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MEDICAL CANNABIS ACT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the Utah Medical Cannabis Act.

Highlighted Provisions:

This bill:

- ▶ amends a provision regarding the transportation of cannabis and cannabis products to certain facilities;
- ▶ provides for testing of cannabis at additional stages of production;
- ▶ delays a provision during the decriminalization period that requires labeling with a barcode on a blister pack containing unprocessed cannabis flower;
- ▶ subjects appointees to the compassionate use board to Senate confirmation;
- ▶ provides an exception allowing certain medical professionals to recommend medical cannabis before qualified medical provider registration is available;
- ▶ provides employment protection for a state or political subdivision employee who declines to participate in a job duty required by the Utah Medical Cannabis Act;
- ▶ repeals a provision allowing a court in a custody proceeding in a certain circumstance to discriminate against a parent based on the parent's lawful use of medical cannabis;
- ▶ amends the decriminalization provision to include protections for parents and legal guardians of certain minor patients;
- ▶ clarifies quantity limits for possession during the decriminalization period; and



28 ▶ makes technical changes.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **4-41a-404**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
36 Chapter 1

37 **4-41a-701**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
38 Chapter 1

39 **26-61a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
40 Chapter 1

41 **26-61a-105**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
42 Chapter 1

43 **26-61a-106**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
44 Chapter 1

45 **26-61a-111**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
46 Chapter 1

47 **30-3-10**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

48 **58-37-3.7**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1



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

51 Section 1. Section **4-41a-404** is amended to read:

52 **4-41a-404. Cannabis, cannabis product, or medical cannabis device**
53 **transportation.**

54 (1) (a) Only the following individuals may transport cannabis in a medicinal dosage
55 form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this
56 chapter:

57 (i) a registered cannabis production establishment agent; or

58 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that

59 the cardholder is authorized to possess under this chapter.

60 (b) Only an agent of a cannabis cultivating facility, when the agent is transporting
61 cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory,
62 may transport unprocessed cannabis outside of a medicinal dosage form.

63 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter
64 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall
65 possess a transportation manifest that:

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

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

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

72 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
73 establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
74 Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a
75 medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis
76 product, or medical cannabis device remains safe for human consumption.

77 (b) The transportation described in Subsection (3)(a) is limited to transportation:

78 (i) between a cannabis cultivation facility and:

79 (A) another cannabis cultivation facility; or

80 (B) a cannabis processing facility; and

81 (ii) between a cannabis processing facility and:

82 (A) another cannabis processing facility;

83 (B) an independent cannabis testing laboratory; ~~or~~

84 (C) a medical cannabis pharmacy~~[-]; or~~

85 (D) the state central fill medical cannabis pharmacy.

86 (4) (a) It is unlawful for a registered cannabis production establishment agent to make a
87 transport described in this section with a manifest that does not meet the requirements of this
88 section.

89 (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

90 (i) guilty of an infraction; and

91 (ii) subject to a \$100 fine.

92 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
93 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
94 underlying the violation described in Subsection (4)(b).

95 (d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis
96 product, or medical cannabis devices than the manifest identifies, except for a de minimis
97 administrative error:

98 (i) the penalty described in Subsection (4)(b) does not apply; and

99 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled
100 Substances Act.

101 (5) Nothing in this section prevents the department from taking administrative
102 enforcement action against a cannabis production establishment or another person for failing to
103 make a transport in compliance with the requirements of this section.

104 Section 2. Section **4-41a-701** is amended to read:

105 **4-41a-701. Cannabis and cannabis product testing.**

106 (1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis
107 processing facility unless an independent cannabis testing laboratory has tested a representative
108 sample of the cannabis or cannabis product to determine that the presence of contaminants,
109 including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material,
110 does not exceed an amount that is safe for human consumption.

111 ~~[(+)]~~ (2) A cannabis processing facility may not offer any cannabis or cannabis
112 products for sale to a medical cannabis pharmacy or the state central fill medical cannabis
113 pharmacy, and a medical cannabis pharmacy and the state central fill medical cannabis
114 pharmacy may not offer any cannabis or cannabis product for sale unless an independent
115 cannabis testing laboratory has tested a representative sample of the cannabis or cannabis
116 product to determine:

117 (a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the
118 cannabis or cannabis product; and

119 (ii) the amount of any other cannabinoid in the cannabis or cannabis product that the
120 label claims the cannabis or cannabis product contains;

121 (b) that the presence of contaminants, including mold, fungus, pesticides, microbial
122 contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for
123 human consumption; and

124 (c) for a cannabis product that is manufactured using a process that involves extraction
125 using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that
126 is not safe for human consumption.

127 [~~(2)~~] (3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative
128 Rulemaking Act, the department:

129 (a) may determine the amount of any substance described in Subsections [~~(1)~~] (2)(b)
130 and (c) that is safe for human consumption; and

131 (b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis
132 production establishment.

133 [~~(3)~~] (4) The department may require testing for a toxin if:

134 (a) the department receives information indicating the potential presence of a toxin; or

135 (b) the department's inspector has reason to believe a toxin may be present based on the
136 inspection of a facility.

137 [~~(4)~~] (5) The department shall establish by rule, in accordance with Title 63G, Chapter
138 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
139 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

140 [~~(5)~~] (6) The department may require an independent cannabis testing laboratory to
141 participate in a proficiency evaluation that the department conducts or that an organization that
142 the department approves conducts.

143 Section 3. Section **26-61a-102** is amended to read:

144 **26-61a-102. Definitions.**

145 As used in this chapter:

146 (1) "Blister" means a plastic cavity or pocket used to contain no more than a single
147 dose of cannabis or a cannabis product in a blister pack.

148 (2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each
149 containing no more than a single dose of cannabis or a cannabis product.

150 (3) "Cannabis" means marijuana.

151 (4) "Cannabis cultivation facility" means the same as that term is defined in Section

152 4-41a-102.

153 (5) "Cannabis processing facility" means the same as that term is defined in Section

154 4-41a-102.

155 (6) "Cannabis product" means a product that:

156 (a) is intended for human use; and

157 (b) contains cannabis or tetrahydrocannabinol.

158 (7) "Cannabis production establishment agent" means the same as that term is defined

159 in Section 4-41a-102.

160 (8) "Cannabis production establishment agent registration card" means the same as that

161 term is defined in Section 4-41a-102.

162 (9) "Community location" means a public or private school, a church, a public library,
163 a public playground, or a public park.

164 (10) "Department" means the Department of Health.

165 (11) "Designated caregiver" means an individual:

166 (a) whom an individual with a medical cannabis patient card or a medical cannabis
167 guardian card designates as the patient's caregiver; and

168 (b) who registers with the department under Section 26-61a-202.

169 (12) "Dosing parameters" means quantity, routes, and frequency of administration for a
170 recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a
171 medicinal dosage form.

172 (13) "Independent cannabis testing laboratory" means the same as that term is defined
173 in Section 4-41a-102.

174 (14) "Inventory control system" means the system described in Section 4-41a-103.

175 (15) "Local health department" means the same as that term is defined in Section
176 26A-1-102.

177 (16) "Local health department distribution agent" means an agent designated and
178 registered to distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.

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

180 (18) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis
181 product in a medicinal dosage form.

182 (19) "Medical cannabis card" means a medical cannabis patient card, a medical

- 183 cannabis guardian card, or a medical cannabis caregiver card.
- 184 (20) "Medical cannabis cardholder" means a holder of a medical cannabis card.
- 185 (21) "Medical cannabis caregiver card" means an official card that:
- 186 (a) the department issues to an individual whom a medical cannabis patient cardholder
- 187 or a medical cannabis guardian cardholder designates as a designated caregiver; and
- 188 (b) is connected to the electronic verification system.
- 189 (22) (a) "Medical cannabis device" means a device that an individual uses to ingest
- 190 cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
- 191 (b) "Medical cannabis device" does not include a device that:
- 192 (i) facilitates cannabis combustion; or
- 193 (ii) an individual uses to ingest substances other than cannabis.
- 194 (23) "Medical cannabis guardian card" means an official card that:
- 195 (a) the department issues to the parent or legal guardian of a minor with a qualifying
- 196 condition; and
- 197 (b) is connected to the electronic verification system.
- 198 (24) "Medical cannabis patient card" means an official card that:
- 199 (a) the department issues to an individual with a qualifying condition; and
- 200 (b) is connected to the electronic verification system.
- 201 (25) "Medical cannabis pharmacy" means a person that:
- 202 (a) (i) acquires or intends to acquire:
- 203 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
- 204 form from a cannabis processing facility; or
- 205 (B) a medical cannabis device; or
- 206 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal
- 207 dosage form, or a medical cannabis device; and
- 208 (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a
- 209 medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.
- 210 (26) "Medical cannabis pharmacy agent" means an individual who:
- 211 (a) is an employee of a medical cannabis pharmacy; and
- 212 (b) who holds a valid medical cannabis pharmacy agent registration card.
- 213 (27) "Medical cannabis pharmacy agent registration card" means a registration card

214 issued by the department that authorizes an individual to act as a medical cannabis pharmacy
215 agent.

216 (28) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
217 cannabis product in a medicinal dosage form, or a medical cannabis device.

218 (29) (a) "Medicinal dosage form" means:

219 (i) for processed medical cannabis or a medical cannabis product, the following in
220 single dosage form with a specific and consistent cannabinoid content:

221 (A) a tablet;

222 (B) a capsule;

223 (C) a concentrated oil;

224 (D) a liquid suspension;

225 (E) a topical preparation;

226 (F) a transdermal preparation;

227 (G) a sublingual preparation;

228 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
229 rectangular cuboid shape; or

230 (I) for use only after the individual's qualifying condition has failed to substantially
231 respond to at least two other forms described in this Subsection (29)(a)(i), a resin or wax;

232 (ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

233 (A) containing a specific and consistent weight that does not exceed one gram and that
234 varies by no more than 10% from the stated weight; and

235 (B) after December 31, 2020, labeled with a barcode that provides information
236 connected to an inventory control system and the individual blister's content and weight; and

237 (iii) a form measured in grams, milligrams, or milliliters.

238 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

239 (i) the medical cannabis cardholder has recently removed from the blister pack
240 described in Subsection (29)(a)(ii) for use; and

241 (ii) does not exceed the quantity described in Subsection (29)(a)(ii).

242 (c) "Medicinal dosage form" does not include:

243 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in
244 Subsection (29)(b); or

245 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
246 on a nail or other metal object that is heated by a flame, including a blowtorch.

247 (30) "Pharmacy medical provider" means the medical provider required to be on site at
248 a medical cannabis pharmacy under Section 26-61a-403.

249 (31) "Provisional patient card" means a card that:

250 (a) the department issues to a minor with a qualifying condition for whom:

251 (i) a qualified medical provider has recommended a medical cannabis treatment; and

252 (ii) the department issues a medical cannabis guardian card to the minor's parent or
253 legal guardian; and

254 (b) is connected to the electronic verification system.

255 (32) "Qualified medical provider" means an individual who is qualified to recommend
256 treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

257 (33) "Qualified Distribution Enterprise Fund" means the enterprise fund created in
258 Section 26-61a-110.

259 (34) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section
260 26-61a-109.

261 (35) "Qualifying condition" means a condition described in Section 26-61a-104.

262 (36) "State central fill agent" means an employee of the state central fill medical
263 cannabis pharmacy that the department registers in accordance with Section 26-61a-602.

264 (37) "State central fill medical cannabis pharmacy" means the central fill pharmacy that
265 the department creates in accordance with Section 26-61a-601.

266 (38) "State central fill medical provider" means a physician or pharmacist that the state
267 central fill medical cannabis pharmacy employs to consult with medical cannabis cardholders
268 in accordance with Section 26-61a-601.

269 (39) "State central fill shipment" means a shipment of cannabis in a medicinal dosage
270 form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state
271 central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis
272 cardholder in a local health department.

273 (40) "State electronic verification system" means the system described in Section
274 26-61a-103.

275 Section 4. Section 26-61a-105 is amended to read:

276 **26-61a-105. Compassionate use board.**

277 (1) (a) The department shall establish a compassionate use board consisting of:

278 (i) seven qualified medical providers that the executive director appoints and the

279 Senate confirms:

280 (A) who are knowledgeable about the medicinal use of cannabis;

281 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
282 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

283 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
284 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
285 pediatrics, or gastroenterology; and

286 (ii) as a nonvoting member and the chair of the board, the executive director or the
287 director's designee.

288 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
289 the executive director shall ensure that at least two have a board certification in pediatrics.

290 (2) (a) Of the members of the board that the executive director first appoints:

291 (i) three shall serve an initial term of two years; and

292 (ii) the remaining members shall serve an initial term of four years.

293 (b) After an initial term described in Subsection (2)(a) expires:

294 (i) each term is four years; and

295 (ii) each board member is eligible for reappointment.

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

297 (3) Four members constitute a quorum of the compassionate use board.

298 (4) A member of the board may receive:

299 (a) compensation or benefits for the member's service; and

300 (b) per diem and travel expenses in accordance with Section [63A-3-106](#), Section

301 [63A-3-107](#), and rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

302 [63A-3-107](#).

303 (5) The compassionate use board shall:

304 (a) review and recommend for department approval an individual described in

305 Subsection [26-61a-201\(2\)\(a\)](#), a minor described in Subsection [26-61a-201\(2\)\(c\)](#), or an

306 individual who is not otherwise qualified to receive a medical cannabis card to obtain a

307 medical cannabis card for compassionate use if:

308 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
309 the individual's qualified medical provider is actively treating the individual for an intractable
310 condition that:

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

312 (B) has not, in the qualified medical provider's professional opinion, adequately
313 responded to conventional treatments;

314 (ii) the qualified medical provider:

315 (A) recommends that the individual or minor be allowed to use medical cannabis; and

316 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
317 describing relevant treatment history including rationale for considering the use of medical
318 cannabis; and

319 (iii) the board determines that:

320 (A) the recommendation of the individual's qualified medical provider is justified; and

321 (B) based on available information, it may be in the best interests of the individual to
322 allow the use of medical cannabis;

323 (b) unless no petitions are pending:

324 (i) meet to receive or review compassionate use petitions at least quarterly; and

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

327 (c) complete a review of each petition and recommend to the department approval or
328 denial of the applicant for qualification for a medical cannabis card within 90 days after the day
329 on which the board received the petition; and

330 (d) report, before November 1 of each year, to the Health and Human Services Interim
331 Committee:

332 (i) the number of compassionate use recommendations the board issued during the past
333 year; and

334 (ii) the types of conditions for which the board approved compassionate use.

335 (6) (a) (i) The department shall review any compassionate use for which the board
336 recommends approval under Subsection (5)(c) to determine whether the board properly
337 exercised the board's discretion under this section.

338 (ii) If the department determines that the board properly exercised the board's
339 discretion in recommending approval under Subsection (5)(c), the department shall:
340 (A) issue the relevant medical cannabis card; and
341 (B) provide for the renewal of the medical cannabis card in accordance with the
342 recommendation of the qualified medical provider described in Subsection (5)(a).
343 (b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking
344 to obtain a medical cannabis card may petition the department to review the board's decision.
345 (ii) If the department determines that the board's recommendation for denial under
346 Subsection (5)(c) was arbitrary or capricious:
347 (A) the department shall notify the board of the department's determination; and
348 (B) the board shall reconsider the board's refusal to recommend approval under this
349 section.
350 (c) In reviewing the board's recommendation for approval or denial under Subsection
351 (5)(c) in accordance with this Subsection (6), the department shall presume the board properly
352 exercised the board's discretion unless the department determines that the board's
353 recommendation was arbitrary or capricious.
354 (7) Any individually identifiable health information contained in a petition that the
355 board or department receives under this section is a protected record in accordance with Title
356 63G, Chapter 2, Government Records Access and Management Act.
357 (8) The compassionate use board shall annually report the board's activity to the
358 Cannabinoid Product Board created in Section 26-61-201.
359 Section 5. Section 26-61a-106 is amended to read:
360 **26-61a-106. Qualified medical provider registration -- Continuing education --**
361 **Treatment recommendation.**
362 (1) (a) ~~[A]~~ Except as provided in Subsection (1)(b), an individual may not recommend
363 a medical cannabis treatment unless the department registers the individual as a qualified
364 medical provider in accordance with this section.
365 (b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii)
366 and (iv) may recommend a medical cannabis treatment without registering under Subsection
367 (1)(a) until January 1, 2021.
368 (2) (a) The department shall, within 15 days after the day on which the department

369 receives an application from an individual, register and issue a qualified medical provider
370 registration card to the individual if the individual:

371 (i) provides to the department the individual's name and address;

372 (ii) provides to the department a report detailing the individual's completion of the
373 applicable continuing education requirement described in Subsection (3);

374 (iii) provides to the department evidence that the individual:

375 (A) has the authority to write a prescription;

376 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
377 Controlled Substances Act; and

378 (C) possesses the authority, in accordance with the individual's scope of practice, to
379 prescribe a Schedule II controlled substance;

380 (iv) provides to the department evidence that the individual is:

381 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
382 Practice Act;

383 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
384 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

385 (C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act,
386 whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),
387 includes the recommending of medical cannabis, and whose supervising physician is a
388 qualified medical provider; and

389 (v) pays the department a fee in an amount that:

390 (A) the department sets, in accordance with Section [63J-1-504](#); and

391 (B) does not exceed \$300 for an initial registration.

392 (b) The department may not register an individual as a qualified medical provider if the
393 individual is:

394 (i) a pharmacy medical provider or a state central fill medical provider; or

395 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
396 production establishment or a medical cannabis pharmacy.

397 (3) (a) An individual shall complete the continuing education described in this
398 Subsection (3) in the following amounts:

399 (i) for an individual as a condition precedent to registration, four hours; and

400 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
401 every two years.

402 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

403 (i) complete continuing education:

404 (A) regarding the topics described in Subsection (3)(d); and

405 (B) offered by the department under Subsection (3)(c) or an accredited or approved
406 continuing education provider that the department recognizes as offering continuing education
407 appropriate for the recommendation of cannabis to patients; and

408 (ii) make a continuing education report to the department in accordance with a process
409 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
410 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
411 Professional Licensing and:

412 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
413 Nurse Practice Act, the Board of Nursing;

414 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
415 Practice Act, the Physicians Licensing Board;

416 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
417 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
418 and

419 (D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant
420 Act, the Physician Assistant Licensing Board.

421 (c) The department may, in consultation with the Division of Occupational and
422 Professional Licensing, develop the continuing education described in this Subsection (3).

423 (d) The continuing education described in this Subsection (3) may discuss:

424 (i) the provisions of this chapter;

425 (ii) general information about medical cannabis under federal and state law;

426 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
427 including risks and benefits;

428 (iv) recommendations for medical cannabis as it relates to the continuing care of a
429 patient in pain management, risk management, potential addiction, or palliative care; and

430 (v) best practices for recommending the form and dosage of medical cannabis products

431 based on the qualifying condition underlying a medical cannabis recommendation.

432 (4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may
433 not recommend a medical cannabis treatment to more than 175 of the qualified medical
434 provider's patients at the same time, as determined by the number of medical cannabis cards
435 under the qualified medical provider's name in the state electronic verification system.

436 (b) Except as provided in Subsection (4)(c), a qualified medical provider may
437 recommend a medical cannabis treatment to up to 300 of the qualified medical provider's
438 patients at any given time, as determined by the number of medical cannabis cards under the
439 qualified medical provider's name in the state electronic verification system, if:

440 (i) the appropriate American medical board has certified the qualified medical provider
441 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
442 palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

443 (ii) a licensed business employs or contracts the qualified medical provider for the
444 specific purpose of providing hospice and palliative care.

445 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in
446 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for
447 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of
448 100 patients per authorization, not to exceed three authorizations.

449 (ii) The Division of Occupational and Professional Licensing shall grant the
450 authorization described in Subsection (4)(c)(i) if:

451 (A) the petitioning qualified medical provider pays a \$100 fee;

452 (B) the division performs a review that includes the qualified medical provider's
453 medical cannabis recommendation activity in the state electronic verification system, relevant
454 information related to patient demand, and any patient medical records that the division
455 determines would assist in the division's review; and

456 (C) after the review described in this Subsection (4)(c)(ii), the division determines that
457 granting the authorization would not adversely affect public safety, adversely concentrate the
458 overall patient population among too few qualified medical providers, or adversely concentrate
459 the use of medical cannabis among the provider's patients.

460 (5) A qualified medical provider may recommend medical cannabis to an individual
461 under this chapter only in the course of a qualified medical provider-patient relationship after

462 the qualifying medical provider has completed and documented in the patient's medical record
463 a thorough assessment of the patient's condition and medical history based on the appropriate
464 standard of care for the patient's condition.

465 (6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not
466 advertise that the qualified medical provider recommends medical cannabis treatment.

467 (b) For purposes of Subsection (6)(a), the communication of the following, through a
468 website does not constitute advertising:

- 469 (i) a green cross;
- 470 (ii) a qualifying condition that the qualified medical provider treats; or
- 471 (iii) a scientific study regarding medical cannabis use.

472 (7) (a) A qualified medical provider registration card expires two years after the day on
473 which the department issues the card.

474 (b) The department shall renew a qualified medical provider's registration card if the
475 provider:

- 476 (i) applies for renewal;
- 477 (ii) is eligible for a qualified medical provider registration card under this section,
478 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);
- 479 (iii) certifies to the department in a renewal application that the information in
480 Subsection (2)(a) is accurate or updates the information;
- 481 (iv) submits a report detailing the completion of the continuing education requirement
482 described in Subsection (3); and
- 483 (v) pays the department a fee in an amount that:
 - 484 (A) the department sets, in accordance with Section [63J-1-504](#); and
 - 485 (B) does not exceed \$50 for a registration renewal.

486 (8) The department may revoke the registration of a qualified medical provider who
487 fails to maintain compliance with the requirements of this section.

488 (9) A qualified medical provider may not receive any compensation or benefit for the
489 qualified medical provider's medical cannabis treatment recommendation from:

- 490 (a) a cannabis production establishment or an owner, officer, director, board member,
491 employee, or agent of a cannabis production establishment;
- 492 (b) a medical cannabis pharmacy or an owner, officer, director, board member,

493 employee, or agent of a medical cannabis pharmacy; or

494 (c) a qualified medical provider or pharmacy medical provider.

495 Section 6. Section **26-61a-111** is amended to read:

496 **26-61a-111. Nondiscrimination for medical care or government employment --**
497 **No adverse employment action.**

498 (1) For purposes of medical care, including an organ or tissue transplant, a patient's
499 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis
500 product in a medicinal dosage form:

501 (a) is considered the equivalent of the authorized use of any other medication used at
502 the discretion of a physician; and

503 (b) does not constitute the use of an illicit substance or otherwise disqualify an
504 individual from needed medical care.

505 (2) (a) Notwithstanding any other provision of law and except as provided in
506 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
507 cannabis in accordance with this chapter or Section [58-37-3.7](#) in the same way the state or
508 political subdivision treats employee use of opioids and opiates.

509 (b) Subsection (2)(a) does not apply where application would jeopardize federal
510 funding for the employee's position.

511 (3) The state or a political subdivision may not take an adverse employment action
512 against an employee who declines to participate in any job duty that the provisions of Laws of
513 Utah 2018, Third Special Session, Chapter 1, require.

514 Section 7. Section **30-3-10** is amended to read:

515 **30-3-10. Custody of children in case of separation or divorce -- Custody**
516 **consideration.**

517 (1) If a married couple having one or more minor children are separated, or their
518 marriage is declared void or dissolved, the court shall make an order for the future care and
519 custody of the minor children as it considers appropriate.

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

523 (i) in accordance with Subsection (7), the past conduct and demonstrated moral

524 standards of each of the parties;

525 (ii) which parent is most likely to act in the best interest of the child, including

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

527 (iii) the extent of bonding between the parent and child, meaning the depth, quality,

528 and nature of the relationship between a parent and child;

529 (iv) whether the parent has intentionally exposed the child to pornography or material

530 harmful to a minor, as defined in Section 76-10-1201; and

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

532 (b) There is a rebuttable presumption that joint legal custody, as defined in Section

533 30-3-10.1, is in the best interest of the child, except in cases where there is:

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

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

536 unreasonable;

537 (iii) physical distance between the residences of the parents, making joint decision

538 making impractical in certain circumstances; or

539 (iv) any other factor the court considers relevant including those listed in this section

540 and Section 30-3-10.2.

541 (c) (i) The person who desires joint legal custody shall file a proposed parenting plan in

542 accordance with Sections 30-3-10.8 and 30-3-10.9.

543 (ii) A presumption for joint legal custody may be rebutted by a showing by a

544 preponderance of the evidence that it is not in the best interest of the child.

545 (d) A child may not be required by either party to testify unless the trier of fact

546 determines that extenuating circumstances exist that would necessitate the testimony of the

547 child be heard and there is no other reasonable method to present the child's testimony.

548 (e) (i) The court may inquire of the child's and take into consideration the ~~the~~ child's

549 desires regarding future custody or parent-time schedules, but the expressed desires are not

550 controlling and the court may determine the children's custody or parent-time otherwise.

551 (ii) The desires of a child 14 years of age or older shall be given added weight, but is

552 not the single controlling factor.

553 (f) (i) If an interview with a child is conducted by the court pursuant to Subsection

554 (1)(e), the interview shall be conducted by the judge in camera.

555 (ii) The prior consent of the parties may be obtained but is not necessary if the court
556 finds that an interview with a child is the only method to ascertain the child's desires regarding
557 custody.

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

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

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

568 (b) The court may not consider the disability of a parent as a factor in awarding custody
569 or modifying an award of custody based on a determination of a substantial change in
570 circumstances, unless the court makes specific findings that:

571 (i) the disability significantly or substantially inhibits the parent's ability to provide for
572 the physical and emotional needs of the child at issue; and

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

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

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

581 (6) When an issue before the court involves custodial responsibility in the event of a
582 deployment of one or both parents who are servicemembers, and the servicemember has not yet
583 been notified of deployment, the court shall resolve the issue based on the standards in Sections
584 78B-20-306 through 78B-20-309.

585 (7) In considering the past conduct and demonstrated moral standards of each party

586 under Subsection (1)(a)(i) or any other factor a court finds relevant, the court may not
587 discriminate against a parent because of or otherwise consider the parent's:

588 (a) lawful possession or use of cannabis in a medicinal dosage form, a cannabis
589 product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26,
590 Chapter 61a, Utah Medical Cannabis Act~~[-except as it relates to that parent's ability to care for~~
591 ~~a child];~~ or

592 (b) status as a:

593 (i) cannabis production establishment agent, as that term is defined in Section
594 4-41a-102;

595 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

596 (iii) state central fill agent, as that term is defined in Section 26-61a-102; or

597 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah
598 Medical Cannabis Act.

599 Section 8. Section 58-37-3.7 is amended to read:

600 **58-37-3.7. Medical cannabis decriminalization.**

601 (1) As used in this section:

602 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

603 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

604 (c) "Medical cannabis card" means the same as that term is defined in Section
605 26-61a-102.

606 (d) "Medical cannabis device" means the same as that term is defined in Section
607 26-61a-102.

608 (e) "Medical cannabis pharmacy" means the same as that term is defined in Section
609 26-61a-102.

610 (f) "Medicinal dosage form" means the same as that term is defined in Section
611 26-61a-102.

612 (g) "Qualified medical provider" means the same as that term is defined in Section
613 26-61a-102.

614 (h) "Qualifying condition" means the same as that term is defined in Section
615 26-61a-102.

616 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section

617 ~~58-37-3.9.~~

618 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
619 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

620 (a) at the time of the arrest, the individual:

621 (i) (A) had been diagnosed with a qualifying condition; and

622 (B) had a pre-existing provider-patient relationship with an advanced practice
623 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
624 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
625 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
626 Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness
627 described in Subsection (2)(a)(i)(A) could benefit from the use in question; ~~[or]~~

628 (ii) for possession, was:

629 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
630 is a minor; or

631 (B) the spouse of an individual described in Subsection (2)(a)(i); or

632 ~~[(ii)]~~ (iii) (A) for possession, was a medical cannabis cardholder; or

633 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
634 condition under the supervision of a medical cannabis guardian cardholder; and

635 (b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in [a
636 quantity described in Subsection ~~26-61a-502~~(2):] one of the following amounts:

637 (i) no more than 56 grams by weight of unprocessed cannabis; or

638 (ii) an amount of cannabis products that contains, in total, no more than 10 grams of
639 total composite tetrahydrocannabinol.

640 (3) An individual is not guilty under this chapter for the use or possession of marijuana,
641 tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

642 (a) at the time of the arrest, the individual:

643 (i) was not a resident of Utah or has been a resident of Utah for less than 45 days;

644 (ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis
645 card under the laws of another state, district, territory, commonwealth, or insular possession of
646 the United States; and

647 (iii) had been diagnosed with a qualifying condition as described in Section

648 [26-61a-104](#); and

649 (b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a quantity
650 described in Subsection [26-61a-502\(2\)](#).

651 Section 9. **Effective date.**

652 If approved by two-thirds of all the members elected to each house, this bill takes effect
653 upon approval by the governor, or the day following the constitutional time limit of Utah
654 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
655 the date of veto override.