

Representative Brad M. Daw proposes the following substitute bill:

CANNABIS-BASED MEDICINE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Brad M. Daw

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ allows an individual with a qualifying illness who registers with a state electronic verification system to possess and use cannabis-based medicine under certain circumstances;
- ▶ directs the Department of Health to issue a medical cannabis card to an individual who meets the requirements of:
 - a qualified patient; or
 - a designated caregiver of a qualified patient;
- ▶ directs the Division of Occupational and Professional Licensing to issue:
 - a license to operate a CBM dispensary to a person that meets certain qualifications; and
 - a registration card to an individual to act as an agent of a CBM dispensary to an individual who meets certain qualifications;
- ▶ directs the Department of Agriculture and Food to issue:
 - a license to operate a cannabis production establishment to a person that meets



26 certain qualifications; and
27 • a registration card to an individual to act as an agent of a medical
28 cannabis-based medicine establishment if the individual meets certain
29 qualifications;
30 ▶ directs the Department of Financial Institutions to issue a license to a person to
31 operate a cannabis payment processor;
32 ▶ requires a CBM dispensary to report the distribution of cannabis-based medicine to
33 an individual to the controlled substance database;
34 ▶ permits a political subdivision to restrict the location of and operations of a CBM
35 dispensary or medical cannabis-based medicine establishment through local zoning
36 ordinances and business licenses;
37 ▶ amends the Utah Controlled Substances Act to allow a licensed person to grow
38 cannabis, to process cannabis, and to possess and sell cannabis-based medicine
39 under certain circumstances;
40 ▶ requires a physician who recommends cannabis-based medicine to a patient to:
41 • receive training;
42 • report adverse events to the Department of Health; and
43 • limit the number of patients for whom the physician will recommend
44 cannabis-based medicine;
45 ▶ imposes a tax on the retail sale of cannabis-based medicine;
46 ▶ amends provisions related to driving with a measurable metabolite of
47 cannabis-based medicine;
48 ▶ creates the Medical Cannabis Restricted Account;
49 ▶ modifies the membership of the Controlled Substances Advisory Committee;
50 ▶ allows a higher education institution to purchase cannabis-based medicine, possess
51 cannabis-based medicine, and give cannabis-based medicine to a patient pursuant to
52 a medical research study approved by the Department of Health;
53 ▶ directs the Controlled Substances Advisory Committee to recommend conditions to
54 include as qualifying illnesses for treatment using cannabis-based medicine;
55 ▶ prohibits a court from discriminating against a parent in a child custody case based
56 on the parent's legal use of cannabis-based medicine; and

57 ▶ prohibits a peace officer or child welfare worker from removing a child from an
58 individual's home on the basis of the individual's lawful use of cannabis-based
59 medicine.

60 **Money Appropriated in this Bill:**

61 None

62 **Other Special Clauses:**

63 This bill provides a special effective date.

64 **Utah Code Sections Affected:**

65 AMENDS:

66 41-6a-517, as last amended by Laws of Utah 2013, Chapter 333

67 58-38a-201, as last amended by Laws of Utah 2011, Chapter 60

68 58-38a-203, as last amended by Laws of Utah 2011, Chapters 12 and 340

69 62A-4a-202.1, as last amended by Laws of Utah 2012, Chapters 221 and 293

70 63I-1-258, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,
71 and 432

72 78A-6-508, as last amended by Laws of Utah 2014, Chapter 409

73 ENACTS:

74 4-42-101, Utah Code Annotated 1953

75 4-42-102, Utah Code Annotated 1953

76 4-42-103, Utah Code Annotated 1953

77 4-42-104, Utah Code Annotated 1953

78 4-42-201, Utah Code Annotated 1953

79 4-42-202, Utah Code Annotated 1953

80 4-42-203, Utah Code Annotated 1953

81 4-42-204, Utah Code Annotated 1953

82 4-42-205, Utah Code Annotated 1953

83 4-42-301, Utah Code Annotated 1953

84 4-42-302, Utah Code Annotated 1953

85 4-42-303, Utah Code Annotated 1953

86 4-42-401, Utah Code Annotated 1953

87 4-42-402, Utah Code Annotated 1953

- 88 **4-42-403**, Utah Code Annotated 1953
- 89 **4-42-404**, Utah Code Annotated 1953
- 90 **4-42-501**, Utah Code Annotated 1953
- 91 **4-42-601**, Utah Code Annotated 1953
- 92 **4-42-602**, Utah Code Annotated 1953
- 93 **4-42-603**, Utah Code Annotated 1953
- 94 **4-42-701**, Utah Code Annotated 1953
- 95 **4-42-702**, Utah Code Annotated 1953
- 96 **4-42-801**, Utah Code Annotated 1953
- 97 **4-42-802**, Utah Code Annotated 1953
- 98 **4-42-803**, Utah Code Annotated 1953
- 99 **7-26-101**, Utah Code Annotated 1953
- 100 **7-26-102**, Utah Code Annotated 1953
- 101 **7-26-201**, Utah Code Annotated 1953
- 102 **7-26-202**, Utah Code Annotated 1953
- 103 **7-26-203**, Utah Code Annotated 1953
- 104 **7-26-204**, Utah Code Annotated 1953
- 105 **7-26-301**, Utah Code Annotated 1953
- 106 **7-26-401**, Utah Code Annotated 1953
- 107 **7-26-402**, Utah Code Annotated 1953
- 108 **26-58-101**, Utah Code Annotated 1953
- 109 **26-58-102**, Utah Code Annotated 1953
- 110 **26-58-103**, Utah Code Annotated 1953
- 111 **26-58-104**, Utah Code Annotated 1953
- 112 **26-58-105**, Utah Code Annotated 1953
- 113 **26-58-201**, Utah Code Annotated 1953
- 114 **26-58-202**, Utah Code Annotated 1953
- 115 **26-58-203**, Utah Code Annotated 1953
- 116 **26-58-204**, Utah Code Annotated 1953
- 117 **26-58-205**, Utah Code Annotated 1953
- 118 **26-58-206**, Utah Code Annotated 1953

- 119 **26-58-207**, Utah Code Annotated 1953
- 120 **26-58-208**, Utah Code Annotated 1953
- 121 **26-58-301**, Utah Code Annotated 1953
- 122 **26-58-401**, Utah Code Annotated 1953
- 123 **53-1-106.5**, Utah Code Annotated 1953
- 124 **58-37-3.6**, Utah Code Annotated 1953
- 125 **58-37f-204**, Utah Code Annotated 1953
- 126 **58-38a-203.1**, Utah Code Annotated 1953
- 127 **58-67-807**, Utah Code Annotated 1953
- 128 **58-68-807**, Utah Code Annotated 1953
- 129 **58-86-101**, Utah Code Annotated 1953
- 130 **58-86-102**, Utah Code Annotated 1953
- 131 **58-86-201**, Utah Code Annotated 1953
- 132 **58-86-202**, Utah Code Annotated 1953
- 133 **58-86-203**, Utah Code Annotated 1953
- 134 **58-86-204**, Utah Code Annotated 1953
- 135 **58-86-205**, Utah Code Annotated 1953
- 136 **58-86-301**, Utah Code Annotated 1953
- 137 **58-86-302**, Utah Code Annotated 1953
- 138 **58-86-303**, Utah Code Annotated 1953
- 139 **58-86-401**, Utah Code Annotated 1953
- 140 **58-86-402**, Utah Code Annotated 1953
- 141 **58-86-403**, Utah Code Annotated 1953
- 142 **58-86-404**, Utah Code Annotated 1953
- 143 **58-86-405**, Utah Code Annotated 1953
- 144 **58-86-406**, Utah Code Annotated 1953
- 145 **58-86-501**, Utah Code Annotated 1953
- 146 **58-86-502**, Utah Code Annotated 1953
- 147 **59-12-104.7**, Utah Code Annotated 1953
- 148 **59-28-101**, Utah Code Annotated 1953
- 149 **59-28-102**, Utah Code Annotated 1953

- 150 [59-28-103](#), Utah Code Annotated 1953
- 151 [59-28-104](#), Utah Code Annotated 1953
- 152 [59-28-105](#), Utah Code Annotated 1953
- 153 [59-28-106](#), Utah Code Annotated 1953
- 154 [59-28-107](#), Utah Code Annotated 1953
- 155 [59-28-108](#), Utah Code Annotated 1953

156

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

158 Section 1. Section [4-42-101](#) is enacted to read:

159 **CHAPTER 42. CANNABIS PRODUCTION ESTABLISHMENT LICENSE**

160 **Part 1. General Provisions**

161 **4-42-101. Title.**

162 This chapter is known as "Cannabis Production Establishment License."

163 Section 2. Section [4-42-102](#) is enacted to read:

164 **4-42-102. Definitions.**

165 As used in this chapter:

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

- 168 (a) tetrahydrocannabinol or THC;
- 169 (b) tetrahydrocannabinolic acid or THCa;
- 170 (c) cannabidiol or CBD;
- 171 (d) cannabinol or CBN; and
- 172 (e) cannabigerol or CBG.

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

174 (3) "Cannabis-based medicine" means the same as that term is defined in Section
175 [58-37-3.6](#).

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

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

179 cannabis-based medicine.

180 (5) "Cannabis-based medicine dispensary agent" or "CBM dispensary agent" means the

181 same as that term is defined in Section 58-86-102.

182 (6) "Cannabis-based medicine dispensary agent registration card" or "CBM dispensary
183 agent registration card" means the same as that term is defined in Section 58-86-102.

184 (7) "Cannabis cultivation facility" means a person that:

185 (a) grows cannabis; or

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

187 (8) "Cannabis cultivation facility agent" means an owner, officer, director, board
188 member, shareholder, agent, employee, or volunteer of a cannabis cultivation facility.

189 (9) "Cannabis payment processor" means the same as that term is defined in Section
190 7-26-102.

191 (10) "Cannabis processing facility" means a person that:

192 (a) manufactures cannabis-based medicine from cannabis;

193 (b) purchases or possesses cannabis with the intent to manufacture cannabis-based
194 medicine; or

195 (c) sells or intends to sell cannabis-based medicine to a cannabis dispensary.

196 (11) "Cannabis processing facility agent" means an owner, officer, director, board
197 member, shareholder, agent, employee, or volunteer of a cannabis processing facility.

198 (12) "Cannabis production establishment" means:

199 (a) a cannabis cultivation facility;

200 (b) a cannabis processing facility; or

201 (c) an independent cannabis testing laboratory.

202 (13) "Cannabis production establishment agent" means:

203 (a) a cannabis cultivation facility agent;

204 (b) a cannabis processing facility agent; or

205 (c) an independent cannabis testing laboratory agent.

206 (14) "Cannabis production establishment agent registration card" means a registration
207 card issued by the department under Section 4-42-301 that:

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

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

211 (15) "Controlled Substances Advisory Committee" means the committee created in

212 Section 58-38a-201.

213 (16) "Designated caregiver" means the same as that term is defined in Section
214 58-86-102.

215 (17) "Electronic verification system" means the system described in Section 26-58-104.

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

217 (a) conducts a chemical or other analysis of cannabis-based medicine; or

218 (b) possesses cannabis-based medicine with the intent to conduct a chemical or other
219 analysis of the cannabis-based medicine.

220 (19) "Independent cannabis testing laboratory agent" means an owner, officer, director,
221 board member, shareholder, agent, employee, or volunteer of an independent cannabis testing
222 laboratory.

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

224 (21) "Medical cannabis card" means the same as that term is defined in Section
225 26-58-102.

226 (22) "Medical Cannabis Restricted Account" means the account created in Section
227 26-58-105.

228 (23) "Physician" means the same as that term is defined in Section 26-58-102.

229 (24) "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).

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

231 **4-42-103. Inventory control system.**

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

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

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

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

243 (a) tracks all handling and processing of cannabis or a cannabis
244 production establishment or CBM dispensary;

245 (b) is tamper proof; and

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

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

248 (a) the Department of Public Safety;

249 (b) the Department of Agriculture and Food;

250 (c) the Department of Health; and

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

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

254 **4-42-104. Preemption.**

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

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

258 **4-42-201. Cannabis production establishment -- License -- Renewal.**

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

261 (2) Subject to Subsections (4) through (6), the department shall, within 30 days after
262 receiving a complete application, issue a license to operate a cannabis production establishment
263 to a person that submits to the department:

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

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

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

271 (d) an application fee established by the department, in accordance with Section
272 [63J-1-504](#), that is necessary to cover the department's cost to implement this chapter;

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

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

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

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

281 (4) The department shall require a separate license and separate license fee for each
282 type of cannabis production establishment and each location of a cannabis production
283 establishment.

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

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

287 (b) the same person at separate physical locations.

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

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

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

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

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

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

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

302 **4-42-202. Renewal.**

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

305 (a) the person meets the requirements of Section 4-42-201; and

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

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

313 (i) the name and location of the cannabis production establishment;

314 (ii) the day on which the license for the cannabis production establishment will expire;

315 and

316 (iii) a solicitation for cannabis production establishment license applicants.

317 (b) If, after the department publishes the notice described in Subsection (2)(a), the
318 department receives an application for a cannabis production establishment from a new
319 applicant and also receives an application for renewal from the existing cannabis production
320 establishment, the department shall issue the license to the applicant that the department
321 determines best meets the criteria established in Section 4-42-204.

322 (3) (a) If a licensed cannabis production establishment abandons the cannabis
323 production establishment's license, the department shall publish notice of an available license
324 in the same manner as described in Subsection (2)(a).

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

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

329 **4-42-203. Operating plan.**

330 (1) A person applying for a license to act as a cannabis production establishment shall
331 submit to the department, with the person's application, a proposed operating plan that
332 includes:

333 (a) a description of the physical characteristics of the proposed facility;

334 (b) a description of the credentials and experience of any proposed cannabis production
335 establishment agent;

- 336 (c) the cannabis production establishment's employee training standards;
- 337 (d) a security plan;
- 338 (e) a plan to process payments through a cannabis payment processor licensed under
- 339 Section 7-26-201;
- 340 (f) for a cannabis cultivation facility, the information described in Subsection (2);
- 341 (g) for a cannabis processing facility, the information described in Subsection (3); and
- 342 (h) for an independent cannabis testing laboratory, the information described in
- 343 Subsection (4).

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

- 347 (a) pesticide and fertilizer use;
- 348 (b) proposed square footage under cultivation; and
- 349 (c) anticipated cannabis yield.

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

- 353 (a) proposed cannabinoid extraction method;
- 354 (b) processing equipment; and
- 355 (c) other processing techniques.

356 (4) An independent cannabis testing laboratory's operating plan shall include the
357 independent cannabis testing laboratory's proposed cannabis and cannabis-based medicine
358 product testing capability.

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

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

362 **4-42-204. Department may accept or deny a license -- Maximum number of**
363 **licenses.**

364 (1) The department may not issue more than, at any given time:

- 365 (a) four cannabis cultivation facility licenses;
- 366 (b) two cannabis processing facility licenses; and

367 (c) two independent cannabis testing laboratory licenses.

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

372 (a) experience with:

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

374 (ii) operating a secure inventory control system;

375 (iii) complying with a regulatory environment; and

376 (iv) training, evaluating, and monitoring employees;

377 (b) connections to the local community;

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

379 (d) that the applicant's operating plan is effective and meets the department's standards.

380 (3) The department is not required to issue a license under this section if the

381 department determines that no qualified applicant has applied.

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

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

385 **4-42-205. Bond for a cannabis production establishment license.**

386 (1) A cannabis production establishment licensed under Section [4-42-201](#) shall post a
387 cash bond or surety bond, payable to the department, in an amount equal to:

388 (a) for a cannabis cultivation facility, \$2,000,000;

389 (b) for a cannabis processing facility, \$1,000,000; and

390 (c) for an independent cannabis testing laboratory, \$75,000.

391 (2) A cannabis production establishment licensed under Section [4-42-201](#) shall

392 maintain the bond described in Subsection (1) for as long as the cannabis production

393 establishment continues to operate.

394 (3) The department shall require a bond a cannabis production establishment posts
395 under this section to be:

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

397 (b) conditioned upon the cannabis production establishment's compliance with this

398 chapter.

399 (4) If a bond described in Subsection (1) is canceled due to a cannabis production
400 establishment's negligence, the department may assess the cannabis production establishment a
401 \$300 reinstatement fee.

402 (5) A cannabis production establishment may not withdraw any part of a bond posted
403 under Subsection (1):

404 (a) during the period when the cannabis production establishment's license is in effect;
405 or

406 (b) while a license revocation proceeding is pending against the cannabis production
407 establishment.

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

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

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

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

415 **4-42-301. Cannabis production establishment agent -- Registration.**

416 (1) An individual may not act as a cannabis production establishment agent of a
417 cannabis production establishment unless the individual is registered by the department under
418 this section.

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

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

422 (4) The department shall, within 15 business days after receiving a complete
423 application, register and issue a cannabis production establishment agent registration card to an
424 individual who:

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

427 (b) provides to the department:

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

- 429 (ii) the name and location of a licensed cannabis production establishment where the
430 individual seeks to act as the cannabis production establishment's agent; and
- 431 (iii) any other information required by the department by rule made in accordance with
432 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 433 (c) pays the department a fee, determined by the department in accordance with Section
434 63J-1-504, that is necessary to cover the department's cost to implement this part; and
- 435 (d) complies with the requirement for and passes a criminal background check
436 described in Section 4-42-302.
- 437 (5) The department shall designate, for a cannabis production establishment agent
438 registration card the department issues under Subsection (4), whether the cannabis production
439 establishment agent registration card holder is authorized to act as an agent for:
- 440 (a) a cannabis cultivation facility;
441 (b) a cannabis processing facility;
442 (c) both a cannabis cultivation facility and a cannabis processing facility; or
443 (d) an independent cannabis testing laboratory.
- 444 (6) A cannabis production establishment agent shall complete training in
445 cannabis-based medicine production that complies with minimum standards established by the
446 department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
447 Rulemaking Act.
- 448 (7) The department may revoke the cannabis production establishment agent
449 registration card of an individual who:
- 450 (a) violates the requirements of this chapter; or
451 (b) is convicted of an offense that is a felony or a drug-related misdemeanor under state
452 or federal law.
- 453 Section 11. Section **4-42-302** is enacted to read:
- 454 **4-42-302. Cannabis production establishment agents -- Criminal background**
455 **checks.**
- 456 (1) An individual applying for a cannabis production establishment agent registration
457 card under this chapter shall:
- 458 (a) submit to the department:
459 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and

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

463 (b) consent to a fingerprint background check by:

464 (i) the Bureau of Criminal Identification; and

465 (ii) the Federal Bureau of Investigation.

466 (2) The Bureau of Criminal Identification shall:

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

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

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

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

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

479 (3) The department shall:

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

483 (b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal
484 Identification.

485 Section 12. Section 4-42-303 is enacted to read:

486 **4-42-303. Cannabis production establishment agent registration card --**
487 **Rebuttable presumption.**

488 (1) An individual who has a cannabis production establishment agent registration card
489 shall carry the individual's cannabis production establishment agent registration card with the
490 individual at all times when:

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

492 (b) the individual is transporting cannabis or cannabis-based medicine between two
493 cannabis production establishments or transporting cannabis-based medicine between a
494 cannabis production establishment and a CBM dispensary.

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

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

499 (ii) transports cannabis or cannabis-based medicine; and

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

502 (3) A registered cannabis production establishment agent who is guilty of an infraction
503 under Subsection (2) is subject to a \$100 fine.

504 Section 13. Section ~~4-42-401~~ is enacted to read:

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

506 **4-42-401. Cannabis production establishment -- General operating requirements.**

507 (1) (a) A cannabis production establishment shall operate in accordance with the
508 operating plan the cannabis production establishment provides to the department under Section
509 4-42-203.

510 (b) A cannabis production establishment shall notify the department within 30 days of
511 any change in the cannabis production establishment's operation plan.

512 (2) Except as provided in Subsection (3), a cannabis production establishment shall
513 operate:

514 (a) in a facility that is accessible only by an individual with a valid cannabis production
515 establishment agent registration card issued under Section 4-42-301; and

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

517 (3) A cannabis-based medicine production facility may allow the press, a visitor, or a
518 contractor access to the cannabis production establishment if:

519 (a) the cannabis-based medicine production facility tracks and monitors the individual
520 at all times while the individual is in the cannabis production establishment; and

521 (b) a record of the individual's access to the cannabis production establishment is

522 maintained by the cannabis production establishment.

523 (4) A cannabis production establishment shall have:

524 (a) a single, secure public entrance;

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

526 (i) detects and records entry into the cannabis production establishment when the
527 cannabis production establishment is closed; and

528 (ii) provides notice of an unauthorized entry to law enforcement; and

529 (c) a lock on any area where the cannabis production establishment stores cannabis or
530 cannabis-based medicine.

531 (5) Except when determined by the Department of Financial Institutions under Section
532 7-26-204, a cannabis production establishment may only transmit or accept payments for
533 cannabis-based medicine using a cannabis payment processor licensed under Section 7-26-201.

534 (6) The department shall establish structural standards for a cannabis production
535 establishment by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
536 Rulemaking Act.

537 Section 14. Section **4-42-402** is enacted to read:

538 **4-42-402. Inspections.**

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

542 (2) The department may inspect the records and facility of a cannabis production
543 establishment:

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

545 (b) if the department has reason to believe that the cannabis production establishment
546 has violated the law, at any time, scheduled or unscheduled.

547 Section 15. Section **4-42-403** is enacted to read:

548 **4-42-403. Advertising.**

549 A cannabis production establishment may not advertise to the general public in any
550 medium.

551 Section 16. Section **4-42-404** is enacted to read:

552 **4-42-404. Cannabis or cannabis-based medicine transportation.**

553 (1) An individual may not transport cannabis or cannabis-based medicine between two
554 cannabis production establishments, or between a cannabis production establishment and a
555 CBM dispensary, unless the individual has a valid cannabis production establishment agent
556 registration card or valid CBM dispensary agent registration card.

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

559 (a) a bar code or identification number that links the cannabis or cannabis-based
560 medicine to a related inventory control system;

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

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

565 (3) In addition to the requirements in Subsections (1) and (2), the department shall
566 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
567 Rulemaking Act, requirements for transporting cannabis or cannabis-based medicine related to
568 safety for human cannabis-based medicine consumption.

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

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

572 (b) does not possess, on the registered cannabis production establishment agent's
573 person or in the transport vehicle, a transportation record that complies with Subsection (2).

574 (5) A registered cannabis production establishment agent who is guilty of an infraction
575 under Subsection (4) is subject to a \$100 fine.

576 Section 17. Section **4-42-501** is enacted to read:

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

578 **4-42-501. Cannabis cultivation facility -- Operating requirements.**

579 (1) As used in this section, "low-THC cannabis" means cannabis that has a delta-9
580 tetrahydrocannabinol concentration of less than 0.3% by dry weight.

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

583 (3) A cannabis cultivation facility shall ensure that any cannabis growing at the

584 cannabis cultivation facility is not visible from outside the cannabis cultivation facility.

585 (4) A cannabis cultivation facility shall use a unique identifier for:

586 (a) each batch of cannabis transferred to a cannabis processing facility; and

587 (b) each unique harvest of cannabis plants.

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

591 (6) The department may establish human safety standards, by rule made in accordance
592 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a cannabis cultivation
593 facility's:

594 (a) use of pesticides;

595 (b) use of fertilizers; and

596 (c) cultivation techniques.

597 Section 18. Section **4-42-601** is enacted to read:

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

599 **4-42-601. Cannabis processing facility -- Operating requirements.**

600 (1) A cannabis processing facility shall ensure that cannabis-based medicine that the
601 cannabis processing facility sells or provides to a CBM dispensary complies with the
602 requirements of this part.

603 (2) A cannabis processing facility shall operate in a facility with a carbon filtration
604 system for air output.

605 Section 19. Section **4-42-602** is enacted to read:

606 **4-42-602. Cannabis-based medicine -- Product requirements.**

607 (1) A cannabis processing facility may only produce cannabis-based medicine in a
608 medical dosage form that is:

609 (a) a tablet;

610 (b) a capsule;

611 (c) a concentrated oil;

612 (d) a trans-dermal preparation; or

613 (e) a sub-lingual preparation.

614 (2) The Controlled Substances Advisory Committee may recommend that the

615 Legislature approve the use of an additional medical dosage form.

616 (3) A cannabis processing facility may not manufacture cannabis-based medicine by
617 applying a cannabis agent to the surface of a food product.

618 Section 20. Section **4-42-603** is enacted to read:

619 **4-42-603. Cannabis-based medicine -- Labeling and packaging.**

620 (1) Cannabis-based medicine shall have a label that:

621 (a) clearly and unambiguously states that the cannabis-based medicine contains
622 cannabis;

623 (b) clearly displays the cannabinoid profile of the cannabis-based medicine;

624 (c) has a unique batch identifier that identifies the unique manufacturing process when
625 the cannabis-based medicine was manufactured;

626 (d) has a bar code or other identifier that allows the cannabis-based medicine to be
627 tracked by an inventory control system and the electronic verification system; and

628 (e) contains information required by the department in accordance with Subsection (3).

629 (2) A cannabis processing facility shall package cannabis-based medicine in a
630 container that:

631 (a) is tamper resistant and opaque; and

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

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

637 Section 21. Section **4-42-701** is enacted to read:

638 **Part 7. Independent Cannabis Testing Laboratory Operating Requirements**

639 **4-42-701. Cannabis and cannabis-based medicine testing.**

640 (1) An independent cannabis testing laboratory shall, before cannabis-based medicine
641 is offered for sale at a CBM dispensary, test the cannabis-based medicine as described in this
642 section.

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

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

648 (4) An independent cannabis testing laboratory shall determine if cannabis-based
649 medicine contains, in an amount that is harmful to human health:

650 (a) mold;

651 (b) fungus;

652 (c) pesticides; or

653 (d) other microbial contaminants.

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

657 (6) An independent cannabis testing laboratory shall test any cannabis that the
658 independent cannabis testing laboratory receives from a cannabis cultivation facility using
659 carbon stable isotope testing to determine:

660 (a) the origin of the cannabis;

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

662 (c) any other information required by the department under Subsection (7) about the
663 cannabis that can be determined using stable isotope testing.

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

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

668 (b) additional cannabis or cannabis-based medicine testing that an independent
669 cannabis testing laboratory is required to perform; and

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

672 Section 22. Section **4-42-702** is enacted to read:

673 **4-42-702. Reporting -- Inspections.**

674 (1) An independent cannabis testing laboratory shall notify the department if the
675 independent cannabis testing laboratory determines that the results of a lab test indicate that a
676 cannabis or cannabis-based medicine batch:

- 677 (a) is unsafe for human consumption;
- 678 (b) has a ratio of less than one gram of cannabidiol per each one gram of
- 679 tetrahydrocannabinol; or
- 680 (c) using a carbon stable isotope test, was not cultivated in accordance with this
- 681 chapter.

682 (2) If the independent cannabis testing laboratory notifies the department of a cannabis
 683 or cannabis-based medicine batch's test results under Subsection (1), the independent cannabis
 684 testing laboratory may not release the batch to a cannabis processing facility or a CBM
 685 dispensary until the department has an opportunity to respond to the independent cannabis
 686 testing laboratory within a period of time determined by the department.

687 (3) If the department determines that a cannabis or cannabis-based medicine batch is
 688 unsafe for human consumption or was not cultivated in accordance with this chapter, the
 689 department may seize, embargo, or destroy a cannabis or cannabis-based medicine batch in
 690 accordance with Section [4-42-801](#).

691 (4) The department shall establish, by rule made in accordance with Title 63G, Chapter
 692 3, Utah Administrative Rulemaking Act, the amount of time that an independent cannabis
 693 testing laboratory is required to hold a batch under Subsection (2).

- 694 (5) The department may conduct a test to:
- 695 (a) determine the accuracy of an independent cannabis testing laboratory's:
- 696 (i) cannabis or cannabis-based medicine test results; or
- 697 (ii) analytical method; or
- 698 (b) validate an independent cannabis testing laboratory's testing methods.

699 Section 23. Section **4-42-801** is enacted to read:

700 **Part 8. Enforcement**

701 **4-42-801. Enforcement -- Fine -- Citation.**

702 (1) The department may, for a violation of the licensing provisions of this chapter by a
 703 person that is a cannabis production establishment or a cannabis production establishment
 704 agent:

- 705 (a) revoke the person's license;
- 706 (b) refuse to renew the person's license;
- 707 (c) assess the person an administrative penalty; or

708 (d) take any other appropriate administrative action.
709 (2) The department shall deposit an administrative penalty imposed under this section
710 into the Medical Cannabis Restricted Account.
711 (3) (a) The department may take an action described in Subsection (3)(b) if the
712 department concludes, upon inspection or investigation, that, for a person that is a cannabis
713 production establishment or a cannabis production establishment agent:
714 (i) the person has violated the provisions of this chapter, a rule made under this
715 chapter, or an order issued under this chapter;
716 (ii) the person prepared a cannabis or cannabis-based medicine batch in a manner, or
717 such that the batch contains a substance, that poses a threat to human health; or
718 (iii) the person possessed or used a cannabis batch that was not cultivated in
719 accordance with this chapter.
720 (b) If the department makes the determination about a person described in Subsection
721 (3)(a)(i), the department shall:
722 (i) issue the person a citation in writing;
723 (ii) attempt to negotiate a stipulated settlement; or
724 (iii) direct the person to appear before an adjudicative proceeding conducted under
725 Title 63G, Chapter 4, Administrative Procedures Act.
726 (c) If the department makes the determination about a person described in Subsection
727 (3)(a)(ii), the department may:
728 (i) seize, embargo, or destroy a cannabis or cannabis-based medicine batch; and
729 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
730 63G, Chapter 4, Administrative Procedures Act.
731 (4) The department may, for a person subject to an uncontested citation, a stipulated
732 settlement, or a finding of a violation in an adjudicative proceeding under this section:
733 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
734 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
735 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
736 (b) order the person to cease and desist from the action that creates a violation.
737 (5) The department may not revoke a cannabis production establishment's license via a
738 citation.

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

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

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

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

748 Section 24. Section **4-42-802** is enacted to read:

749 **4-42-802. Report to the Legislature.**

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

753 Section 25. Section **4-42-803** is enacted to read:

754 **4-42-803. Fees -- Deposit into Medical Cannabis Restricted Account.**

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

757 Section 26. Section **7-26-101** is enacted to read:

758 **CHAPTER 26. CANNABIS PAYMENT PROCESSOR**

759 **Part 1. General Provisions**

760 **7-26-101. Title.**

761 This chapter is known as "Cannabis Payment Processor."

762 Section 27. Section **7-26-102** is enacted to read:

763 **7-26-102. Definitions.**

764 As used in this chapter:

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

766 (2) "Cannabis-based medicine" means the same as that term is defined in Section
767 [58-37-3.6](#).

768 (3) "Cannabis cultivation facility" means the same as that term is defined in Section
769 [4-42-102](#).

- 770 (4) "Cannabis payment processor" means a person that facilitates payment:
771 (a) without using cash;
772 (b) electronically, in connection with the state electronic verification system; and
773 (c) (i) by a cannabis production establishment:
774 (A) for cannabis, from a cannabis processing facility to a cannabis cultivation facility;
775 (B) for cannabis or cannabis-based medicine testing, from a cannabis processing
776 facility to an independent cannabis testing laboratory; or
777 (C) for cannabis-based medicine, from a CBM dispensary to a cannabis processing
778 facility; or
779 (ii) by an individual with a medical cannabis card, for cannabis-based medicine, to a
780 CBM dispensary.
781 (5) "Cannabis processing facility" means the same as that term is defined in Section
782 4-42-102.
783 (6) "CBM dispensary" means the same as that term is defined in Section 26-58-102.
784 (7) "Electronic verification system" means the same as that term is defined in Section
785 26-58-102.

786 Section 28. Section 7-26-201 is enacted to read:

787 **Part 2. Cannabis Payment Processor License**

788 **7-26-201. Cannabis payment processor -- License.**

- 789 (1) Subject to this chapter, the department shall issue a license to a person to operate as
790 a cannabis payment processor.
791 (2) A person may not act as a cannabis payment processor without a license issued by
792 the department under this section.
793 (3) An applicant for a cannabis payment processor license shall:
794 (a) submit to the department:
795 (i) the applicant's name, business address, and place of incorporation;
796 (ii) the name of each owner, officer, director, board member, shareholder, agent,
797 employee, or volunteer of the applicant; and
798 (iii) a fee in accordance with Section 7-1-401; and
799 (b) present evidence to the department that:
800 (i) the applicant is capable of electronically receiving funds from, and distributing

801 funds to:
802 (A) a cannabis production establishment;
803 (B) a CBM dispensary; and
804 (C) an individual with a medical cannabis card;
805 (ii) the applicant has a partnership, service agreement, or service contract with a
806 federally insured depository institution that agrees to clear cannabis-based medicine
807 transactions;
808 (iii) the applicant is able to interface with the electronic verification system to enable
809 an individual with a medical cannabis card to:
810 (A) add funds, using a bank wire or a credit card, to an account with the applicant
811 associated with the medical cannabis card; and
812 (B) use the medical cannabis card to pay for cannabis-based medicine at a CBM
813 dispensary using the funds in the individual's account with the cannabis payment processor;
814 and
815 (iv) the applicant is, at minimum:
816 (A) a level one payment card industry data security standard-validated provider;
817 (B) certified by Europay, MasterCard and Visa; and
818 (C) capable of integrating with fifty payment processors.
819 (4) A license issued under this section is valid for two years.
820 (5) The department may determine, by rule made in accordance with Title 63G,
821 Chapter 3, Utah Administrative Rulemaking Act:
822 (a) any additional information an applicant for a cannabis payment processor is
823 required to submit to the department; and
824 (b) procedural requirements for an applicant for a license under this chapter.
825 (6) An applicant for a cannabis payment processor license under this section may
826 request that the department treat information that the applicant submits to the department as
827 confidential under Section [7-1-802](#).
828 Section 29. Section **7-26-202** is enacted to read:
829 **7-26-202. Renewal -- Abandonment.**
830 (1) Except as provided in Subsection (2), the department shall renew a person's
831 cannabis payment processor license every two years if, at the time of renewal, the person:

832 (a) meets the requirements of Section 7-26-201;
833 (b) demonstrates the criteria described in Subsection 7-26-203(2); and
834 (c) the person pays the department a license renewal fee in an amount determined by
835 the department in accordance with Section 7-1-401.

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

- 840 (i) the name and location of the cannabis payment processor;
- 841 (ii) the day on which the license for the cannabis payment processor will expire; and
- 842 (iii) a solicitation for cannabis payment processor license applicants.

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

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

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

854 Section 30. Section **7-26-203** is enacted to read:

855 **7-26-203. Number of licenses -- Criteria for awarding a license.**

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

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

- 860 (a) experience with:
 - 861 (i) establishing and running a business in a related field;
 - 862 (ii) operating a payment processing system;

863 (iii) complying with a regulatory environment; and
864 (iv) training, evaluating, and monitoring employees;
865 (b) connections to the local community;
866 (c) that the applicant will keep the cost of the applicant's products or services low; and
867 (d) that the applicant will maximize convenience, efficiency, and security for
868 processing cannabis-based medicine payments.

869 (3) After a department official reviews an applicant's application under Section
870 7-26-201 and evaluates the application for the criteria described in Subsection (2), the official
871 shall submit the department's findings and recommendations to the commissioner.

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

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

879 (a) the executive director of the Department of Commerce or the executive director's
880 designee;

881 (b) the chair of the State Tax Commission or the chair's designee;

882 (c) the chief information officer of the Department of Technology Services or the chief
883 information officer's designee;

884 (d) the executive director of the Department of Health or the executive director's
885 designee;

886 (e) the commissioner of the Department of Agriculture and Food or the commissioner's
887 designee; and

888 (f) the commissioner of the Department of Public Safety or the commissioner's
889 designee.

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

892 Section 31. Section 7-26-204 is enacted to read:

893 **7-26-204. Cash system if no cannabis payment processor available.**

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

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

901 Section 32. Section 7-26-301 is enacted to read:

902 **Part 3. Operating Requirements**

903 **7-26-301. Operating requirements.**

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

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

908 (a) an individual with a medical cannabis card issued by the Department of Health
909 under Title 26, Chapter 58, Cannabis-Based Medicine Act; or

910 (b) a person who is licensed under:

911 (i) Title 4, Chapter 42, Cannabis Production Establishment License; or

912 (ii) Title 58, Chapter 86, CBM Dispensary License.

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

915 Section 33. Section 7-26-401 is enacted to read:

916 **Part 4. Enforcement**

917 **7-26-401. Examination -- Administrative action.**

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

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

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

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

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

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

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

932 (c) revoke the person's license.

933 Section 34. Section **7-26-402** is enacted to read:

934 **7-26-402. Fees -- Deposit into Medical Cannabis Restricted Account.**

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

937 Section 35. Section **26-58-101** is enacted to read:

938 **CHAPTER 58. CANNABIS-BASED MEDICINE ACT**

939 **Part 1. General Provisions**

940 **26-58-101. Title.**

941 This chapter is known as "Cannabis-Based Medicine Act."

942 Section 36. Section **26-58-102** is enacted to read:

943 **26-58-102. Definitions.**

944 As used in this chapter:

945 (1) "Cannabis-based medicine" means the same as that term is defined in Section
946 58-37-3.6.

947 (2) "Cannabis payment processor" means the same as that term is defined in Section
948 7-26-102.

949 (3) "CBM dispensary" means the same as that term is defined in Section 58-85-102.

950 (4) "Designated caregiver" means an individual who a patient with a medical cannabis
951 card designates as the patient's caregiver under Section 26-58-202.

952 (5) "Electronic verification system" means the system described in Section 26-58-104.

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

954 (7) "Medical cannabis card" means a card that is issued to an individual by the
955 Department of Health under Section 26-58-201.

956 (8) "Medical Cannabis Restricted Account" means the account created in Section
957 26-58-105.

958 (9) "Physician" means an individual who:

959 (a) is licensed to practice:

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

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

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

964 (10) "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).

965 Section 37. Section **26-58-103** is enacted to read:

966 **26-58-103. Local ordinances.**

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

970 Section 38. Section **26-58-104** is enacted to read:

971 **26-58-104. Electronic verification system.**

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

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

976 (b) shall direct the Department of Technology Services to work with a third party
977 provider to develop and maintain the electronic verification system;

978 (c) shall coordinate with the Division of Purchasing under Title 63G, Chapter 6a, Utah
979 Procurement Code, to select a third party provider described in Subsection (1)(b); and

980 (d) may create, by rule made in accordance with Title 63G, Chapter 3, Utah
981 Administrative Rulemaking Act, transaction fee requirements to cover the cost of operating and
982 maintaining the electronic verification system, in amounts determined by the Department of
983 Health, the Department of Agriculture, and the Division of Occupational and Professional
984 Licensing under Section 63J-1-504.

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

986 (a) allow an individual to:

- 987 (i) apply, in the presence of a physician, to the Department of Health for a medical
988 cannabis card; and
- 989 (ii) designate up to two caregivers for the patient;
- 990 (b) allow a designated caregiver to apply for a medical cannabis card;
- 991 (c) allow a physician to electronically recommend treatment with cannabis-based
992 medicine to a patient during a visit with the patient;
- 993 (d) connect an individual's medical cannabis card to a database, and to an inventory
994 control system used by a CBM dispensary, to track, in real time, for the individual's purchase of
995 cannabis-based medicine:
- 996 (i) the time and date of the purchase;
- 997 (ii) the quantity and type of cannabis-based medicine purchased; and
- 998 (iii) a cannabis production establishment or CBM dispensary associated with the
999 cannabis-based medicine;
- 1000 (e) provide access to an entity described in Subsection (1) to the extent necessary for
1001 the entity to carry out the functions and responsibilities given to the entity under this chapter;
- 1002 (f) provide access to state or local law enforcement:
- 1003 (i) during a traffic stop; or
- 1004 (ii) after obtaining a warrant;
- 1005 (g) create a record each time the database is accessed that identifies the individual who
1006 accessed the database and the individual whose records were accessed;
- 1007 (h) have the capability of interfacing with a cannabis payment processor to facilitate
1008 payment for cannabis-based medicine services; and
- 1009 (i) include an inventory control system for each licensed cannabis production
1010 establishment and each licensed CBM dispensary.
- 1011 (3) The Department of Health may release the data collected by the electronic
1012 verification system for the purpose of conducting medical research, if the medical research is
1013 approved by an institutional review board associated with a university medical school.
- 1014 Section 39. Section **26-58-105** is enacted to read:
- 1015 **26-58-105. Medical Cannabis Restricted Account -- Creation.**
- 1016 (1) There is created in the General Fund a restricted account known as the "Medical
1017 Cannabis Restricted Account."

- 1018 (2) The account created in this section is funded from:
- 1019 (a) money deposited by the State Tax Commission under Title 59, Chapter 28, Medical
- 1020 Cannabis Tax;
- 1021 (b) money deposited into the account by the Department of Agriculture and Food under
- 1022 Title 4, Chapter 42, Cannabis Production Establishment License;
- 1023 (c) money deposited into the account by the Department of Financial institutions under
- 1024 Title 7, Chapter 26, Cannabis Payment Processor;
- 1025 (d) money deposited into the account by the department under Title 26, Chapter 58,
- 1026 Cannabis-Based Medicine Act;
- 1027 (e) money deposited into the account by the Division of Occupational and Professional
- 1028 Licensing under Title 58, Chapter 86, CBM Dispensary License;
- 1029 (f) appropriations made to the account by the Legislature; and
- 1030 (g) the interest described in Subsection (3).
- 1031 (3) Interest earned on the account is deposited into the account.
- 1032 (4) The money in the account may only be used to fund, upon appropriation:
- 1033 (a) the cost of state regulation of cannabis-based medicine under:
- 1034 (i) Title 4, Chapter 42, Cannabis Production Establishment License;
- 1035 (ii) Title 7, Chapter 26, Cannabis Payment Processor;
- 1036 (iii) Title 26, Chapter 58, Cannabis-Based Medicine Act;
- 1037 (iv) Title 58, Chapter 86, CBM Dispensary License; and
- 1038 (v) Title 59, Chapter 28, Medical Cannabis Tax Act;
- 1039 (b) the cost to the attorney general for investigation and enforcement related to medical
- 1040 cannabis; and
- 1041 (c) cannabis abuse prevention and cannabis education programs developed by the state.
- 1042 (5) At the end of fiscal year 2018 and fiscal year 2019 the director of the Division of
- 1043 Finance shall transfer into the General Fund from the Medical Cannabis Restricted Account an
- 1044 amount equal to the General Fund appropriation in fiscal year 2016 and fiscal year 2017 to
- 1045 implement the programs described in Subsection (4).

Section 40. Section **26-58-201** is enacted to read:

Part 2. Medical Cannabis Card

26-58-201. Medical cannabis card -- Application -- Renewal.

1049 (1) The department shall, within 45 days after an individual submits an application in
1050 compliance with this section, issue a medical cannabis card, via the electronic verification
1051 system described in Section 26-58-104, to an individual if the individual:

1052 (a) is at least 18 years old;

1053 (b) is a Utah resident;

1054 (c) submits to the department, via the electronic verification system, a recommendation
1055 electronically signed by a physician that indicates that the individual:

1056 (i) (A) suffers from a qualifying illness, including the type of qualifying illness; and

1057 (B) may benefit from treatment with cannabis-based medicine; or

1058 (ii) qualifies for a medical cannabis card under Section 26-58-205;

1059 (d) pays the department a fee established by the department in accordance with Section
1060 63J-1-504; and

1061 (e) submits an application to the department, using the electronic verification system
1062 that contains:

1063 (i) the individual's name, gender, age, and address; and

1064 (ii) a copy of the individual's photo identification.

1065 (2) An individual who applies for a medical cannabis card under Subsection (1) shall
1066 fill out and submit the application described in Subsection (1):

1067 (a) online, in connection with the electronic verification system; and

1068 (b) with a physician, during an office visit with the physician.

1069 (3) A medical cannabis card that the department issues under Subsection (1) is valid
1070 for one year.

1071 (4) The department may renew an individual's medical cannabis card if, at the time of
1072 renewal, the individual meets the requirements of Subsection (1) and follows the procedure
1073 described in Subsection (2).

1074 (5) The department may revoke an individual's medical cannabis card if the individual
1075 violates this chapter.

1076 Section 41. Section 26-58-202 is enacted to read:

1077 **26-58-202. Medical cannabis card -- Designated caregiver -- Registration --**
1078 **Renewal -- Revocation.**

1079 (1) An individual who holds a valid medical cannabis card under Section 26-58-201

1080 who a physician determines is unable to obtain cannabis-based medicine from a CBM
1081 dispensary may register with the department, via the electronic verification system, up to two
1082 individuals to serve as designated caregivers of the individual.

1083 (2) An individual registered as a designated caregiver of a designating patient under
1084 this section may:

1085 (a) carry a valid medical cannabis card issued to the individual by the department with
1086 the designating patient's name and the designated caregiver's name; and

1087 (b) purchase and possess cannabis-based medicine, in accordance with this chapter, on
1088 behalf of the designating patient.

1089 (3) An individual may serve as a designated caregiver under Subsection (1) if the
1090 individual:

1091 (a) is at least 18 years old;

1092 (b) is a Utah resident;

1093 (c) submits an application to the department, online via the electronic verification
1094 system, that includes:

1095 (i) the individual's name and address;

1096 (ii) a copy of the individual's photo identification; and

1097 (iii) any other information required by the department by rule made in accordance with
1098 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1099 (d) pays, to the department, a fee, established by the department in accordance with
1100 Section [63J-1-504](#), plus the cost of a criminal background check; and

1101 (e) complies with Section [26-58-203](#).

1102 (4) A medical cannabis card issued to a designated caregiver is valid for one year.

1103 (5) A medical cannabis card is renewable for a designated caregiver, if at the time of
1104 renewal:

1105 (a) the individual described in Subsection (1) renews the designation of the caregiver;
1106 and

1107 (b) the designated caregiver meets the requirements of Subsection (3).

1108 (6) The department shall revoke or refuse to issue the registration of a designated
1109 caregiver if the designated caregiver is convicted of a felony that is:

1110 (a) a crime of violence involving the use of force or violence against another person; or

1111 (b) a drug-related misdemeanor or felony.
1112 Section 42. Section **26-58-203** is enacted to read:
1113 **26-58-203. Designated caregiver -- Criminal background check.**
1114 (1) An individual registered as a designated caregiver under Section 26-58-202 shall
1115 submit to a criminal background check in accordance with Subsection (2).
1116 (2) An individual registered as a designated caregiver shall:
1117 (a) submit to the department:
1118 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and
1119 (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the
1120 individual's fingerprints are being registered in the Federal Bureau of Investigation's Next
1121 Generation Identification system's Rap Back Service; and
1122 (b) consent to a fingerprint background check by:
1123 (i) the Bureau of Criminal Identification; and
1124 (ii) the Federal Bureau of Investigation.
1125 (3) The Bureau of Criminal Identification shall:
1126 (a) check the fingerprints submitted under Subsection (2) against the applicable state,
1127 regional, and national criminal records databases, including the Federal Bureau of
1128 Investigation's Next Generation Identification system;
1129 (b) report the results of the background check to the department;
1130 (c) maintain a separate file of fingerprints submitted under Subsection (2) for search by
1131 future submissions to the local and regional criminal records databases, including latent prints;
1132 (d) request that the fingerprints be retained in the Federal Bureau of Investigation's
1133 Next Generation Identification system's Rap Back Service for search by future submissions to
1134 national criminal records databases, including the Next Generation Identification system and
1135 latent prints; and
1136 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives
1137 notifications for an individual with whom the entity maintains an authorizing relationship.
1138 (4) The department shall:
1139 (a) assess an individual who submits fingerprints, in accordance with this section, a fee
1140 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of
1141 Criminal Identification or other authorized agency provides under this section; and

1142 (b) remit a fee collected under Subsection (4)(a) to the Bureau of Criminal
1143 Identification.

1144 Section 43. Section **26-58-204** is enacted to read:

1145 **26-58-204. Medical cannabis card -- Patient and designated caregiver**
1146 **requirements.**

1147 (1) An individual with a valid medical cannabis card who possesses cannabis-based
1148 medicine outside of the individual's residence shall:

1149 (a) carry, with the individual at all times, the individual's medical cannabis card;

1150 (b) carry, with the cannabis-based medicine or cannabis-based medicine product, a
1151 label that identifies that the cannabis-based medicine was originally sold from a licensed CBM
1152 dispensary, including the bar code or identification number that links the cannabis-based
1153 medicine to the CBM dispensary's inventory control system; and

1154 (c) possess no more than a 30-day supply of cannabis-based medicine as established by
1155 the recommendation of a physician for the individual's treatment.

1156 (2) An individual who has a valid medical cannabis card may only purchase
1157 cannabis-based medicine via a cannabis payment processor licensed under Section [7-26-201](#).

1158 (3) An individual who has a valid medical cannabis card is guilty of an infraction if the
1159 individual:

1160 (a) possesses cannabis-based medicine; and

1161 (b) (i) does not possess the individual's medical cannabis card on the individual's
1162 person; or

1163 (ii) does not possess a label that complies with Subsection (1)(b).

1164 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a
1165 \$100 fine.

1166 Section 44. Section **26-58-205** is enacted to read:

1167 **26-58-205. Cannabis-based medicine specialist -- Expanded access for a patient**
1168 **with a terminal or intractable disease.**

1169 (1) As used in this section:

1170 (a) "Cannabis-based medicine specialist" means a physician with a cannabis-based
1171 medicine specialist certification issued by the division under Subsection (7).

1172 (b) "Division" means the Division of Occupational and Professional Licensing within

1173 the Department of Commerce.

1174 (2) The division may issue a cannabis-based medicine certification to a physician who:

1175 (a) demonstrates, to the satisfaction of the division, that the physician has expertise and
1176 experience in treating a patient with cannabis-based medicine; and

1177 (b) completes training in cannabis-based medicine developed by the division in
1178 coordination with the department and required by rule made in accordance with Title 63G,
1179 Chapter 3, Utah Administrative Rulemaking Act.

1180 (3) A cannabis-based medicine specialist may recommend treatment with
1181 cannabis-based medicine to a patient who is referred to the cannabis-based medicine specialist
1182 by the patient's primary care physician if:

1183 (a) the patient's primary care physician diagnosed the patient with an intractable or
1184 terminal condition; and

1185 (b) the patient will, in the opinion of the cannabis-based medicine specialist, benefit
1186 from treatment with cannabis-based medicine.

1187 (4) A cannabis-based medicine specialist may recommend treatment with cannabis
1188 based-medicine to a patient who is less than 18 years old and who is referred to the
1189 cannabis-based medicine specialist by the patient's primary care physician if:

1190 (a) the cannabis-based medicine specialist is board-certified in pediatrics;

1191 (b) the patient's primary care physician diagnosed the patient with an intractable or
1192 terminal condition; and

1193 (c) the patient will, in the opinion of the cannabis-based medicine specialist, benefit
1194 from treatment with cannabis-based medicine.

1195 (5) A patient to whom a physician recommends cannabis-based medicine under
1196 Subsection (3) or (4) is eligible for a medical cannabis card under this section.

1197 Section 45. Section **26-58-206** is enacted to read:

1198 **26-58-206. Insurance coverage.**

1199 An insurance carrier, third-party administrator, or employer is not required to provide
1200 reimbursement for treatment of an individual with cannabis-based medicine under this chapter.

1201 Section 46. Section **26-58-207** is enacted to read:

1202 **26-58-207. Report to the Legislature.**

1203 The department shall, before November 1 each year, report to the Health and Human

1204 Services Interim Committee on the department's administration and enforcement of this
1205 chapter.

1206 Section 47. Section **26-58-208** is enacted to read:

1207 **26-58-208. Institutional review board -- Approved study of cannabis or**
1208 **cannabis-based medicine.**

1209 (1) As used in this section:

1210 (a) "Institutional review board" or "IRB" means an institutional review board that is
1211 approved for human subject research by the United States Department of Health and Human
1212 Services.

1213 (b) "Approved study" means a medical research study:

1214 (i) the purpose of which is investigating the medical benefits of cannabis-based
1215 medicine; and

1216 (ii) that is approved by an IRB.

1217 (2) A person conducting an approved study, may, for the purposes of the study:

1218 (a) purchase cannabis from a licensed cannabis cultivation facility in the state;

1219 (b) purchase cannabis-based medicine from a licensed CBM dispensary in the state;

1220 and

1221 (c) administer a product containing cannabis or cannabis-based medicine to an
1222 individual in accordance with the approved study.

1223 (3) A person conducting an approved study may import cannabis or cannabis-based
1224 medicine from another state if:

1225 (a) the importation complies with federal law; and

1226 (b) the person uses the cannabis or cannabis-based medicine in accordance with the
1227 approved study.

1228 (4) A person conducting an approved study may distribute cannabis or cannabis-based
1229 medicine that the person obtained from a licensed cannabis cultivation facility in the state or
1230 licensed CBM dispensary in the state if:

1231 (a) the distribution complies with federal law; and

1232 (b) the distribution is for the purposes of, and in accordance with, the approved study.

1233 (5) The department shall issue an authorization to a person conducting an approved
1234 study to allow the person to purchase cannabis from a licensed cannabis cultivation facility in

1235 the state or cannabis-based medicine from a licensed CBM dispensary in the state.

1236 Section 48. Section **26-58-301** is enacted to read:

1237 **Part 3. Medical Cannabis-Based Medicine Research License**

1238 **26-58-301. Medical cannabis-based medicine research license.**

1239 (1) The department may issue a license to a higher education institution to conduct
1240 medical research on cannabis-based medicine if the higher education institution submits to the
1241 department:

1242 (a) the higher education institution's research plan; and

1243 (b) the name of an employee of the higher education institution who will supervise the
1244 medical cannabis-based medicine research.

1245 (2) Notwithstanding the provisions of Title 58, Chapter 37, Utah Controlled
1246 Substances Act, a higher education institution to which the department issues a medical
1247 cannabis-based medicine research license under this chapter may:

1248 (a) purchase cannabis-based medicine from a person licensed under Title 58, Chapter
1249 86, CBM Dispensary License;

1250 (b) possess cannabis-based medicine; or

1251 (c) provide cannabis-based medicine to a patient as part of a medical research study
1252 approved by the department.

1253 (3) The department shall establish rules made in accordance with Title 63G, Chapter 3,
1254 Utah Administrative Rulemaking Act, that provide:

1255 (a) eligibility criteria for a medical cannabis-based medicine research license; and

1256 (b) standards for an acceptable medical research study under Subsection (1)(a).

1257 Section 49. Section **26-58-401** is enacted to read:

1258 **26-58-401. Fees -- Deposit into Medical Cannabis Restricted Account.**

1259 The department shall deposit fees the department collects under this chapter in the
1260 Medical Cannabis Restricted Account.

1261 Section 50. Section **41-6a-517** is amended to read:

1262 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
1263 **body -- Penalties -- Arrest without warrant.**

1264 (1) As used in this section:

1265 (a) "Controlled substance" has the same meaning as in Section [58-37-2](#).

1266 (b) "Practitioner" has the same meaning as in Section 58-37-2.

1267 (c) "Prescribe" has the same meaning as in Section 58-37-2.

1268 (d) "Prescription" has the same meaning as in Section 58-37-2.

1269 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
1270 operate or be in actual physical control of a motor vehicle within this state if the person has any
1271 measurable controlled substance or metabolite of a controlled substance in the person's body.

1272 (3) It is an affirmative defense to prosecution under this section that the controlled
1273 substance was:

1274 (a) involuntarily ingested by the accused;

1275 (b) prescribed by a practitioner for use by the accused; ~~or~~

1276 (c) cannabis-based medicine recommended by a physician and the person holds a valid
1277 medical cannabis card under Title 26, Chapter 58, Cannabis-Based Medicine Act; or

1278 ~~(c)~~ (d) otherwise legally ingested.

1279 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
1280 misdemeanor.

1281 (b) A person who violates this section is subject to conviction and sentencing under
1282 both this section and any applicable offense under Section 58-37-8.

1283 (5) A peace officer may, without a warrant, arrest a person for a violation of this
1284 section when the officer has probable cause to believe the violation has occurred, although not
1285 in the officer's presence, and if the officer has probable cause to believe that the violation was
1286 committed by the person.

1287 (6) The Driver License Division shall, if the person is 21 years of age or older on the
1288 date of arrest:

1289 (a) suspend, for a period of 120 days, the driver license of a person convicted under
1290 Subsection (2) of an offense committed on or after July 1, 2009; or

1291 (b) revoke, for a period of two years, the driver license of a person if:

1292 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1293 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
1294 and within a period of 10 years after the date of the prior violation.

1295 (7) The Driver License Division shall, if the person is 19 years of age or older but
1296 under 21 years of age on the date of arrest:

1297 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
1298 longer, the driver license of a person convicted under Subsection (2) of an offense committed
1299 on or after July 1, 2011; or

1300 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
1301 longer, the driver license of a person if:

1302 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1303 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
1304 and within a period of 10 years after the date of the prior violation.

1305 (8) The Driver License Division shall, if the person is under 19 years of age on the date
1306 of arrest:

1307 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
1308 under Subsection (2) of an offense committed on or after July 1, 2009; or

1309 (b) revoke, until the person is 21 years of age, the driver license of a person if:

1310 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1311 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
1312 and within a period of 10 years after the date of the prior violation.

1313 (9) The Driver License Division shall subtract from any suspension or revocation
1314 period the number of days for which a license was previously suspended under Section
1315 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
1316 which the record of conviction is based.

1317 (10) The Driver License Division shall:

1318 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
1319 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
1320 committed prior to July 1, 2009; or

1321 (b) deny, suspend, or revoke the operator's license of a person for the denial,
1322 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

1323 (i) the person was 20 years of age or older but under 21 years of age at the time of
1324 arrest; and

1325 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
1326 July 1, 2009, and prior to July 1, 2011.

1327 (11) A court that reported a conviction of a violation of this section for a violation that

1328 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
1329 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
1330 if the person:

1331 (a) completes at least six months of the license suspension;
1332 (b) completes a screening;
1333 (c) completes an assessment, if it is found appropriate by a screening under Subsection

1334 (11)(b);

1335 (d) completes substance abuse treatment if it is found appropriate by the assessment
1336 under Subsection (11)(c);

1337 (e) completes an educational series if substance abuse treatment is not required by the
1338 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1339 (f) has not been convicted of a violation of any motor vehicle law in which the person
1340 was involved as the operator of the vehicle during the suspension period imposed under
1341 Subsection (7)(a) or (8)(a);

1342 (g) has complied with all the terms of the person's probation or all orders of the court if
1343 not ordered to probation; and

1344 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
1345 person has not consumed a controlled substance not prescribed by a practitioner for use by the
1346 person or unlawfully consumed alcohol during the suspension period imposed under
1347 Subsection (7)(a) or (8)(a); or

1348 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
1349 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
1350 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
1351 for use by the person or unlawfully consumed alcohol during the suspension period imposed
1352 under Subsection (7)(a) or (8)(a).

1353 (12) If the court shortens a person's license suspension period in accordance with the
1354 requirements of Subsection (11), the court shall forward the order shortening the person's
1355 license suspension period prior to the completion of the suspension period imposed under
1356 Subsection (7)(a) or (8)(a) to the Driver License Division.

1357 (13) (a) The court shall notify the Driver License Division if a person fails to:

1358 (i) complete all court ordered screening and assessment, educational series, and

1359 substance abuse treatment; or

1360 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1361 (b) Upon receiving the notification, the division shall suspend the person's driving
1362 privilege in accordance with Subsections [53-3-221](#)(2) and (3).

1363 (14) The court shall order supervised probation in accordance with Section [41-6a-507](#)
1364 for a person convicted under Subsection (2).

1365 Section 51. Section **53-1-106.5** is enacted to read:

1366 **53-1-106.5. Cannabis-Based Medicine Act -- Department duties.**

1367 In addition to the duties described in Section [53-1-106](#), the department shall provide
1368 standards for the training of peace officers and law enforcement agencies in the use of the
1369 electronic verification system as defined in Section [26-58-102](#).

1370 Section 52. Section **58-37-3.6** is enacted to read:

1371 **58-37-3.6. Exemption for possession or use of cannabis-based medicine.**

1372 (1) As used in this section:

1373 (a) "Cannabis-based medicine" means a product intended for human ingestion that:

1374 (i) contains an extract or concentrate that is obtained from cannabis;

1375 (ii) is prepared in a medicinal dosage form as required by Section [4-42-602](#); and

1376 (iii) contains at least one unit of cannabidiol for every one unit of

1377 tetrahydrocannabinol.

1378 (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

1379 (c) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

1380 (d) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the
1381 description in Subsection [58-37-4](#)(2)(a)(iii)(AA).

1382 (2) Notwithstanding any other provision of this chapter:

1383 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to
1384 the penalties described in this title for the growth, possession, sale, or offer for sale of
1385 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,
1386 or offer for sale of cannabis complies with:

1387 (i) Title 4, Chapter 42, Cannabis Production Establishment License;

1388 (ii) Title 26, Chapter 58, Cannabis-Based Medicine Act; and

1389 (iii) Title 58, Chapter 86, CBM Dispensary License; and

1390 (b) an individual who possesses, sells, or offers to sell cannabis-based medicine is not
1391 subject to the penalties described in this title for the possession, sale, or offer for sale of
1392 marijuana or tetrahydrocannabinol to the extent that the individual's possession, sale, or offer
1393 for sale of cannabis-based medicine complies with:

1394 (i) Title 4, Chapter 42, Cannabis Production Establishment License;

1395 (ii) Title 26, Chapter 58, Cannabis-Based Medicine Act; and

1396 (iii) Title 58, Chapter 86, CBM Dispensary License; and

1397 (c) an individual who possesses, sells, or offers to sell cannabis-based medicine is not
1398 subject to the penalties described in this title for the possession, sale, or offer for sale of
1399 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth,
1400 possession, sale, or offer for sale of cannabis-based medicine complies with:

1401 (i) Title 4, Chapter 42, Cannabis Production Establishment License;

1402 (ii) Title 26, Chapter 58, Cannabis-Based Medicine Act; and

1403 (iii) Title 58, Chapter 86, CBM Dispensary License.

1404 Section 53. Section **58-37f-204** is enacted to read:

1405 **58-37f-204. Controlled substance database and cannabis-based medicine.**

1406 (1) (a) The division shall establish a process for a CBM dispensary agent to submit, at
1407 a specified time during each 24-hour period, the information required by this section.

1408 (b) A CBM dispensary shall comply with the process established by the division under
1409 Subsection (1)(a).

1410 (2) A CBM dispensary shall, each time the CBM dispensary dispenses cannabis-based
1411 medicine to an individual with a medical cannabis card, submit to the division the following
1412 information:

1413 (a) the name of the physician who recommended the cannabis-based medicine and the
1414 unique number identifying the recommendation;

1415 (b) the date of the recommendation;

1416 (c) the date the cannabis-based medicine was dispensed;

1417 (d) the name of the individual with the medical cannabis card;

1418 (e) positive identification of the individual who receives the cannabis-based medicine,
1419 including the type of identification and any identifying numbers on the identification;

1420 (f) the amount of cannabis-based medicine dispensed;

- 1421 (g) the dosage, quantity, and frequency recommended by the physician;
1422 (h) the name of the CBM dispensary dispensing the cannabis-based medicine;
1423 (i) the name of the CBM dispensary agent who dispensed the cannabis-based medicine;
1424 and
1425 (j) any other information required by the division under Subsection (8).
1426 (3) If an individual's cannabis-based medicine record is in the controlled substance
1427 database:
1428 (a) the individual may obtain the record by requesting the record from the division in
1429 writing; and
1430 (b) the individual may request, in writing, with the individual's postal address included,
1431 that the division correct any incorrect information about the individual contained in the
1432 database.
1433 (4) For a request described in Subsection (3), the division shall:
1434 (a) grant or deny the request no later than 30 days after the day on which the division
1435 receives the request; and
1436 (b) notify the individual who submitted the request of the division's decision by mail
1437 postmarked no later than 35 days after the day on which the division received the request.
1438 (5) If the division denies a request described in Subsection (3), or does not respond to
1439 the request within the time period described in Subsection (4), the individual who submitted
1440 the request may, no later than 60 days after the day on which the individual's initial request is
1441 postmarked, submit an appeal to the Department of Commerce.
1442 (6) The division shall ensure that the database system records and maintains for
1443 reference:
1444 (a) the identity of and a form of identification for each individual who requests
1445 information from the database;
1446 (b) the information accessed by the individual described in Subsection (6)(a); and
1447 (c) the date and time the individual described in Subsection (6)(a) made the request.
1448 (7) A CBM dispensary agent may access the controlled substance database in the same
1449 manner and for the same purpose as a pharmacist may access the database under Subsection
1450 [58-37f-301\(2\)\(i\)](#).
1451 (8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3,

1452 Utah Administrative Rulemaking Act:

1453 (a) requirements for the form and manner of submission of information submitted to
1454 the database under this section; and

1455 (b) for the purpose of collecting health data on cannabis-based medicine, additional
1456 information that a CBM dispensary is required to submit to the controlled substance database.

1457 Section 54. Section **58-38a-201** is amended to read:

1458 **58-38a-201. Controlled Substances Advisory Committee.**

1459 There is created within the Division of Occupational and Professional Licensing the
1460 Controlled Substances Advisory Committee. The committee consists of:

1461 (1) the director of the Department of Health or the director's designee;

1462 (2) the State Medical Examiner or the examiner's designee;

1463 (3) the commissioner of the Department of Public Safety or the commissioner's
1464 designee;

1465 (4) one physician who is a member of the Physicians Licensing Board and is
1466 designated by that board;

1467 (5) one pharmacist who is a member of the Utah State Board of Pharmacy and is
1468 designated by that board;

1469 [~~(6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board~~
1470 ~~and is designated by that board;]~~

1471 [~~(7) one physician who is currently licensed and practicing in the state, to be appointed~~
1472 ~~by the governor;]~~

1473 [(8)] (6) one psychiatrist who is currently licensed and practicing in the state, to be
1474 appointed by the governor;

1475 [(9)] (7) one individual with expertise in substance abuse addiction, to be appointed by
1476 the governor;

1477 [(10)] (8) one representative from the Statewide Association of Prosecutors, to be
1478 designated by that association;

1479 [(11) one naturopathic physician who is currently licensed and practicing in the state,
1480 to be appointed by the governor;]

1481 [(12)] (9) one advanced practice registered nurse who is currently licensed and
1482 practicing in this state, to be appointed by the governor; [~~and~~]

1483 (10) two medical research professionals with expertise in controlled substances,
 1484 including one medical research professional who is affiliated with a research-based higher
 1485 education institution;

1486 (11) one representative of the Utah Chiefs of Police Association; and
 1487 ~~[(13)]~~ (12) one member of the public, to be appointed by the governor.

1488 Section 55. Section **58-38a-203** is amended to read:

1489 **58-38a-203. Duties of the committee.**

1490 (1) The committee serves as a consultative and advisory body to the Legislature
 1491 regarding:

1492 (a) the movement of a controlled substance from one schedule or list to another;

1493 (b) the removal of a controlled substance from any schedule or list; ~~[and]~~

1494 (c) the designation of a substance as a controlled substance and the placement of the
 1495 substance in a designated schedule or list[-]; and

1496 (d) the designation of a medical condition as a qualified illness for treatment using
 1497 cannabis-based medicine as described in Subsection [58-38a-203.1\(1\)](#).

1498 (2) On or before September 30 of each year, the committee shall submit to the Health
 1499 and Human Services Interim Committee a written report:

1500 (a) describing any substances recommended by the committee for scheduling,
 1501 rescheduling, listing, or deletion from the schedules or list by the Legislature; ~~[and]~~

1502 (b) containing the report described in Subsection [58-38a-203.1\(1\)](#); and

1503 ~~[(b)]~~ (c) stating the reasons for the recommendation.

1504 (3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a
 1505 substance, the committee shall consider:

1506 (a) the actual or probable abuse of the substance, including:

1507 (i) the history and current pattern of abuse both in Utah and in other states;

1508 (ii) the scope, duration, and significance of abuse;

1509 (iii) the degree of actual or probable detriment to public health which may result from
 1510 abuse of the substance; and

1511 (iv) the probable physical and social impact of widespread abuse of the substance;

1512 (b) the biomedical hazard of the substance, including:

1513 (i) its pharmacology, including the effects and modifiers of the effects of the substance;

1514 (ii) its toxicology, acute and chronic toxicity, interaction with other substances,
1515 whether controlled or not, and the degree to which it may cause psychological or physiological
1516 dependence; and

1517 (iii) the risk to public health and the particular susceptibility of segments of the
1518 population;

1519 (c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of
1520 a substance that is currently a controlled substance;

1521 (d) the current state of scientific knowledge regarding the substance, including whether
1522 there is any acceptable means to safely use the substance under medical supervision;

1523 (e) the relationship between the use of the substance and criminal activity, including
1524 whether:

1525 (i) persons engaged in illicit trafficking of the substance are also engaged in other
1526 criminal activity;

1527 (ii) the nature and relative profitability of manufacturing or delivering the substance
1528 encourages illicit trafficking in the substance;

1529 (iii) the commission of other crimes is one of the recognized effects of abuse of the
1530 substance; and

1531 (iv) addiction to the substance relates to the commission of crimes to facilitate the
1532 continued use of the substance;

1533 (f) whether the substance has been scheduled by other states; and

1534 (g) whether the substance has any accepted medical use in treatment in the United
1535 States.

1536 (4) The committee's duties under this chapter do not include tobacco products as
1537 defined in Section 59-14-102 or alcoholic beverages as defined in Section 32B-1-102.

1538 Section 56. Section 58-38a-203.1 is enacted to read:

1539 **58-38a-203.1. Qualifying illness for treatment using medical cannabis-based**
1540 **medicine -- Committee duties -- Recommendation to Legislature.**

1541 (1) For the purposes of Title 26, Chapter 58, Cannabis-Based Medicine Act, any of the
1542 following conditions is considered a qualifying illness:

1543 (a) epilepsy or a similar condition that causes debilitating seizures;

1544 (b) Crohn's disease or a similar gastrointestinal disorder;

1545 (c) HIV, acquired immune deficiency syndrome, or an autoimmune disorder;
1546 (d) multiple sclerosis or a similar condition that causes persistent and debilitating

1547 muscle spasms;

1548 (e) nausea and vomiting during chemotherapy;

1549 (f) muscle spasticity or a movement disorder;

1550 (g) pain conditions as follows:

1551 (i) complex regional pain syndrome;

1552 (ii) peripheral neuropathy;

1553 (iii) post herpetic neuralgia;

1554 (iv) pain related to HIV;

1555 (v) pain related to cancer;

1556 (vi) pain occurring after and related to a stroke; and

1557 (vii) phantom limb pain; and

1558 (h) post-traumatic stress disorder related to military service.

1559 (2) On or before September 30 of each year, the committee shall:

1560 (a) review the list of conditions described in Subsection (1) to determine if, based on
1561 available medically relevant information, it is medically appropriate to add or remove a
1562 condition from the list; and

1563 (b) present the committee's recommendation to the Health and Human Services Interim
1564 Committee.

1565 Section 57. Section **58-67-807** is enacted to read:

1566 **58-67-807. Recommendation of cannabis-based medicine -- Registration with**
1567 **division and Department of Health.**

1568 (1) A physician may recommend the use of cannabis-based medicine to a patient in
1569 accordance with Title 26, Chapter 58, Cannabis-Based Medicine Act, if the physician:

1570 (a) registers with the division and the Department of Health as a physician who
1571 recommends cannabis-based medicine;

1572 (b) completes the training required under Subsection (3); and

1573 (c) complies with Section [26-58-205](#).

1574 (2) A physician who recommends cannabis-based medicine shall:

1575 (a) recommend cannabis-based medicine to no more than an amount of patients

1576 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
1577 Utah Administrative Rulemaking Act;

1578 (b) consult the controlled substance database before recommending cannabis-based
1579 medicine to a patient to determine if the patient is abusing cannabis-based medicine;

1580 (c) report an adverse event experienced by a patient related to the patient's
1581 cannabis-based medicine use to the Department of Health; and

1582 (d) report other data on cannabis-based medicine required by Title 26, Chapter 58,
1583 Cannabis-Based Medicine Act.

1584 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1585 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1586 recommends cannabis-based medicine.

1587 (b) The division shall include, in the training requirements the division establishes
1588 under Subsection (3)(a), training on using caution when recommending cannabis-based
1589 medicine to avoid patient cannabis-based medicine abuse.

1590 (4) It is not a breach of the applicable standard of care for a physician to recommend
1591 treatment with cannabis-based medicine to an individual under this section and Title 26,
1592 Chapter 58, Cannabis-Based Medicine Act.

1593 (5) A physician who recommends treatment with cannabis-based medicine to an
1594 individual under this section and Title 26, Chapter 58, Cannabis-Based Medicine Act, may not,
1595 solely based on that recommendation, be subject to:

1596 (a) civil liability;

1597 (b) criminal liability; or

1598 (c) licensure sanctions under this chapter.

1599 Section 58. Section **58-68-807** is enacted to read:

1600 **58-68-807. Recommendation of cannabis-based medicine -- Registration with**
1601 **division and Department of Health.**

1602 (1) A physician may recommend the use of cannabis-based medicine to a patient in
1603 accordance with Title 26, Chapter 58, Cannabis-Based Medicine Act, if the physician:

1604 (a) registers with the division and the Department of Health as a physician who
1605 recommends cannabis-based medicine;

1606 (b) completes the training required under Subsection (3); and

- 1607 (c) complies with Section 26-58-205.
- 1608 (2) A physician who recommends cannabis-based medicine shall:
- 1609 (a) recommend cannabis-based medicine to no more than an amount of patients
- 1610 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
- 1611 Utah Administrative Rulemaking Act;
- 1612 (b) consult the controlled substance database before recommending cannabis-based
- 1613 medicine to a patient to determine if the patient is abusing cannabis-based medicine;
- 1614 (c) report an adverse event experienced by a patient related to the patient's
- 1615 cannabis-based medicine use to the Department of Health; and
- 1616 (d) report other data on cannabis-based medicine required by Title 26, Chapter 58,
- 1617 Cannabis-Based Medicine Act.
- 1618 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
- 1619 3, Utah Administrative Rulemaking Act, training requirements for a physician that
- 1620 recommends cannabis-based medicine.
- 1621 (b) The division shall include, in the training requirements the division establishes
- 1622 under Subsection (3)(a), training on using caution when recommending cannabis-based
- 1623 medicine to avoid patient cannabis-based medicine abuse.
- 1624 (4) It is not a breach of the applicable standard of care for a physician to recommend
- 1625 treatment with cannabis-based medicine to an individual under this section and Title 26,
- 1626 Chapter 58, Cannabis-Based Medicine Act.
- 1627 (5) A physician who recommends treatment with cannabis-based medicine or a
- 1628 cannabis-based medicine product to an individual under this section and Title 26, Chapter 58,
- 1629 Cannabis-Based Medicine Act, may not, solely based on that recommendation, be subject to:
- 1630 (a) civil liability;
- 1631 (b) criminal liability; or
- 1632 (c) licensure sanctions under this chapter.

1633 Section 59. Section **58-86-101** is enacted to read:

1634 **CHAPTER 86. CBM DISPENSARY LICENSE**

1635 **Part 1. General Provisions**

1636 **58-86-101. Title.**

1637 This chapter is known as "CBM Dispensary License."

1638 Section 60. Section **58-86-102** is enacted to read:

1639 **58-86-102. Definitions.**

1640 As used in this chapter:

1641 (1) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1642 (2) "Cannabis-based medicine" means the same as that term is defined in Section
1643 [58-37-3.6](#).

1644 (3) "Cannabis cultivation facility" means the same as that term is defined in Section
1645 [4-42-102](#).

1646 (4) "CBM dispensary" means a person that:

1647 (a) sells cannabis-based medicine; or

1648 (b) purchases or possesses cannabis-based medicine with the intent to sell
1649 cannabis-based medicine.

1650 (5) "CBM dispensary agent" means an owner, officer, director, board member,
1651 shareholder, agent, employee, or volunteer of a CBM dispensary.

1652 (6) "CBM dispensary agent registration card" means a registration card, issued by the
1653 division under Section [58-85-301](#), that authorizes an individual to be a CBM dispensary agent.

1654 (7) "Cannabis payment processor" means the same as that term is defined in Section
1655 [7-26-201](#).

1656 (8) "Cannabis production establishment" means the same as that term is defined in
1657 Section [4-42-102](#).

1658 (9) "Cannabis production establishment agent" means the same as that term is defined
1659 in Section [4-42-102](#).

1660 (10) "Cannabis production establishment agent registration card" means the same as
1661 that term is defined in Section [4-42-102](#).

1662 (11) "Designated caregiver" means the same as that term is defined in Section
1663 [26-58-102](#).

1664 (12) "Electronic verification system" means the system described in Section [26-58-104](#).

1665 (13) "Independent cannabis testing laboratory" means the same as that term is defined
1666 in Section [4-42-102](#).

1667 (14) "Inventory control system" means the system described in Section [4-42-103](#).

1668 (15) "Medical cannabis card" means the same as that term is defined in Section

1669 [26-58-102.](#)

1670 (16) "Physician" means the same as that term is defined in Section [26-58-102.](#)

1671 Section 61. Section **58-86-201** is enacted to read:

1672 **Part 2. License and Eligibility**

1673 **58-86-201. CBM dispensary -- License -- Eligibility.**

1674 (1) A person may not operate as a CBM dispensary without a license from the division
1675 issued under this part.

1676 (2) Subject to the requirements of this part, the division shall, within 30 business days
1677 after receiving a complete application, issue a license to operate a CBM dispensary to a person
1678 who submits to the division:

1679 (a) a proposed name, address, and physical location where the person will operate the
1680 CBM dispensary;

1681 (b) a bond, as required by Section [58-86-205](#), for each license for which the person
1682 applies;

1683 (c) evidence that the person:

1684 (i) can comply with the operating requirements for a CBM dispensary described in this
1685 chapter;

1686 (ii) will implement an inventory control system at the CBM dispensary; and

1687 (iii) can obtain a business license and meet zoning requirements established by a
1688 political subdivision;

1689 (c) an application fee, in an amount determined by the division in accordance with
1690 Section [63J-1-504](#), that is necessary to cover the division's cost to implement this part; and

1691 (d) an operating plan that complies with Section [58-86-203](#).

1692 (3) If the division determines that a CBM dispensary is eligible for a license under this
1693 section, the division shall charge the CBM dispensary an initial license fee in an amount
1694 determined by the division in accordance with Section [63J-1-504](#).

1695 (4) The division may revoke a license under this chapter if the CBM dispensary is not
1696 operational within one year of the issuance of the initial license.

1697 Section 62. Section **58-86-202** is enacted to read:

1698 **58-86-202. Renewal.**

1699 (1) Except as provided in Subsection (2), the division shall renew a person's license

1700 under this part every two years if, at the time of renewal:

1701 (a) the person meets the requirements of Section [58-86-201](#); and

1702 (b) the person pays the division a license renewal fee in an amount determined by the
1703 division in accordance with Section [63J-1-504](#).

1704 (2) (a) The division may not renew a CBM dispensary's license for a sixth consecutive
1705 time unless the division publishes a notice, in a newspaper of general circulation for the
1706 geographic area in which the CBM dispensary is located, one year before the day on which the
1707 CBM dispensary's license expires, that includes:

1708 (i) the name and location of the CBM dispensary;

1709 (ii) the day on which the license for the CBM dispensary will expire; and

1710 (iii) a solicitation for CBM dispensary license applicants.

1711 (b) If, after the division publishes the notice described in Subsection (2)(a), the division
1712 receives an application for a CBM dispensary from a new applicant and also receives an
1713 application for renewal from the existing CBM dispensary, the division shall issue the license
1714 to the applicant that the division determines best meets the criteria established in Section
1715 [58-86-204](#).

1716 (3) (a) If a licensed CBM dispensary abandons the CBM dispensary's license, the
1717 division shall publish notice of an available license in the same manner as described in
1718 Subsection (2)(a).

1719 (b) The division may establish criteria, in accordance with Title 63G, Chapter 3, Utah
1720 Administrative Rulemaking Act, for what actions by a CBM dispensary constitute
1721 abandonment of a CBM dispensary license.

1722 Section 63. Section **58-86-203** is enacted to read:

1723 **58-86-203. Operating plan.**

1724 (1) A person applying for a CBM dispensary license shall submit to the division a
1725 proposed operating plan for the CBM dispensary.

1726 (2) The operating plan described in Subsection (1) shall include:

1727 (a) a description of the CBM dispensary's employee training standards;

1728 (b) a security plan for the CBM dispensary;

1729 (c) a plan to process payments through a cannabis payment processor licensed under
1730 Section [7-26-201](#).

1731 (d) the time period in which the person estimates the CBM dispensary will become
1732 operational; and

1733 (e) the products, and anticipated sources of the products, that a CBM dispensary plans
1734 to sell.

1735 (3) The division may develop minimum operating plan standards by rule made in
1736 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1737 Section 64. Section **58-86-204** is enacted to read:

1738 **58-86-204. Division may accept or deny a license -- Maximum number of licenses.**

1739 (1) The division may not issue more than five CBM dispensary licenses at any given
1740 time.

1741 (2) Except as provided in Subsection (3), if the division receives more applications for
1742 a CBM dispensary license than are available under Subsection (1), the division shall award the
1743 license to the applicant that best demonstrates:

1744 (a) experience with:

1745 (i) establishing and running a business in a related field;

1746 (ii) operating a secure inventory control system;

1747 (iii) complying with a regulatory environment; and

1748 (iv) training, evaluating, and monitoring employees;

1749 (b) connections to the local community;

1750 (c) that the applicant will keep the cost of cannabis-based medicine low; and

1751 (d) that the applicant's operating plan is effective and meets the division's standards.

1752 (3) The division is not required to issue a license under this section if the division
1753 determines that no qualified applicant has applied.

1754 (4) A division decision to award or deny a license under this section is final and not
1755 subject to judicial review.

1756 Section 65. Section **58-86-205** is enacted to read:

1757 **58-86-205. Bond for a CBM dispensary license.**

1758 (1) A CBM dispensary licensed under Section [58-86-201](#) shall post a cash bond or
1759 surety bond, payable to the division, in an amount equal to \$750,000.

1760 (2) A CBM dispensary licensed under Section [4-42-201](#) shall maintain the bond
1761 described in Subsection (1) for as long as the CBM dispensary continues to operate.

1762 (3) The division shall require a bond a CBM dispensary posts under this section to be:

1763 (a) in a form approved by the attorney general; and

1764 (b) conditioned upon the CBM dispensary's compliance with this chapter.

1765 (4) If a bond described in Subsection (1) is canceled due to a CBM dispensary's

1766 negligence, the division may assess the CBM dispensary a \$300 reinstatement fee.

1767 (5) A CBM dispensary may not withdraw any part of a bond posted under Subsection

1768 (1):

1769 (a) during the period when the CBM dispensary's license is in effect; or

1770 (b) while a license revocation proceeding is pending against the CBM dispensary.

1771 (6) A CBM dispensary forfeits a bond posted under Subsection (1) if the CBM

1772 dispensary's license is revoked.

1773 (7) The division may, without revoking a license, make a claim against a bond posted

1774 by a CBM dispensary under Subsection (1) for money the CBM dispensary owes the division

1775 under this chapter.

1776 Section 66. Section **58-86-301** is enacted to read:

1777 **Part 3. CBM Dispensary Agents**

1778 **58-86-301. CBM dispensary agent -- Registration.**

1779 (1) An individual may not act as an owner, officer, director, board member,

1780 shareholder, agent, or employee of a CBM dispensary unless the individual is registered by the

1781 division as a CBM dispensary agent.

1782 (2) A physician may not act as a CBM dispensary agent.

1783 (3) The division shall, within 15 business days after receiving a complete application,

1784 register and issue a CBM dispensary agent registration card to an individual who:

1785 (a) has not been convicted of an offense that is a felony under either state or federal

1786 law;

1787 (b) provides to the division:

1788 (i) the individual's name and address; and

1789 (ii) the name and location of the licensed CBM dispensary where the individual will act

1790 as a CBM dispensary agent;

1791 (c) pays a registration fee to the division, in an amount determined by the division in

1792 accordance with Section [63J-1-504](#), that is necessary to cover the division's cost to implement

1793 this chapter;

1794 (d) complies with the requirement for, and passes, a criminal background check
1795 described in Section 58-86-302; and

1796 (e) demonstrates to the division that the individual has completed a training program
1797 designated by the division under Subsection (4).

1798 (4) The division shall establish CBM dispensary agent training requirements by rule
1799 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1800 (5) The division shall revoke or refuse to issue the CBM dispensary agent registration
1801 card of an individual who:

1802 (a) violates the requirements of this chapter; or

1803 (b) is convicted of an offense that is a felony or a drug-related misdemeanor under state
1804 or federal law.

1805 Section 67. Section **58-86-302** is enacted to read:

1806 **58-86-302. CBM dispensary agents -- Criminal background checks.**

1807 (1) An individual applying for a CBM dispensary agent registration card under this
1808 chapter shall:

1809 (a) submit to the division:

1810 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and

1811 (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the
1812 individual's fingerprints are being registered in the Federal Bureau of Investigation's Next

1813 Generation Identification system's Rap Back Service; and

1814 (b) consent to a fingerprint background check by:

1815 (i) the Bureau of Criminal Identification; and

1816 (ii) the Federal Bureau of Investigation.

1817 (2) The Bureau of Criminal Identification shall:

1818 (a) check the fingerprints submitted under Subsection (1) against the applicable state,
1819 regional and national criminal records databases, including the Federal Bureau of

1820 Investigation's Next Generation Identification system;

1821 (b) report the results of the background check to the department;

1822 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by
1823 future submissions to the local and regional criminal records databases, including latent prints;

1824 (d) request that the fingerprints be retained in the Federal Bureau of Investigation's
1825 Next Generation Identification system's Rap Back Service for search by future submissions to
1826 national criminal records databases, including the Next Generation Identification system and
1827 latent prints; and

1828 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives
1829 notifications for an individual with whom the entity maintains an authorizing relationship.

1830 (4) The division shall:

1831 (a) assess an individual who submits fingerprints, in accordance with this section, a fee
1832 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of
1833 Criminal Identification or other authorized agency provides under this section; and

1834 (b) remit a fee collected under Subsection (4)(a) to the Bureau of Criminal
1835 Identification.

1836 Section 68. Section **58-86-303** is enacted to read:

1837 **58-86-303. CBM dispensary agent registration card -- Required to carry**
1838 **registration card.**

1839 (1) An individual who has a CBM dispensary agent registration card shall carry the
1840 individual's CBM dispensary agent registration card with the individual at all times when:

1841 (a) the individual is on the premises of a CBM dispensary; and

1842 (b) the individual is transporting cannabis or cannabis-based medicine between two
1843 cannabis production establishments or transporting cannabis-based medicine between a
1844 cannabis production establishment and a CBM dispensary.

1845 (2) A CBM dispensary agent registered with the department is guilty of an infraction if
1846 the registered CBM dispensary agent:

1847 (a) (i) is on the premises of a CBM dispensary where the individual is registered as an
1848 agent; or

1849 (ii) transports cannabis or cannabis-based medicine; and

1850 (b) does not possess, on the registered CBM dispensary agent's person, a valid CBM
1851 dispensary agent registration card.

1852 (3) A registered CBM dispensary agent who is guilty of an infraction under Subsection
1853 (2) is subject to a \$100 fine.

1854 Section 69. Section **58-86-401** is enacted to read:

1855 **Part 4. CBM Dispensary Operation Requirements**

1856 **58-86-401. Operating requirements -- General.**

1857 (1) (a) A CBM dispensary shall operate in accordance with the operating plan that the
1858 CBM dispensary provides to the department under Section [58-86-203](#).

1859 (b) A CBM dispensary shall notify the department within 30 days of any change in the
1860 CBM dispensary's operation plan.

1861 (2) Except as provided in Subsection (3), a CBM dispensary shall operate:

1862 (a) in a facility that is accessible only by an individual with a valid CBM dispensary
1863 agent registration card issued under Section [58-86-301](#) or by an individual with a medical
1864 cannabis card; and

1865 (b) at the physical address provided to the department under Section [58-86-201](#).

1866 (3) A cannabis-based medicine production facility may allow the press, a visitor, or a
1867 contractor access to the CBM dispensary if:

1868 (a) the cannabis-based medicine production facility tracks and monitors the individual
1869 at all times while the individual is in the CBM dispensary; and

1870 (b) a record of the individual's access to the CBM dispensary is maintained by the
1871 CBM dispensary.

1872 (4) A CBM dispensary may not operate without:

1873 (a) a security system with a backup power source in the event of a power outage to:

1874 (i) detect and record entry at all times the CBM dispensary is closed; and

1875 (ii) provide notice of unauthorized entry to local law enforcement;

1876 (b) a lock on any entrance to the area of the CBM dispensary where cannabis-based
1877 medicine is stored; and

1878 (c) an inventory control system that complies with Section [4-42-104](#).

1879 (5) Except as provided in Subsection (6), a physician may not:

1880 (a) serve as a CBM dispensary agent; or

1881 (b) except online, advertise that the physician may or will recommend cannabis-based
1882 medicine.

1883 (6) (a) A CBM dispensary shall employ an individual licensed as a pharmacist under
1884 Title 58, Chapter 17b, Pharmacy Practice Act, to act as a consultant.

1885 (b) The individual described in Subsection (6)(a) shall:

1886 (i) review the records of each individual with a medical cannabis card who purchases
1887 cannabis-based medicine from the CBM dispensary; and

1888 (ii) answer questions for an individual with a medical cannabis card.

1889 (7) Except when determined by the Department of Financial Institutions under Section
1890 7-26-204, a CBM dispensary may only transmit or accept payment for cannabis-based medicine
1891 through a cannabis payment processor licensed under Section 7-26-201.

1892 (8) A CBM dispensary may not allow any individual to consume cannabis-based
1893 medicine on the property or premises of the establishment.

1894 (9) A CBM dispensary may not sell cannabis-based medicine before January 1, 2017.

1895 (10) A CBM dispensary shall require any CBM dispensary agent to wear a white lab
1896 coat at all times while the CBM dispensary agent is in the view of a customer at the CBM
1897 dispensary.

1898 (11) The division may establish additional requirements by rule made in accordance
1899 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act related to:

1900 (a) CBM dispensary patient counseling;

1901 (b) cannabis-based medicine labeling; and

1902 (c) record keeping.

1903 Section 70. Section **58-86-402** is enacted to read:

1904 **58-86-402. Dispensing -- Amount a CBM dispensary may dispense -- Reporting --**
1905 **Form of cannabis or cannabis product.**

1906 (1) A CBM dispensary may only sell, subject to this chapter:

1907 (a) cannabis-based medicine; or

1908 (b) educational materials related to the medical use of cannabis-based medicine.

1909 (2) A CBM dispensary may only sell cannabis-based medicine to:

1910 (a) an individual with a medical cannabis card issued by the department;

1911 (b) an individual with a valid hemp extract registration card issued under Title 26,

1912 Chapter 56, Hemp Extract Registration Act; or

1913 (c) a person conducting an approved study under Section 26-58-208.

1914 (3) A CBM dispensary may not dispense on behalf of any one individual with a
1915 medical cannabis card, in any one 30-day period, an amount of cannabis-based medicine that
1916 exceeds a 30-day supply of the dosage recommended by the individual's physician.

1917 (4) An individual with a medical cannabis card may not purchase more cannabis-based
1918 medicine than the amounts designated in Subsection (3).

1919 (5) A designated caregiver designated by any one individual with a medical cannabis
1920 card may not purchase, for the individual, an amount of cannabis-based medicine that exceeds
1921 the amounts designated in Subsection (3).

1922 (6) A CBM dispensary shall:

1923 (a) submit a record to the electronic verification system of each time the CBM
1924 dispensary dispenses cannabis-based medicine to an individual with a medical cannabis card;

1925 (b) access the electronic verification system before dispensing cannabis-based
1926 medicine to an individual with a medical cannabis card in order to determine if the individual
1927 has exceeded the amount of cannabis or cannabis products described in Subsection (3); and

1928 (c) comply with Section [58-37f-204](#).

1929 Section 71. Section **58-86-403** is enacted to read:

1930 **58-86-403. Product quality -- Labeling -- Packaging.**

1931 (1) A CBM dispensary may not sell or offer to sell cannabis-based medicine unless:

1932 (a) the cannabinoid profile of the cannabis-based medicine is clearly and accurately
1933 stated on the cannabis-based medicine packaging; and

1934 (b) the cannabis-based medicine is sealed in a tamper resistant, resealable container
1935 with a label that includes a bar code or identification number that links the cannabis-based
1936 medicine to the CBM dispensary's inventory control system.

1937 (2) A CBM dispensary may only sell cannabis-based medicine that has been inspected
1938 by an independent cannabis testing laboratory in accordance with Section [4-42-701](#).

1939 Section 72. Section **58-86-404** is enacted to read:

1940 **58-86-404. Advertising.**

1941 (1) Except as provided in Subsection (2), a CBM dispensary may not advertise in any
1942 medium.

1943 (2) A CBM dispensary may advertise using a:

1944 (a) sign on the outside of the CBM dispensary that includes only the CBM dispensary's
1945 name and hours of operation; and

1946 (b) a website that includes information about the location of the dispensary, products
1947 and services available at the dispensary, and educational materials related to the use of

1948 cannabis-based medicine.

1949 Section 73. Section ~~58-86-405~~ is enacted to read:

1950 **58-86-405. Inspections.**

1951 (1) The division shall inspect, in accordance with Subsection (2), a CBM dispensary's
1952 facility and records in order to determine if the CBM dispensary complies with the
1953 requirements of this chapter.

1954 (2) The division may inspect the records and facility of a CBM dispensary:

1955 (a) as many as four times per year, scheduled or unscheduled; and

1956 (b) if the division has reason to believe that the CBM dispensary has violated the law,
1957 at any time, scheduled or unscheduled.

1958 Section 74. Section ~~58-86-406~~ is enacted to read:

1959 **58-86-406. Cannabis-based medicine transportation.**

1960 (1) An individual may not transport cannabis-based medicine unless the individual has
1961 a valid:

1962 (a) cannabis production establishment agent registration card; or

1963 (b) CBM dispensary agent registration card.

1964 (2) An individual transporting cannabis-based medicine shall keep a transportation
1965 record that includes:

1966 (a) a bar code or identification number that links the cannabis-based medicine to a
1967 relevant inventory control system;

1968 (b) origin and destination information for any cannabis-based medicine the individual
1969 is transporting; and

1970 (c) monitors the departure and arrival time of the individual transporting the
1971 cannabis-based medicine.

1972 (3) In addition to the requirements in Subsections (1) and (2), the Department of
1973 Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3,
1974 Utah Administrative Rulemaking Act, requirements for transporting cannabis-based medicine
1975 related to human consumption safety.

1976 (4) A CBM dispensary agent registered with the department is guilty of an infraction if
1977 the registered CBM dispensary agent:

1978 (a) transports cannabis or cannabis-based medicine; and

1979 (b) does not possess, on the registered CBM dispensary agent's person or in the
1980 transport vehicle, a transportation record that complies with Subsection (2).

1981 (5) A registered CBM dispensary agent who is guilty of an infraction under Subsection
1982 (4) is subject to a \$100 fine.

1983 Section 75. Section **58-86-501** is enacted to read:

1984 **Part 5. Enforcement**

1985 **58-86-501. Enforcement -- Fine -- Citation.**

1986 (1) The division may, for a violation of this chapter by a person who is a CBM
1987 dispensary or CBM dispensary agent:

1988 (a) revoke the person's license;

1989 (b) refuse to renew the person's license;

1990 (c) assess the person an administrative penalty; or

1991 (d) take any other appropriate administrative action.

1992 (2) The division shall deposit an administrative penalty imposed under this section into
1993 the General Fund as a dedicated credit to be used by the division to administer and enforce this
1994 chapter.

1995 (3) The division may, for a person subject to an uncontested citation, a stipulated
1996 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1997 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
1998 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
1999 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

2000 (b) order the person to cease and desist from the action that creates a violation.

2001 (4) The division may not revoke a CBM dispensary's license via a citation.

2002 (5) If within 20 calendar days after the day on which a division serves a citation for a
2003 violation of this chapter, the person that is the subject of the citation fails to request a hearing
2004 to contest the citation, the citation becomes the basis of the division's final order.

2005 (6) The division may, for a person who fails to comply with a citation under this
2006 section:

2007 (a) refuse to issue or renew the person's license or CBM dispensary agent registration
2008 card; or

2009 (b) suspend, revoke, or place on probation the person's license or CBM dispensary

2010 agent registration card.

2011 Section 76. Section **58-86-502** is enacted to read:

2012 **58-86-502. Fees -- Deposit into Medical Cannabis Restricted Account.**

2013 The division shall deposit fees the division collects under this chapter into the Medical

2014 Cannabis Restricted Account.

2015 Section 77. Section **59-12-104.7** is enacted to read:

2016 **59-12-104.7. Exemption from sales tax for medical cannabis.**

2017 (1) As used in this section:

2018 (a) "Cannabis-based medicine" means the same as that term is defined in Section

2019 58-37-3.6.

2020 (b) "CBM dispensary" means the same as that term is defined in Section 26-58-102.

2021 (2) In addition to the exemptions described in Section 59-12-104, the sale, by a

2022 licensed CBM dispensary, of cannabis-based medicine is not subject to the taxes imposed by

2023 this chapter.

2024 Section 78. Section **59-28-101** is enacted to read:

2025 **CHAPTER 28. MEDICAL CANNABIS TAX ACT**

2026 **59-28-101. Title.**

2027 This chapter is known as the "Medical Cannabis Tax Act."

2028 Section 79. Section **59-28-102** is enacted to read:

2029 **59-28-102. Definitions.**

2030 As used in this chapter:

2031 (1) "Cannabis-based medicine" means the same as that term is defined in Section

2032 58-37-3.6.

2033 (2) "CBM dispensary" means the same as that term is defined in Section 26-58-102.

2034 (3) "Medical Cannabis Restricted Account" means the account created in Section

2035 26-58-105.

2036 Section 80. Section **59-28-103** is enacted to read:

2037 **59-28-103. Imposition of tax -- Rate.**

2038 There is imposed a tax on the retail purchaser of cannabis-based medicine at a CBM

2039 dispensary in the state, in an amount equal to 5.77% of amounts paid or charged for the

2040 cannabis-based medicine.

2041 Section 81. Section **59-28-104** is enacted to read:

2042 **59-28-104. Collection of tax.**

2043 A CBM dispensary shall:

2044 (1) collect the tax imposed by Section [59-28-103](#) from a cannabis-based medicine
2045 purchaser; and

2046 (2) pay the tax collected under Subsection (1):

2047 (a) to the commission quarterly on or before the last day of the month immediately
2048 following the last day of the previous quarter; and

2049 (b) using a form prescribed by the commission.

2050 Section 82. Section **59-28-105** is enacted to read:

2051 **59-28-105. Deposit of tax revenue.**

2052 The commission shall deposit revenues generated by the tax imposed by this chapter
2053 into the Medical Cannabis Restricted Account.

2054 Section 83. Section **59-28-106** is enacted to read:

2055 **59-28-106. Records.**

2056 (1) A CBM dispensary shall maintain any record typically deemed necessary to
2057 determine the amount of tax that the CBM dispensary is required to remit to the commission
2058 under this chapter.

2059 (2) The commission may require a CBM dispensary to keep any record the commission
2060 reasonably considers necessary to constitute sufficient evidence of the amount of tax the CBM
2061 dispensary is required to remit to the commission under this chapter:

2062 (a) by notice served upon the CBM dispensary; or

2063 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2064 Rulemaking Act.

2065 (3) Upon notice by the commission, a CBM dispensary shall open the CBM
2066 dispensary's records for examination by the commission.

2067 Section 84. Section **59-28-107** is enacted to read:

2068 **59-28-107. Rulemaking authority.**

2069 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
2070 Administrative Rulemaking Act, to:

2071 (1) implement the tax imposed by this chapter; and

2072 (2) enforce payment of the tax imposed by this chapter.

2073 Section 85. Section **59-28-108** is enacted to read:

2074 **59-28-108. Penalties and interest.**

2075 A CBM dispensary that fails to comply with any provision of this chapter is subject to
2076 penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

2077 Section 86. Section **62A-4a-202.1** is amended to read:

2078 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
2079 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
2080 **emergency placement.**

2081 (1) A peace officer or child welfare worker may not:

2082 (a) enter the home of a child who is not under the jurisdiction of the court, remove a
2083 child from the child's home or school, or take a child into protective custody unless authorized
2084 under Subsection [78A-6-106\(2\)](#); or

2085 (b) remove a child from the child's home or take a child into custody under this section
2086 solely on the basis of:

2087 (i) educational neglect, truancy, or failure to comply with a court order to attend
2088 school[-]; or

2089 (ii) the possession or use of cannabis-based medicine in the home, if the use and
2090 possession of the cannabis-based medicine is in compliance with Title 26, Chapter 58,
2091 Cannabis-Based Medicine Act.

2092 (2) A child welfare worker within the division may take action under Subsection (1)
2093 accompanied by a peace officer, or without a peace officer when a peace officer is not
2094 reasonably available.

2095 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
2096 into protective custody, the child welfare worker shall also determine whether there are
2097 services available that, if provided to a parent or guardian of the child, would eliminate the
2098 need to remove the child from the custody of the child's parent or guardian.

2099 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
2100 utilized.

2101 (c) In determining whether the services described in Subsection (3)(a) are reasonably
2102 available, and in making reasonable efforts to provide those services, the child's health, safety,

2103 and welfare shall be the child welfare worker's paramount concern.

2104 (4) (a) A child removed or taken into custody under this section may not be placed or
2105 kept in a secure detention facility pending court proceedings unless the child is detainable
2106 based on guidelines promulgated by the Division of Juvenile Justice Services.

2107 (b) A child removed from the custody of the child's parent or guardian but who does
2108 not require physical restriction shall be given temporary care in:

2109 (i) a shelter facility; or

2110 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

2111 (c) When making a placement under Subsection (4)(b), the Division of Child and
2112 Family Services shall give priority to a placement with a noncustodial parent, relative, or
2113 friend, in accordance with Section [62A-4a-209](#).

2114 (d) If the child is not placed with a noncustodial parent, a relative, or a designated
2115 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
2116 explaining why a different placement was in the child's best interest.

2117 (5) When a child is removed from the child's home or school or taken into protective
2118 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

2119 (a) the parent's rights under this part, including the right to be present and participate in
2120 any court proceeding relating to the child's case;

2121 (b) that it may be in the parent's best interest to contact an attorney and that, if the
2122 parent cannot afford an attorney, the court will appoint one;

2123 (c) the name and contact information of a division employee the parent may contact
2124 with questions;

2125 (d) resources that are available to the parent, including:

2126 (i) mental health resources;

2127 (ii) substance abuse resources; and

2128 (iii) parenting classes; and

2129 (e) any other information considered relevant by the division.

2130 (6) The pamphlet or flier described in Subsection (5) shall be:

2131 (a) evaluated periodically for its effectiveness at conveying necessary information and
2132 revised accordingly;

2133 (b) written in simple, easy-to-understand language; and

2134 (c) available in English and other languages as the division determines to be
2135 appropriate and necessary.

2136 Section 87. Section **63I-1-258** is amended to read:

2137 **63I-1-258. Repeal dates, Title 58.**

2138 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
2139 repealed July 1, 2026.

2140 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

2141 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

2142 (4) Section [58-37-4.3](#) is repealed July 1, 2016.

2143 (5) Section [58-38a-203.1](#) is repealed July 1, 2017.

2144 [~~5~~] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
2145 2023.

2146 [~~6~~] (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
2147 Act, is repealed July 1, 2019.

2148 [~~7~~] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
2149 2025.

2150 [~~8~~] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
2151 repealed July 1, 2023.

2152 [~~9~~] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
2153 2024.

2154 [~~10~~] (11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
2155 July 1, 2026.

2156 [~~11~~] (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

2157 Section 88. Section **78A-6-508** is amended to read:

2158 **78A-6-508. Evidence of grounds for termination.**

2159 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
2160 evidence of abandonment that the parent or parents:

2161 (a) although having legal custody of the child, have surrendered physical custody of the
2162 child, and for a period of six months following the surrender have not manifested to the child
2163 or to the person having the physical custody of the child a firm intention to resume physical
2164 custody or to make arrangements for the care of the child;

2165 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
2166 months;

2167 (c) failed to have shown the normal interest of a natural parent, without just cause; or

2168 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

2169 (2) In determining whether a parent or parents are unfit or have neglected a child the
2170 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

2171 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
2172 parent unable to care for the immediate and continuing physical or emotional needs of the child
2173 for extended periods of time;

2174 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
2175 nature;

2176 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
2177 dangerous drugs that render the parent unable to care for the child;

2178 (d) repeated or continuous failure to provide the child with adequate food, clothing,
2179 shelter, education, or other care necessary for the child's physical, mental, and emotional health
2180 and development by a parent or parents who are capable of providing that care;

2181 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
2182 sentence is of such length that the child will be deprived of a normal home for more than one
2183 year;

2184 (f) a history of violent behavior; or

2185 (g) whether the parent has intentionally exposed the child to pornography or material
2186 harmful to a minor, as defined in Section 76-10-1201.

2187 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
2188 because of the parent's possession or consumption of cannabis-based medicine, in accordance
2189 with Title 26, Chapter 58, Cannabis-Based Medicine Act.

2190 [~~3~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not
2191 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
2192 parent.

2193 [~~4~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
2194 or unfit because of a health care decision made for a child by the child's parent unless the state
2195 or other party to the proceeding shows, by clear and convincing evidence, that the health care

2196 decision is not reasonable and informed.

2197 (b) Nothing in Subsection [~~(4)~~] (5)(a) may prohibit a parent from exercising the right to
2198 obtain a second health care opinion.

2199 [~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or
2200 parents fail to comply substantially with the terms and conditions of a plan within six months
2201 after the date on which the child was placed or the plan was commenced, whichever occurs
2202 later, that failure to comply is evidence of failure of parental adjustment.

2203 [~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

2204 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
2205 child, due to known or substantiated abuse or neglect by the parent or parents;

2206 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
2207 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
2208 child's physical, mental, or emotional health and development;

2209 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
2210 of the child;

2211 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
2212 commit murder or manslaughter of a child or child abuse homicide; or

2213 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
2214 of the child, without legal justification.

2215 Section 89. **Effective date.**

2216 This bill takes effect on July 1, 2016.