

Representative Jennifer Dailey-Provost proposes the following substitute bill:

MEDICAL CANNABIS MODIFICATIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions regarding medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the material cannabis cultivation facilities acquire from industrial hemp cultivators and processors;
- ▶ broadens the definition of a "research university" for purposes of academic medical cannabis research;
- ▶ amends a provision regarding disclosure of ownership interest for cannabis production establishments and medical cannabis pharmacies;
- ▶ amends provisions regarding licensing agencies giving consideration to existing license holders when granting additional licenses in certain circumstances;
- ▶ removes a provision limiting the size of signage for cannabis production establishments and medical cannabis pharmacies;
- ▶ amends agency reporting requirements to include information regarding testing of cannabis and cannabis products;
- ▶ allows a patient to renew a medical cannabis card for a longer period in certain



- 26 circumstances;
- 27 ▶ allows an individual physically present with a medical cannabis patient cardholder
- 28 in an emergency medical condition to handle medical cannabis to assist the patient
- 29 in the administration of the medical cannabis;
- 30 ▶ exempts a tetrahydrocannabinol from a felony provision related to vehicular
- 31 injuries; and
- 32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides a special effective date.

37 This bill provides a coordination clause.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

41 **4-41a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

42 **4-41a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

43 **4-41a-802**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

44 Chapter 1

45 **26-61a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

46 **26-61a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

47 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

48 **26-61a-505**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

49 **58-37-8, as last amended by Laws of Utah 2019, Chapter 58**

50 **Utah Code Sections Affected by Coordination Clause:**

51 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5



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

54 Section 1. Section **4-41a-102** is amended to read:

55 **4-41a-102. Definitions.**

56 As used in this chapter:

- 57 (1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and
58 tetrahydrocannabinolic acid.
- 59 ~~[(1)]~~ (2) "Cannabis" means the same as that term is defined in Section 26-61a-102.
- 60 ~~[(2)]~~ (3) "Cannabis cultivation facility" means a person that:
- 61 (a) possesses cannabis;
- 62 (b) (i) grows or intends to grow cannabis; and
- 63 (ii) acquires or intends to acquire industrial hemp or an industrial hemp product from
64 an industrial hemp cultivator, licensed under Title 4, Chapter 41, Hemp and Cannabinoid Act,
65 or an industrial hemp processor; and
- 66 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
67 processing facility, or a medical cannabis research licensee.
- 68 ~~[(3)]~~ (4) "Cannabis cultivation facility agent" means an individual who:
- 69 (a) is an employee of a cannabis cultivation facility; and
- 70 (b) holds a valid cannabis production establishment agent registration card.
- 71 ~~[(4)]~~ (5) "Cannabis processing facility" means a person that:
- 72 (a) acquires or intends to acquire cannabis from a cannabis production establishment or
73 a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and
74 Cannabinoid Act;
- 75 (b) possesses cannabis with the intent to manufacture a cannabis product;
- 76 (c) manufactures or intends to manufacture a cannabis product from unprocessed
77 cannabis or a cannabis extract; and
- 78 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
79 medical cannabis research licensee.
- 80 ~~[(5)]~~ (6) "Cannabis processing facility agent" means an individual who:
- 81 (a) is an employee of a cannabis processing facility; and
- 82 (b) holds a valid cannabis production establishment agent registration card.
- 83 ~~[(6)]~~ (7) "Cannabis product" means the same as that term is defined in Section
84 26-61a-102.
- 85 ~~[(7)]~~ (8) "Cannabis production establishment" means a cannabis cultivation facility, a
86 cannabis processing facility, or an independent cannabis testing laboratory.
- 87 ~~[(8)]~~ (9) "Cannabis production establishment agent" means a cannabis cultivation

88 facility agent, a cannabis processing facility agent, or an independent cannabis testing
89 laboratory agent.

90 ~~[(9)]~~ (10) "Cannabis production establishment agent registration card" means a
91 registration card that the department issues that:

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

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

95 ~~[(10)]~~ (11) "Community location" means a public or private school, a licensed
96 child-care facility or preschool, a church, a public library, a public playground, or a public park.

97 ~~[(11)]~~ (12) "Department" means the Department of Agriculture and Food.

98 ~~[(12)]~~ (13) "Family member" means a parent, step-parent, spouse, child, sibling,
99 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
100 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

101 ~~[(13)]~~ (14) "Independent cannabis testing laboratory" means a person that:

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

103 (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to
104 conduct a chemical or other analysis of the cannabis or cannabis product.

105 ~~[(14)]~~ (15) "Independent cannabis testing laboratory agent" means an individual who:

106 (a) is an employee of an independent cannabis testing laboratory; and

107 (b) holds a valid cannabis production establishment agent registration card.

108 ~~[(15)]~~ (16) "Inventory control system" means a system described in Section 4-41a-103.

109 ~~[(16)]~~ (17) "Medical cannabis" means the same as that term is defined in Section
110 26-61a-102.

111 ~~[(17)]~~ (18) "Medical cannabis card" means the same as that term is defined in Section
112 26-61a-102.

113 ~~[(18)]~~ (19) "Medical cannabis pharmacy" means the same as that term is defined in
114 Section 26-61a-102.

115 ~~[(19)]~~ (20) "Medical cannabis pharmacy agent" means the same as that term is defined
116 in Section 26-61a-102.

117 ~~[(20)]~~ (21) "Medical cannabis research license" means a license that the department
118 issues to a research university for the purpose of obtaining and possessing medical cannabis for

119 academic research.

120 [(21)] (22) "Medical cannabis research licensee" means a research university that the
121 department licenses to obtain and possess medical cannabis for academic research, in
122 accordance with Section [4-41a-901](#).

123 [(22)] (23) "Medical cannabis treatment" means the same as that term is defined in
124 Section [26-61a-102](#).

125 [(23)] (24) "Medicinal dosage form" means the same as that term is defined in Section
126 [26-61a-102](#).

127 [(24)] (25) "Qualified medical provider" means the same as that term is defined in
128 Section [26-61a-102](#).

129 [(25)] (26) "Qualified Production Enterprise Fund" means the fund created in Section
130 [4-41a-104](#).

131 [(26)] (27) "Research university" means the same as that term is defined in Section
132 [53B-7-702](#) and a private, nonprofit college or university in the state that:

133 (a) is accredited by the Northwest Commission on Colleges and Universities;

134 (b) grants doctoral degrees; and

135 (c) has a laboratory containing or a program researching a schedule I controlled
136 substance described in Section [58-37-4](#).

137 [(27)] (28) "State electronic verification system" means the system described in Section
138 [26-61a-103](#).

139 [(28)] (29) "Tetrahydrocannabinol" means a substance derived from cannabis or a
140 synthetic equivalent as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

141 [(29)] (30) "Total composite tetrahydrocannabinol" means

142 [~~delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid~~] all detectable forms of
143 tetrahydrocannabinol.

144 Section 2. Section **4-41a-201** is amended to read:

145 **4-41a-201. Cannabis production establishment -- License.**

146 (1) A person may not operate a cannabis production establishment without a license
147 that the department issues under this chapter.

148 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section [4-41a-205](#):

149 (A) for a licensing process that the department initiated before September 23, 2019, the

150 department shall use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, to
151 review and rank applications for a cannabis production establishment license; and

152 (B) for a licensing process that the department initiates after September 23, 2019, the
153 department shall issue a license to operate a cannabis production establishment in accordance
154 with the procedures described in Subsection (2)(a)(iii).

155 (ii) The department may not issue a license to operate a cannabis production
156 establishment to an applicant who is not eligible for a license under this section.

157 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
158 the department shall make rules to specify a transparent and efficient process to:

159 (A) solicit applications for a license under this section;

160 (B) allow for comments and questions in the development of applications;

161 (C) timely and objectively evaluate applications;

162 (D) hold public hearings that the department deems appropriate; and

163 (E) select applicants to receive a license.

164 (b) An applicant is eligible for a license under this section if the applicant submits to
165 the department:

166 (i) subject to Subsection (2)(c), a proposed name and address, located in a zone
167 described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis
168 production establishment;

169 (ii) the name and address of any individual who has:

170 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
171 proposed cannabis production establishment; [~~or~~]

172 (B) for a privately held company, a financial or voting interest in the proposed cannabis
173 production establishment; or

174 [~~(B)~~] (C) the power to direct or cause the management or control of a proposed
175 cannabis production establishment;

176 (iii) an operating plan that:

177 (A) complies with Section 4-41a-204;

178 (B) includes operating procedures that comply with this chapter and any law the
179 municipality or county in which the person is located adopts that is consistent with Section
180 4-41a-406; and

- 181 (C) the department approves;
- 182 (iv) a statement that the applicant will obtain and maintain a performance bond that a
183 surety authorized to transact surety business in the state issues in an amount of at least:
- 184 (A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or
185 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
186 laboratory for which the applicant applies;
- 187 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the
188 department sets in accordance with Section 63J-1-504; and
- 189 (vi) a description of any investigation or adverse action taken by any licensing
190 jurisdiction, government agency, law enforcement agency, or court in any state for any
191 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
192 or businesses.
- 193 (c) (i) A person may not locate a cannabis production establishment:
- 194 (A) within 1,000 feet of a community location; or
195 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
196 as primarily residential.
- 197 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
198 from the nearest entrance to the cannabis production establishment by following the shortest
199 route of ordinary pedestrian travel to the property boundary of the community location or
200 residential area.
- 201 (iii) The department may grant a waiver to reduce the proximity requirements in
202 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
203 for the applicant to site the proposed cannabis production establishment without the waiver.
- 204 (iv) An applicant for a license under this section shall provide evidence of compliance
205 with the proximity requirements described in Subsection (2)(c)(i).
- 206 (3) If the department approves an application for a license under this section:
- 207 (a) the applicant shall pay the department an initial license fee in an amount that,
208 subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;
209 and
- 210 (b) the department shall notify the Department of Public Safety of the license approval
211 and the names of each individual described in Subsection (2)(b)(ii).

212 (4) (a) Except as provided in Subsection (4)(b), the department shall require a separate
213 license for each type of cannabis production establishment and each location of a cannabis
214 production establishment.

215 (b) The department may issue a cannabis cultivation facility license and a cannabis
216 processing facility license to a person to operate at the same physical location or at separate
217 physical locations.

218 (5) If the department receives more than one application for a cannabis production
219 establishment within the same city or town, the department shall consult with the local land use
220 authority before approving any of the applications pertaining to that city or town.

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

223 (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a
224 cannabis processing facility, or a cannabis cultivation facility;

225 (b) has an owner, officer, director, or employee whose family member holds a license
226 or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or
227 a cannabis cultivation facility; or

228 (c) proposes to operate the independent cannabis testing laboratory at the same physical
229 location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis
230 cultivation facility.

231 (7) The department may not issue a license to operate a cannabis production
232 establishment to an applicant if any individual described in Subsection (2)(b)(ii):

233 (a) has been convicted under state or federal law of:

234 (i) a felony; or

235 (ii) after December 3, 2018, a misdemeanor for drug distribution;

236 (b) is younger than 21 years old; or

237 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

238 (8) (a) If an applicant for a cannabis production establishment license under this
239 section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, ~~[or]~~ the
240 department may not give preference to the applicant based on the applicant's status as a holder
241 of the license.

242 (b) If an applicant for a license to operate a cannabis cultivation facility under this

243 section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a,
244 Utah Medical Cannabis Act, the department:

245 ~~[(a)]~~ (i) shall consult with the Department of Health regarding the applicant ~~[if the~~
246 ~~license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis~~
247 ~~Act]; and~~

248 ~~[(b)]~~ (ii) may ~~[not]~~ give ~~[preference]~~ consideration to the applicant based on the
249 applicant's status as a holder of a medical cannabis pharmacy license ~~[described in this~~
250 ~~Subsection (8)-]~~ if:

251 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
252 result from the applicant's vertical integration than from a more competitive marketplace; and

253 (B) the department finds multiple other factors, in addition to the existing license, that
254 support granting the new license.

255 (9) The department may revoke a license under this part:

256 (a) if the cannabis production establishment does not begin cannabis production
257 operations within one year after the day on which the department issues the initial license;

258 (b) after the cannabis production establishment makes the same violation of this
259 chapter three times;

260 (c) if any individual described in Subsection (2)(b) is convicted, while the license is
261 active, under state or federal law of:

262 (i) a felony; or

263 (ii) after December 3, 2018, a misdemeanor for drug distribution; or

264 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
265 the time of application, or fails to supplement the information described in Subsection
266 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
267 application.

268 (10) (a) A person who receives a cannabis production establishment license under this
269 chapter, if the municipality or county where the licensed cannabis production establishment
270 will be located requires a local land use permit, shall submit to the department a copy of the
271 licensee's approved application for the land use permit within 120 days after the day on which
272 the department issues the license.

273 (b) If a licensee fails to submit to the department a copy of the licensee's approved land

274 use permit application in accordance with Subsection (10)(a), the department may revoke the
275 licensee's license.

276 (11) The department shall deposit the proceeds of a fee that the department imposes
277 under this section into the Qualified Production Enterprise Fund.

278 (12) The department shall begin accepting applications under this part on or before
279 January 1, 2020.

280 (13) (a) The department's authority to issue a license under this section is plenary and is
281 not subject to review.

282 (b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a
283 license to an applicant is not subject to:

284 (i) Title 63G, Chapter 6a, Part 16, Protests; or

285 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

286 Section 3. Section ~~4-41a-403~~ is amended to read:

287 **4-41a-403. Advertising.**

288 (1) Except as provided in Subsection (2), (3), or (4), a cannabis production
289 establishment may not advertise to the general public in any medium.

290 (2) A cannabis production establishment may advertise an employment opportunity at
291 the cannabis production establishment.

292 (3) A cannabis production establishment may maintain a website that:

293 (a) contains information about the establishment and employees; and

294 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
295 devices.

296 (4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis
297 production establishment may use signage on the outside of the cannabis production
298 establishment that:

299 (a) includes only:

300 (i) the cannabis production establishment's name and hours of operation; and

301 (ii) a green cross; and

302 [~~(b) does not exceed four feet by five feet in size; and~~]

303 [~~(c)~~] (b) complies with local ordinances regulating signage.

304 Section 4. Section ~~4-41a-802~~ is amended to read:

305 **4-41a-802. Report.**

306 (1) At or before the November interim meeting each year, the department shall report to
307 the Health and Human Services Interim Committee on:

308 (a) the number of applications and renewal applications that the department receives
309 under this chapter;

310 (b) the number of each type of cannabis production facility that the department licenses
311 in each county;

312 (c) the amount of cannabis that licensees grow;

313 (d) the amount of cannabis that licensees manufacture into cannabis products;

314 (e) the number of licenses the department revokes under this chapter; ~~and~~

315 (f) the department's operation of an independent cannabis testing laboratory under

316 Section 4-41a-201, including:

317 (i) the cannabis and cannabis products the department tested; and

318 (ii) the results of the tests the department performed; and

319 ~~(f)~~ (g) the expenses incurred and revenues generated under this chapter.

320 (2) The department may not include personally identifying information in the report
321 described in this section.

322 Section 5. Section **26-61a-102** is amended to read:

323 **26-61a-102. Definitions.**

324 As used in this chapter:

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

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

329 (3) "Cannabis" means marijuana.

330 (4) "Cannabis cultivation facility" means the same as that term is defined in Section
331 4-41a-102.

332 (5) "Cannabis processing facility" means the same as that term is defined in Section
333 4-41a-102.

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

335 (a) is intended for human use; and

336 (b) contains cannabis or tetrahydrocannabinol.

337 (7) "Cannabis production establishment" means the same as that term is defined in
338 Section [4-41a-102](#).

339 (8) "Cannabis production establishment agent" means the same as that term is defined
340 in Section [4-41a-102](#).

341 (9) "Cannabis production establishment agent registration card" means the same as that
342 term is defined in Section [4-41a-102](#).

343 (10) "Community location" means a public or private school, a licensed child-care
344 facility or preschool, a church, a public library, a public playground, or a public park.

345 (11) "Department" means the Department of Health.

346 (12) "Designated caregiver" means an individual:

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

349 (b) who registers with the department under Section [26-61a-202](#).

350 (13) "Dosing [~~parameters~~] guidelines" means a quantity[~~, routes,~~] range and frequency
351 of administration for a recommended treatment of medical cannabis [~~in a medicinal dosage~~
352 ~~form or a cannabis product in a medicinal dosage form~~].

353 (14) "Financial institution" means a bank, trust company, savings institution, or credit
354 union, chartered and supervised under state or federal law.

355 (15) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy
356 that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis
357 shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the
358 state central patient portal facilitates.

359 (16) "Independent cannabis testing laboratory" means the same as that term is defined
360 in Section [4-41a-102](#).

361 (17) "Inventory control system" means the system described in Section [4-41a-103](#).

362 (18) "Legal dosage limit" means an amount that:

363 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
364 relevant qualified medical provider or the pharmacy medical provider, in accordance with
365 Subsection [26-61a-201](#)(4) or (5), recommends; and

366 (b) may not exceed:

367 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and
368 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
369 greater than 20 grams of active tetrahydrocannabinol.

370 [~~(18)~~] (19) "Marijuana" means the same as that term is defined in Section 58-37-2.

371 [~~(19)~~] (20) "Medical cannabis" means cannabis in a medicinal dosage form or a
372 cannabis product in a medicinal dosage form.

373 [~~(20)~~] (21) "Medical cannabis card" means a medical cannabis patient card, a medical
374 cannabis guardian card, or a medical cannabis caregiver card.

375 [~~(21)~~] (22) "Medical cannabis cardholder" means a holder of a medical cannabis card.

376 [~~(22)~~] (23) "Medical cannabis caregiver card" means an electronic document that a
377 cardholder may print or store on an electronic device or a physical card or document that:

378 (a) the department issues to an individual whom a medical cannabis patient cardholder
379 or a medical cannabis guardian cardholder designates as a designated caregiver; and

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

381 [~~(23)~~] (24) "Medical cannabis courier" means a courier that:

382 (a) the department licenses in accordance with Section 26-61a-604; and

383 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
384 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

385 [~~(24)~~] (25) (a) "Medical cannabis device" means a device that an individual uses to
386 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
387 dosage form.

388 (b) "Medical cannabis device" does not include a device that:

389 (i) facilitates cannabis combustion; or

390 (ii) an individual uses to ingest substances other than cannabis.

391 [~~(25)~~] (26) "Medical cannabis guardian card" means an electronic document that a
392 cardholder may print or store on an electronic device or a physical card or document that:

393 (a) the department issues to the parent or legal guardian of a minor with a qualifying
394 condition; and

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

396 [~~(26)~~] (27) "Medical cannabis patient card" means an electronic document that a
397 cardholder may print or store on an electronic device or a physical card or document that:

398 (a) the department issues to an individual with a qualifying condition; and

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

400 [~~(27)~~] (28) "Medical cannabis pharmacy" means a person that:

401 (a) (i) acquires or intends to acquire:

402 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
403 form from a cannabis processing facility; or

404 (B) a medical cannabis device; or

405 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal
406 dosage form, or a medical cannabis device; and

407 (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a
408 medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

409 [~~(28)~~] (29) "Medical cannabis pharmacy agent" means an individual who:

410 (a) is an employee of a medical cannabis pharmacy; and

411 (b) who holds a valid medical cannabis pharmacy agent registration card.

412 [~~(29)~~] (30) "Medical cannabis pharmacy agent registration card" means a registration
413 card issued by the department that authorizes an individual to act as a medical cannabis
414 pharmacy agent.

415 [~~(30)~~] (31) "Medical cannabis shipment" means a shipment of medical cannabis or a
416 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
417 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
418 electronic medical cannabis order that the state central patient portal facilitates.

419 [~~(31)~~] (32) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
420 cannabis product in a medicinal dosage form, or a medical cannabis device.

421 [~~(32)~~] (33) (a) "Medicinal dosage form" means:

422 (i) for processed medical cannabis or a medical cannabis product, the following with a
423 specific and consistent cannabinoid content:

424 (A) a tablet;

425 (B) a capsule;

426 (C) a concentrated oil;

427 (D) a liquid suspension;

428 (E) a topical preparation;

- 429 (F) a transdermal preparation;
- 430 (G) a sublingual preparation;
- 431 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
432 rectangular cuboid shape; or
- 433 (I) for use only after the individual's qualifying condition has failed to substantially
434 respond to at least two other forms described in this Subsection (32)(a)(i), a resin or wax;
- 435 (ii) for unprocessed cannabis flower, a blister pack, with each individual blister:
- 436 (A) containing a specific and consistent weight that does not exceed one gram and that
437 varies by no more than 10% from the stated weight; and
- 438 (B) after December 31, 2020, labeled with a barcode that provides information
439 connected to an inventory control system and the individual blister's content and weight; and
- 440 (iii) a form measured in grams, milligrams, or milliliters.
- 441 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
- 442 (i) the medical cannabis cardholder has recently removed from the blister pack
443 described in Subsection (32)(a)(ii) for use; and
- 444 (ii) does not exceed the quantity described in Subsection (32)(a)(ii).
- 445 (c) "Medicinal dosage form" does not include:
- 446 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in
447 Subsection (32)(b); or
- 448 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
449 on a nail or other metal object that is heated by a flame, including a blowtorch.
- 450 ~~[(33)]~~ (34) "Payment provider" means an entity that contracts with a cannabis
451 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
452 the establishment or pharmacy and other businesses or individuals.
- 453 ~~[(34)]~~ (35) "Pharmacy medical provider" means the medical provider required to be on
454 site at a medical cannabis pharmacy under Section [26-61a-403](#).
- 455 ~~[(35)]~~ (36) "Provisional patient card" means a card that:
- 456 (a) the department issues to a minor with a qualifying condition for whom:
- 457 (i) a qualified medical provider has recommended a medical cannabis treatment; and
- 458 (ii) the department issues a medical cannabis guardian card to the minor's parent or
459 legal guardian; and

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

461 [~~(36)~~] (37) "Qualified medical provider" means an individual who is qualified to
462 recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

463 [~~(37)~~] (38) "Qualified Patient Enterprise Fund" means the enterprise fund created in
464 Section 26-61a-109.

465 [~~(38)~~] (39) "Qualifying condition" means a condition described in Section 26-61a-104.

466 [~~(39)~~] (40) "State central patient portal" means the website the department creates, in
467 accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic
468 medical cannabis order.

469 [~~(40)~~] (41) "State central patient portal medical provider" means a physician or
470 pharmacist that the department employs in relation to the state central patient portal to consult
471 with medical cannabis cardholders in accordance with Section 26-61a-602.

472 [~~(41)~~] (42) "State electronic verification system" means the system described in Section
473 26-61a-103.

474 [~~(42)~~] (43) "Valid form of photo identification" means a valid United States federal- or
475 state-issued photo identification, including:

- 476 (a) a driver license;
- 477 (b) a United States passport;
- 478 (c) a United States passport card; or
- 479 (d) a United States military identification card.

480 Section 6. Section 26-61a-201 is amended to read:

481 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**
482 **application -- Fees -- Studies.**

483 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
484 which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202
485 submits an application in accordance with this section or Section 26-61a-202:

- 486 (a) issue a medical cannabis patient card to an individual described in Subsection
487 (2)(a);
- 488 (b) issue a medical cannabis guardian card to an individual described in Subsection
489 (2)(b);
- 490 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

- 491 (d) issue a medical cannabis caregiver card to an individual described in Subsection
492 26-61a-202(4).
- 493 (2) (a) An individual is eligible for a medical cannabis patient card if:
- 494 (i) (A) the individual is at least 21 years old; or
- 495 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate
496 use board under Section 26-61a-105, and the compassionate use board recommends department
497 approval of the petition;
- 498 (ii) the individual is a Utah resident;
- 499 (iii) the individual's qualified medical provider recommends treatment with medical
500 cannabis in accordance with Subsection (4);
- 501 (iv) the individual signs an acknowledgment stating that the individual received the
502 information described in Subsection (8); and
- 503 (v) the individual pays to the department a fee in an amount that, subject to Subsection
504 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
- 505 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:
- 506 (A) is at least 18 years old;
- 507 (B) is a Utah resident;
- 508 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
509 provider recommends a medical cannabis treatment, the individual petitions the compassionate
510 use board under Section 26-61a-105, and the compassionate use board recommends department
511 approval of the petition;
- 512 (D) the individual signs an acknowledgment stating that the individual received the
513 information described in Subsection (8);
- 514 (E) pays to the department a fee in an amount that, subject to Subsection
515 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
516 criminal background check described in Section 26-61a-203; and
- 517 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
518 offense under either state or federal law, unless the individual completed any imposed sentence
519 six months or more before the day on which the individual applies for a medical cannabis
520 guardian card.
- 521 (ii) The department shall notify the Department of Public Safety of each individual that

522 the department registers for a medical cannabis guardian card.

523 (c) (i) A minor is eligible for a provisional patient card if:

524 (A) the minor has a qualifying condition;

525 (B) the minor's qualified medical provider recommends a medical cannabis treatment
526 to address the minor's qualifying condition;

527 (C) the minor's parent or legal guardian petitions the compassionate use board under
528 Section 26-61a-105, and the compassionate use board recommends department approval of the
529 petition; and

530 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
531 under Subsection (2)(b).

532 (ii) The department shall automatically issue a provisional patient card to the minor
533 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
534 guardian card to the minor's parent or legal guardian.

535 (3) (a) An individual who is eligible for a medical cannabis card described in
536 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
537 department:

538 (i) through an electronic application connected to the state electronic verification
539 system;

540 (ii) with the recommending qualified medical provider while in the recommending
541 qualified medical provider's office; and

542 (iii) with information including:

543 (A) the applicant's name, gender, age, and address;

544 (B) the number of the applicant's valid form of photo identification;

545 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
546 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
547 and

548 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
549 holds the associated medical cannabis guardian card.

550 (b) The department shall ensure that a medical cannabis card the department issues
551 under this section contains the information described in Subsection (3)(a)(iii).

552 (c) (i) If a qualified medical provider determines that, because of age, illness, or

553 disability, a medical cannabis patient cardholder requires assistance in administering the
554 medical cannabis treatment that the qualified medical provider recommends, the qualified
555 medical provider may indicate the cardholder's need in the state electronic verification system.

556 (ii) If a qualified medical provider makes the indication described in Subsection
557 (3)(c)(i):

558 (A) the department shall add a label to the relevant medical cannabis patient card
559 indicating the cardholder's need for assistance; and

560 (B) any adult who is 21 years old or older and who is physically present with the
561 cardholder at the time the cardholder needs to use the recommended medical cannabis
562 treatment may handle the medical cannabis treatment and any associated medical cannabis
563 device as needed to assist the cardholder in administering the recommended medical cannabis
564 treatment~~[-including in the event of an emergency medical condition under Subsection~~
565 ~~26-61a-204(2).]; and~~

566 (C) an individual of any age who is physically present with the cardholder in the event
567 of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle
568 the medical cannabis treatment and any associated medical cannabis device as needed to assist
569 the cardholder in administering the recommended medical cannabis treatment.

570 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

571 (A) ingest or inhale medical cannabis;

572 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
573 of the immediate area where the cardholder is present or with an intent other than to provide
574 assistance to the cardholder; or

575 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
576 the cardholder is not in the process of being dosed with medical cannabis.

577 (4) To recommend a medical cannabis treatment to a patient or to renew a
578 recommendation, a qualified medical provider shall:

579 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
580 a medicinal dosage form:

581 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
582 guardian's valid form of identification described in Subsection (3)(a);

583 (ii) review any record related to the patient and, for a minor patient, the patient's parent

584 or legal guardian in:

585 (A) the state electronic verification system; and

586 (B) the controlled substance database created in Section 58-37f-201; and

587 (iii) consider the recommendation in light of the patient's qualifying condition and

588 history of medical cannabis and controlled substance use; and

589 (b) state in the qualified medical provider's recommendation that the patient:

590 (i) suffers from a qualifying condition, including the type of qualifying condition; and

591 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis

592 product in a medicinal dosage form.

593 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the

594 department issues under this section is valid for the lesser of:

595 (i) an amount of time that the qualified medical provider determines; or

596 (ii) (A) for the first issuance, 30 days; [or]

597 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months[-]; or

598 (C) for a renewal, one year if, after at least one year following the issuance of the

599 original medical cannabis card, the qualified medical provider determines that the patient has

600 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

601 (b) (i) A medical cannabis card that the department issues in relation to a terminal

602 illness described in Section 26-61a-104 does not expire.

603 (ii) The recommending qualified medical provider may revoke a recommendation that

604 the provider made in relation to a terminal illness described in Section 26-61a-104 if the

605 medical cannabis cardholder no longer has the terminal illness.

606 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is

607 renewable if:

608 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or

609 (b); or

610 (ii) the cardholder received the medical cannabis card through the recommendation of

611 the compassionate use board under Section 26-61a-105.

612 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

613 (i) using the application process described in Subsection (3); or

614 (ii) through phone or video conference with the qualified medical provider who made

615 the recommendation underlying the card, at the qualifying medical provider's discretion.

616 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
617 pay to the department a renewal fee in an amount that:

618 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
619 63J-1-504; and

620 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
621 comparison to the original application process.

622 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
623 patient card renews automatically at the time the minor's parent or legal guardian renews the
624 parent or legal guardian's associated medical cannabis guardian card.

625 (e) The department may revoke a medical cannabis guardian card if the cardholder
626 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
627 under either state or federal law.

628 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
629 cannabis card with the patient's name.

630 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
631 purchase, in accordance with this chapter and the recommendation underlying the card,
632 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
633 medical cannabis device.

634 (ii) A cardholder under this section may possess or transport, in accordance with this
635 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
636 cannabis product in a medicinal dosage form, or a medical cannabis device.

637 (iii) To address the qualifying condition underlying the medical cannabis treatment
638 recommendation:

639 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
640 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
641 or a medical cannabis device; and

642 (B) a medical cannabis guardian cardholder may assist the associated provisional
643 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
644 product in a medicinal dosage form, or a medical cannabis device.

645 (c) If a licensed medical cannabis pharmacy is not operating within the state after

646 January 1, 2021, a cardholder under this section is not subject to prosecution for the possession
647 of:

- 648 (i) no more than 113 grams of marijuana in a medicinal dosage form;
- 649 (ii) an amount of cannabis product in a medicinal dosage form that contains no more
650 than 20 grams of tetrahydrocannabinol; or
- 651 (iii) marijuana drug paraphernalia.

652 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
653 Utah Administrative Rulemaking Act, a process to provide information regarding the following
654 to an individual receiving a medical cannabis card:

- 655 (a) risks associated with medical cannabis treatment;
- 656 (b) the fact that a condition's listing as a qualifying condition does not suggest that
657 medical cannabis treatment is an effective treatment or cure for that condition, as described in
658 Subsection [26-61a-104](#)(1); and
- 659 (c) other relevant warnings and safety information that the department determines.

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

663 (10) (a) A person may submit to the department a request to conduct a research study
664 using medical cannabis cardholder data that the state electronic verification system contains.

665 (b) The department shall review a request described in Subsection (10)(a) to determine
666 whether an institutional review board, as that term is defined in Section [26-61-102](#), could
667 approve the research study.

668 (c) At the time an individual applies for a medical cannabis card, the department shall
669 notify the individual:

- 670 (i) of how the individual's information will be used as a cardholder;
- 671 (ii) that by applying for a medical cannabis card, unless the individual withdraws
672 consent under Subsection (10)(d), the individual consents to the use of the individual's
673 information for external research; and
- 674 (iii) that the individual may withdraw consent for the use of the individual's
675 information for external research at any time, including at the time of application.

676 (d) An applicant may, through the medical cannabis card application, and a medical

677 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
678 cardholder's consent to participate in external research at any time.

679 (e) The department may release, for the purposes of a study described in this
680 Subsection (10), information about a cardholder under this section who consents to participate
681 under Subsection (10)(c).

682 (f) If an individual withdraws consent under Subsection (10)(d), the withdrawal of
683 consent:

684 (i) applies to external research that is initiated after the withdrawal of consent; and

685 (ii) does not apply to research that was initiated before the withdrawal of consent.

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

688 Section 7. Section **26-61a-301** is amended to read:

689 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

690 (1) A person may not operate as a medical cannabis pharmacy without a license that
691 the department issues under this part.

692 (2) (a) (i) Subject to Subsections (4) and (5) and to Section [26-61a-305](#), the department
693 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
694 Chapter 6a, Utah Procurement Code.

695 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
696 an applicant who is not eligible for a license under this section.

697 (b) An applicant is eligible for a license under this section if the applicant submits to
698 the department:

699 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
700 operate the medical cannabis pharmacy;

701 (ii) the name and address of an individual who:

702 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in
703 the proposed medical cannabis pharmacy; ~~[or]~~

704 (B) for a privately held company, a financial or voting interest in the proposed medical
705 cannabis pharmacy; or

706 (C) has the power to direct or cause the management or control of a proposed medical
707 cannabis [~~production establishment~~] pharmacy;

708 (iii) a statement that the applicant will obtain and maintain a performance bond that a
709 surety authorized to transact surety business in the state issues in an amount of at least
710 \$125,000 for each application that the applicant submits to the department;

711 (iv) an operating plan that:

712 (A) complies with Section 26-61a-304;

713 (B) includes operating procedures to comply with the operating requirements for a
714 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
715 law that is consistent with Section 26-61a-507; and

716 (C) the department approves;

717 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
718 department sets in accordance with Section 63J-1-504; and

719 (vi) a description of any investigation or adverse action taken by any licensing
720 jurisdiction, government agency, law enforcement agency, or court in any state for any
721 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
722 or businesses.

723 (c) (i) A person may not locate a medical cannabis pharmacy:

724 (A) within 200 feet of a community location; or

725 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
726 as primarily residential.

727 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
728 from the nearest entrance to the medical cannabis pharmacy establishment by following the
729 shortest route of ordinary pedestrian travel to the property boundary of the community location
730 or residential area.

731 (iii) The department may grant a waiver to reduce the proximity requirements in
732 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
733 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

734 (iv) An applicant for a license under this section shall provide evidence of compliance
735 with the proximity requirements described in Subsection (2)(c)(i).

736 (d) The department may not issue a license to an eligible applicant that the department
737 has selected to receive a license until the selected eligible applicant obtains the performance
738 bond described in Subsection (2)(b)(iii).

739 (e) If the department receives more than one application for a medical cannabis
740 pharmacy within the same city or town, the department shall consult with the local land use
741 authority before approving any of the applications pertaining to that city or town.

742 (3) If the department selects an applicant for a medical cannabis pharmacy license
743 under this section, the department shall:

744 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
745 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

746 (b) notify the Department of Public Safety of the license approval and the names of
747 each individual described in Subsection (2)(b)(ii).

748 (4) The department may not issue a license to operate a medical cannabis pharmacy to
749 an applicant if an individual described in Subsection (2)(b)(ii):

750 (a) has been convicted under state or federal law of:

751 (i) a felony; or

752 (ii) after December 3, 2018, a misdemeanor for drug distribution;

753 (b) is younger than 21 years old; or

754 (c) after the effective date of this bill until January 1, 2023, is actively serving as a
755 legislator.

756 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
757 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, ~~[or]~~ the department may not
758 give preference to the applicant based on the applicant's status as a holder of the license.

759 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
760 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis
761 Production Establishments, the department:

762 ~~[(a)]~~ (i) shall consult with the Department of Agriculture and Food regarding the
763 applicant; and

764 ~~[(b)]~~ (ii) may ~~[not]~~ give ~~[preference]~~ consideration to the applicant based on the
765 applicant's status as a holder of a license ~~[described in this Subsection (5)-]~~ to operate a
766 cannabis cultivation facility if:

767 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
768 result from the applicant's vertical integration than from a more competitive marketplace; and

769 (B) the department finds multiple other factors, in addition to the existing license, that

770 support granting the new license.

771 (6) The department may revoke a license under this part if:

772 (a) the medical cannabis pharmacy does not begin operations within one year after the
773 day on which the department issues the initial license;

774 (b) the medical cannabis pharmacy makes the same violation of this chapter three
775 times;

776 (c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is
777 active, under state or federal law of:

778 (i) a felony; or

779 (ii) after December 3, 2018, a misdemeanor for drug distribution; or

780 (d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at
781 the time of application, or fails to supplement the information described in Subsection
782 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
783 application.

784 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
785 if the municipality or county where the licensed medical cannabis pharmacy will be located
786 requires a local land use permit, shall submit to the department a copy of the licensee's
787 approved application for the land use permit within 120 days after the day on which the
788 department issues the license.

789 (b) If a licensee fails to submit to the department a copy the licensee's approved land
790 use permit application in accordance with Subsection (7)(a), the department may revoke the
791 licensee's license.

792 (8) The department shall deposit the proceeds of a fee imposed by this section in the
793 Qualified Patient Enterprise Fund.

794 (9) The department shall begin accepting applications under this part on or before
795 March 1, 2020.

796 (10) (a) The department's authority to issue a license under this section is plenary and is
797 not subject to review.

798 (b) Notwithstanding Subsection (2), the decision of the department to award a license
799 to an applicant is not subject to:

800 (i) Title 63G, Chapter 6a, Part 16, Protests; or

801 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

802 Section 8. Section **26-61a-505** is amended to read:

803 **26-61a-505. Advertising.**

804 (1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may
805 not advertise in any medium.

806 (2) Notwithstanding any municipal or county ordinance prohibiting signage, a medical
807 cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

808 (a) includes only:

809 (i) the medical cannabis pharmacy's name and hours of operation; and

810 (ii) a green cross; and

811 [~~(b) does not exceed four feet by five feet in size; and~~]

812 [~~(c)~~] (b) complies with local ordinances regulating signage.

813 (3) A medical cannabis pharmacy may maintain a website that includes information
814 about:

815 (a) the location and hours of operation of the medical cannabis pharmacy;

816 (b) a product or service available at the medical cannabis pharmacy;

817 (c) personnel affiliated with the medical cannabis pharmacy;

818 (d) best practices that the medical cannabis pharmacy upholds; and

819 (e) educational material related to the medical use of cannabis.

820 Section 9. Section **58-37-8** is amended to read:

821 **58-37-8. Prohibited acts -- Penalties.**

822 (1) Prohibited acts A -- Penalties and reporting:

823 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
824 intentionally:

825 (i) produce, manufacture, or dispense, or to possess with intent to produce,
826 manufacture, or dispense, a controlled or counterfeit substance;

827 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
828 arrange to distribute a controlled or counterfeit substance;

829 (iii) possess a controlled or counterfeit substance with intent to distribute; or

830 (iv) engage in a continuing criminal enterprise where:

831 (A) the person participates, directs, or engages in conduct that results in a violation of

832 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
833 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
834 Clandestine Drug Lab Act, that is a felony; and

835 (B) the violation is a part of a continuing series of two or more violations of Chapters
836 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation
837 Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine
838 Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons
839 with respect to whom the person occupies a position of organizer, supervisor, or any other
840 position of management.

841 (b) A person convicted of violating Subsection (1)(a) with respect to:

842 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
843 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
844 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
845 subsequent conviction is guilty of a first degree felony;

846 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
847 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
848 upon a second or subsequent conviction is guilty of a second degree felony; or

849 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
850 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
851 felony.

852 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
853 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
854 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
855 person or in the person's immediate possession during the commission or in furtherance of the
856 offense, the court shall additionally sentence the person convicted for a term of one year to run
857 consecutively and not concurrently; and the court may additionally sentence the person
858 convicted for an indeterminate term not to exceed five years to run consecutively and not
859 concurrently.

860 (d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
861 felony punishable by imprisonment for an indeterminate term of not less than seven years and
862 which may be for life. Imposition or execution of the sentence may not be suspended, and the

863 person is not eligible for probation.

864 (e) The Administrative Office of the Courts shall report to the Division of
865 Occupational and Professional Licensing the name, case number, date of conviction, and if
866 known, the date of birth of each person convicted of violating Subsection (1)(a).

867 (2) Prohibited acts B -- Penalties and reporting:

868 (a) It is unlawful:

869 (i) for a person knowingly and intentionally to possess or use a controlled substance
870 analog or a controlled substance, unless it was obtained under a valid prescription or order,
871 directly from a practitioner while acting in the course of the person's professional practice, or as
872 otherwise authorized by this chapter;

873 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
874 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
875 by persons unlawfully possessing, using, or distributing controlled substances in any of those
876 locations; or

877 (iii) for a person knowingly and intentionally to possess an altered or forged
878 prescription or written order for a controlled substance.

879 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

880 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

881 or

882 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
883 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
884 conviction is guilty of a third degree felony.

885 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
886 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
887 penalty than provided in this Subsection (2).

888 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
889 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
890 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
891 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
892 person is guilty of a third degree felony.

893 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior

894 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
895 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
896 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
897 listed in:

898 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
899 indeterminate term as provided by law, and:

900 (A) the court shall additionally sentence the person convicted to a term of one year to
901 run consecutively and not concurrently; and

902 (B) the court may additionally sentence the person convicted for an indeterminate term
903 not to exceed five years to run consecutively and not concurrently; and

904 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
905 indeterminate term as provided by law, and the court shall additionally sentence the person
906 convicted to a term of six months to run consecutively and not concurrently.

907 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

908 (i) on a first conviction, guilty of a class B misdemeanor;

909 (ii) on a second conviction, guilty of a class A misdemeanor; and

910 (iii) on a third or subsequent conviction, guilty of a third degree felony.

911 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
912 amounting to a violation of Section 76-5-207:

913 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
914 body any measurable amount of a controlled substance, except for
915 11-nor-9-carboxy-tetrahydrocannabinol; and

916 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
917 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

918 (h) A person who violates Subsection (2)(g) by having in the person's body:

919 (i) a controlled substance classified under Schedule I, other than those described in
920 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
921 degree felony;

922 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection
923 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
924 degree felony; or

925 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A
926 misdemeanor.

927 (i) A person is guilty of a separate offense for each victim suffering serious bodily
928 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)
929 whether or not the injuries arise from the same episode of driving.

930 (j) The Administrative Office of the Courts shall report to the Division of Occupational
931 and Professional Licensing the name, case number, date of conviction, and if known, the date
932 of birth of each person convicted of violating Subsection (2)(a).

933 (3) Prohibited acts C -- Penalties:

934 (a) It is unlawful for a person knowingly and intentionally:

935 (i) to use in the course of the manufacture or distribution of a controlled substance a
936 license number which is fictitious, revoked, suspended, or issued to another person or, for the
937 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
938 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
939 person;

940 (ii) to acquire or obtain possession of, to procure or attempt to procure the
941 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
942 attempting to acquire or obtain possession of, or to procure the administration of a controlled
943 substance by misrepresentation or failure by the person to disclose receiving a controlled
944 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
945 prescription or written order for a controlled substance, or the use of a false name or address;

946 (iii) to make a false or forged prescription or written order for a controlled substance,
947 or to utter the same, or to alter a prescription or written order issued or written under the terms
948 of this chapter; or

949 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
950 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
951 device of another or any likeness of any of the foregoing upon any drug or container or labeling
952 so as to render a drug a counterfeit controlled substance.

953 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
954 misdemeanor.

955 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third

956 degree felony.

957 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

958 (4) Prohibited acts D -- Penalties:

959 (a) Notwithstanding other provisions of this section, a person not authorized under this
960 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
961 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
962 of fact finds the act is committed:

963 (i) in a public or private elementary or secondary school or on the grounds of any of
964 those schools during the hours of 6 a.m. through 10 p.m.;

965 (ii) in a public or private vocational school or postsecondary institution or on the
966 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

967 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
968 facility's hours of operation;

969 (iv) in a public park, amusement park, arcade, or recreation center when the public or
970 amusement park, arcade, or recreation center is open to the public;

971 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

972 (vi) in or on the grounds of a library when the library is open to the public;

973 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
974 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

975 (viii) in the presence of a person younger than 18 years of age, regardless of where the
976 act occurs; or

977 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
978 distribution of a substance in violation of this section to an inmate or on the grounds of a
979 correctional facility as defined in Section 76-8-311.3.

980 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
981 and shall be imprisoned for a term of not less than five years if the penalty that would
982 otherwise have been established but for this Subsection (4) would have been a first degree
983 felony.

984 (ii) Imposition or execution of the sentence may not be suspended, and the person is
985 not eligible for probation.

986 (c) If the classification that would otherwise have been established would have been

987 less than a first degree felony but for this Subsection (4), a person convicted under this
988 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
989 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

990 (d) (i) If the violation is of Subsection (4)(a)(ix):

991 (A) the person may be sentenced to imprisonment for an indeterminate term as
992 provided by law, and the court shall additionally sentence the person convicted for a term of
993 one year to run consecutively and not concurrently; and

994 (B) the court may additionally sentence the person convicted for an indeterminate term
995 not to exceed five years to run consecutively and not concurrently; and

996 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
997 the mental state required for the commission of an offense, directly or indirectly solicits,
998 requests, commands, coerces, encourages, or intentionally aids another person to commit a
999 violation of Subsection (4)(a)(ix).

1000 (e) It is not a defense to a prosecution under this Subsection (4) that:

1001 (i) the actor mistakenly believed the individual to be 18 years of age or older at the
1002 time of the offense or was unaware of the individual's true age; or

1003 (ii) the actor mistakenly believed that the location where the act occurred was not as
1004 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
1005 described in Subsection (4)(a).

1006 (5) A violation of this chapter for which no penalty is specified is a class B
1007 misdemeanor.

1008 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
1009 guilty or no contest to a violation or attempted violation of this section or a plea which is held
1010 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
1011 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
1012 abeyance agreement.

1013 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
1014 conviction that is:

1015 (i) from a separate criminal episode than the current charge; and

1016 (ii) from a conviction that is separate from any other conviction used to enhance the
1017 current charge.

1018 (7) A person may be charged and sentenced for a violation of this section,
1019 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1020 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
1021 of, a civil or administrative penalty or sanction authorized by law.

1022 (b) When a violation of this chapter violates a federal law or the law of another state,
1023 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1024 prosecution in this state.

1025 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
1026 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1027 substance or substances, is prima facie evidence that the person or persons did so with
1028 knowledge of the character of the substance or substances.

1029 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1030 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1031 administering controlled substances or from causing the substances to be administered by an
1032 assistant or orderly under the veterinarian's direction and supervision.

1033 (11) Civil or criminal liability may not be imposed under this section on:

1034 (a) a person registered under this chapter who manufactures, distributes, or possesses
1035 an imitation controlled substance for use as a placebo or investigational new drug by a
1036 registered practitioner in the ordinary course of professional practice or research; or

1037 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
1038 employment.

1039 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1040 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
1041 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1042 as defined in Section 58-37-2.

1043 (b) In a prosecution alleging violation of this section regarding peyote as defined in
1044 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
1045 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
1046 traditional Indian religion.

1047 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1048 defense under this Subsection (12) as soon as practicable, but not later than 10 days before

1049 trial.

1050 (ii) The notice shall include the specific claims of the affirmative defense.

1051 (iii) The court may waive the notice requirement in the interest of justice for good
1052 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1053 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1054 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1055 charges.

1056 (13) (a) It is an affirmative defense that the person produced, possessed, or
1057 administered a controlled substance listed in Section 58-37-4.2 if the person was:

1058 (i) engaged in medical research; and

1059 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

1060 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
1061 a controlled substance listed in Section 58-37-4.2.

1062 (14) It is an affirmative defense that the person possessed, in the person's body, a
1063 controlled substance listed in Section 58-37-4.2 if:

1064 (a) the person was the subject of medical research conducted by a holder of a valid
1065 license to possess controlled substances under Section 58-37-6; and

1066 (b) the substance was administered to the person by the medical researcher.

1067 (15) The application of any increase in penalty under this section to a violation of
1068 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
1069 Subsection (15) takes precedence over any conflicting provision of this section.

1070 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
1071 listed in Subsection (16)(b) that the person:

1072 (i) reasonably believes that the person or another person is experiencing an overdose
1073 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
1074 controlled substance or other substance;

1075 (ii) reports in good faith the overdose event to a medical provider, an emergency
1076 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
1077 emergency call system, or an emergency dispatch system, or the person is the subject of a
1078 report made under this Subsection (16);

1079 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the

1080 actual location of the overdose event that facilitates responding to the person experiencing the
1081 overdose event;

1082 (iv) remains at the location of the person experiencing the overdose event until a
1083 responding law enforcement officer or emergency medical service provider arrives, or remains
1084 at the medical care facility where the person experiencing an overdose event is located until a
1085 responding law enforcement officer arrives;

1086 (v) cooperates with the responding medical provider, emergency medical service
1087 provider, and law enforcement officer, including providing information regarding the person
1088 experiencing the overdose event and any substances the person may have injected, inhaled, or
1089 otherwise introduced into the person's body; and

1090 (vi) is alleged to have committed the offense in the same course of events from which
1091 the reported overdose arose.

1092 (b) The offenses referred to in Subsection (16)(a) are:

1093 (i) the possession or use of less than 16 ounces of marijuana;

1094 (ii) the possession or use of a scheduled or listed controlled substance other than
1095 marijuana; and

1096 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
1097 Imitation Controlled Substances Act.

1098 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
1099 include seeking medical assistance under this section during the course of a law enforcement
1100 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1101 (17) If any provision of this chapter, or the application of any provision to any person
1102 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1103 invalid provision or application.

1104 (18) A legislative body of a political subdivision may not enact an ordinance that is
1105 less restrictive than any provision of this chapter.

1106 (19) If a minor who is under 18 years of age is found by a court to have violated this
1107 section, the court may order the minor to complete:

1108 (a) a screening as defined in Section [41-6a-501](#);

1109 (b) an assessment as defined in Section [41-6a-501](#) if the screening indicates an
1110 assessment to be appropriate; and

1111 (c) an educational series as defined in Section [41-6a-501](#) or substance use disorder
1112 treatment as indicated by an assessment.

1113 Section 10. **Effective date.**

1114 If approved by two-thirds of all the members elected to each house, this bill takes effect
1115 upon approval by the governor, or the day following the constitutional time limit of Utah
1116 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
1117 the date of veto override.

1118 Section 11. **Coordinating H.B. 425 with S.B. 121 -- Substantive and technical**
1119 **amendments.**

1120 If this H.B. 425 and S.B. 121, Medical Cannabis Amendments, both pass and become
1121 law, it is the intent of the Legislature that the Office of Legislative Research and General
1122 Counsel shall prepare the Utah Code database for publication as follows:

1123 (1) the amendments to Subsection [4-41a-102](#)(2) in this bill supersede the amendments
1124 to Subsection [4-41a-102](#)(2) in S.B. 121;

1125 (2) the amendments to Subsection [4-41a-201](#)(8) in this bill supersede the amendments
1126 to Subsection [4-41a-201](#)(8) in S.B. 121;

1127 (3) the amendments to Section [26-61a-102](#) regarding the definition of "legal dosage
1128 limit" in this bill supersede the amendments to Section [26-61a-201](#) regarding the definition of
1129 "legal dosage limit" in S.B. 121;

1130 (4) the amendments to Subsection [26-61a-301](#)(5) in this bill supersede the amendments
1131 to Subsection [26-61a-301](#)(5) in S.B. 121; and

1132 (5) the amendments to Section [58-37-8](#) in this bill supersede the amendments to
1133 Section [58-37-8](#) in S.B. 121.