis dispensary agent's person or in the transport vehicle, a manifest that complies with Subsection (3).

(5) A registered cannabis dispensary agent who is guilty of an infraction under Subsection (3) is subject to a fine of no more than \$100.

Section 45. Section **26-58-601** is enacted to read:

### **Part 6. Enforcement**

#### **26-58-601. Enforcement -- Fine -- Citation.**

(1) The department may, for a violation of this chapter by a person who is a cannabis dispensary or cannabis dispensary agent:

(a) revoke the person's cannabis dispensary license or cannabis dispensary agent registration card;

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

(c) assess the person an administrative penalty.

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

(3) 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, and cure, the action that creates a violation.

(4) The department may not revoke a cannabis dispensary's license via a citation.

(5) If, within 20 calendar days after the day on which the department issues 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.

(6) The department may, for a person who fails to cure the violation for which a citation under this section:

(a) refuse to issue or renew the person's license or cannabis dispensary agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis dispensary agent registration card.

Section 46. Section **30-3-10** is amended to read:

**30-3-10. Custody of children in case of separation or divorce -- Custody consideration.**

(1) If a husband and wife having minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either the mother or father solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

- (i) the past conduct and demonstrated moral standards of each of the parties;
- (ii) which parent is most likely to act in the best interest of the child, including



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allowing the child frequent and continuing contact with the noncustodial parent;

(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;

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

(v) those factors outlined in Section 30-3-10.2.

(b) There shall be a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

(i) domestic violence in the home or in the presence of the child;

(ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(c) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) The children may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the children be heard and there is no other reasonable method to present their testimony.

(e) The court may inquire of the children and take into consideration the children's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise. The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) If interviews with the children are conducted by the court pursuant to Subsection (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with the children is the only method to ascertain the child's desires regarding custody.

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(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) If a court takes a parent's disability into account in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing that:

(i) the disability does not significantly or substantially inhibit the parent's ability to provide for the physical and emotional needs of the child at issue; or

(ii) the parent with a disability has sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(6) In considering the past conduct and demonstrated moral standards of each of the parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent because of the parent's possession or consumption of a cannabis product or a medical cannabis device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

Section 47. 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.**

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(1) As used in this section:

(a) "Controlled substance" has the same meaning as in Section 58-37-2.

(b) "Practitioner" has the same meaning as in Section 58-37-2.

(c) "Prescribe" has the same meaning as in Section 58-37-2.

(d) "Prescription" has the same meaning 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) a cannabis product that was:

(i) not causing impairment; and

(ii) (A) recommended by a physician to the accused, if the accused holds a valid medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act; or

(B) ingested by the accused in another state in which the use of a cannabis product is legal under state law; or

~~(c)~~ (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

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(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,

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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).

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(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 48. Section **53-1-106.5** is enacted to read:

### **53-1-106.5. Medical Cannabis Act -- Department duties.**

(1) In addition to the duties described in Section 53-1-106, the department shall:

(a) develop standards for training peace officers and law enforcement agencies in state medical cannabis law and the use of the state electronic verification system; and

(b) collaborate with the Department of Health and the Department of Agriculture and Food to provide a curriculum for training peace officers and law enforcement agencies in medical cannabis.

(2) The department may not allow a law enforcement official to access the electronic verification system unless the law enforcement official has completed the training described in Subsections (1)(b) and (1)(c).

Section 49. Section **58-37-3.6** is enacted to read:

**58-37-3.6. Exemption for possession or use of cannabis to treat a qualifying illness.**

(1) As used in this section:

(a) (i) "Cannabis" means the plant cannabis sativa.

(ii) "Cannabis" includes marijuana.

(b) "Cannabis dispensary" means the same as that term is defined in Section 26-58-102.

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(c) "Cannabis product" means a product that:

(i) is intended for human ingestion;

(ii) contains cannabinoids extracted out of a whole cannabis plant; and

(iii) is separated into doses with an identified amount of total cannabinoids and cannabinoid profile per dose.

(d) "Designated caregiver" means the same as that term is defined in Section 26-58-102.

(e) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(f) "Marijuana" means the same as that term is defined in Section 58-37-2.

(g) "Medical cannabis card" means the same as that term is defined in Section 26-58-102.

(h) "Medical cannabis device" means a device that:

(i) an individual uses to ingest a lawfully sold cannabis product; and

(ii) measures the amount of cannabinoids ingested.

(i) "Qualifying illness" means the same as that term is defined in Section 26-58-102.

(j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter:

(a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to the penalties described in this title for the growth, possession, sale, or offer for sale of marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale, or offer for sale of the cannabis complies with:

(i) Title 4, Chapter 42, Cannabis Production Establishment; and

(ii) Title 26, Chapter 58, Medical Cannabis Act;

(b) an individual who possesses, sells, or offers to sell a cannabis product or a medical cannabis device is not subject to the penalties described in this title for the possession, sale, or offer for sale of marijuana or tetrahydrocannabinol to the extent that the individual's possession, sale, or offer for sale of the cannabis product or medical cannabis device complies with:

(i) Title 4, Chapter 42, Cannabis Production Establishment; and

(ii) Title 26, Chapter 58, Medical Cannabis Act;

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(c) an individual who possesses, sells, or offers to sell a medical cannabis device is not subject to the penalties described in this title for the possession, sale, or offer for sale of marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's possession, sale, or offer for sale of the medical cannabis device complies with:

(i) Title 4, Chapter 42, Cannabis Production Establishment; and

(ii) Title 26, Chapter 58, Medical Cannabis Act.

(3) An individual with a medical cannabis card is guilty of an infraction if the individual uses or possesses drug paraphernalia that is not a medical cannabis device.

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

Section 50. Section **58-37-3.7** is enacted to read:

### **58-37-3.7. Affirmative defense.**

(1) Before the day on which the Department of Health is issuing medical cannabis cards and a cannabis dispensary in the state is licensed and selling a cannabis product, it is an affirmative defense to criminal charges against an individual for the use or possession of marijuana, tetrahydrocannabinol, or marijuana or tetrahydrocannabinol drug paraphernalia under this chapter that the individual's conduct would have been lawful after the individual obtains a medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act.

(2) A court shall, for charges that the court dismisses under Subsection (1), dismiss the charges without prejudice.

Section 51. 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" means the same as that term is defined in Section 58-37-3.6.

(b) "Cannabis dispensary" means the same as that term is defined in Section 26-58-102.

(c) "Cannabis product" means the same as that term is defined in Section 58-37-3.6.

(d) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.6.

(2) In addition to the exemptions described in Section 59-12-104, the sale, by a licensed cannabis dispensary, of a cannabis product or a medical cannabis device, is not subject



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to the taxes imposed by this chapter.

Section 52. 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 53. Section **59-28-102** is enacted to read:

#### **59-28-102. Definitions.**

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

(2) "Cannabis dispensary" means the same as that term is defined in Section 26-58-102.

(3) "Cannabis product" means the same as that term is defined in Section 58-37-3.6.

(4) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.6.

(5) "Medical Cannabis Restricted Account" means the account created in Section 26-58-108.

Section 54. 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 a cannabis product, or a medical cannabis device at a cannabis dispensary in the state, in an amount equal to 4.70% of amounts paid or charged for the cannabis product or medical cannabis device.

Section 55. Section **59-28-104** is enacted to read:

#### **59-28-104. Collection of tax.**

A cannabis dispensary shall:

(1) collect the tax imposed by Section 59-28-103 from a cannabis product or medical cannabis device 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 56. Section **59-28-105** is enacted to read:

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### **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 57. Section **59-28-106** is enacted to read:

### **59-28-106. Records.**

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

(2) The commission may require a cannabis dispensary to keep any record the commission reasonably considers necessary to constitute sufficient evidence of the amount of tax the cannabis dispensary is required to remit to the commission under this chapter:

(a) by notice served upon the cannabis dispensary; or

(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

Section 58. Section **59-28-107** is enacted to read:

**59-28-107. Rulemaking authority -- Enforcement not more strict than those applied to a similarly situated business.**

(1) Except as provided in Subsection (2), the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) implement the tax imposed by this chapter; and

(b) enforce payment of the tax imposed by this chapter.

(2) The commission may not make a rule that applies to a cannabis dispensary that is more restrictive than would apply to a similarly situated business.

(3) The commission may not enforce this chapter against a cannabis dispensary more strictly than the commission would for a similarly situated business.

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

### **59-28-108. Penalties and interest.**

A cannabis 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.

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Section 60. 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[-]; or

(ii) the possession or use of a cannabis product or a medical cannabis device in the home, if the use and possession of the cannabis product or medical cannabis device is in compliance with Title 26, Chapter 58, Medical Cannabis 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

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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 61. Section **63I-1-226** is amended to read:

**63I-1-226. Repeal dates, Title 26.**

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July

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1, 2025.

(2) Section 26-10-11 is repealed July 1, 2020.

(3) Section 26-21-23, Licensing of non-Medicaid nursing care facility beds, is repealed July 1, 2018.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(6) Section 26-38-2.5 is repealed July 1, 2017.

(7) Section 26-38-2.6 is repealed July 1, 2017.

(8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed [~~July 1, 2016~~]

~~January~~ June 1, 2017 ~~2017~~ 2018.

Section 62. Section **63I-1-258** is amended to read:

### **63I-1-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed [~~July 1, 2016~~] January 1, 2017.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

Section 63. 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:

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(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;

(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 a cannabis product or a medical cannabis device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

~~(3)~~ (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

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parent.

~~[(4)]~~ (5) (a) 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.

Section 64. **Effective date.**

This bill takes effect on July 1, 2016.