

Senator Evan J. Vickers proposes the following substitute bill:

MEDICAL CANNABIS ACT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill amends provisions related to the cultivation, processing, recommending, dispensing, and use of medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding the reallocation of allowed cultivation space;
- ▶ creates the Cannabis Production Establishment Licensing Advisory Board and provides the board's composition and duties;
- ▶ amends provisions regarding a short-term or permanent increase in cultivation space;
- ▶ amends provisions regarding signage for cannabis production establishments and medical cannabis pharmacies;
- ▶ requires a cannabis cultivation facility to identify cannabis biomass and process or destroy cannabis cultivation byproduct;
- ▶ prohibits a cannabis cultivation facility from receiving industrial hemp waste without satisfying certain criteria;
- ▶ removes a requirement that a cannabis processing facility package cannabis and



- 26 cannabis product in a container that is opaque;
- 27 ▶ imposes certain labeling requirements regarding derivative and synthetic
- 28 cannabinoids;
- 29 ▶ requires the processing and testing of derivative and synthetic cannabinoids to a
- 30 certain product quality;
- 31 ▶ amends the rulemaking authority of UDAF regarding testing;
- 32 ▶ amends the duties of UDAF in the event testing identifies a defective batch of
- 33 cannabis or cannabis product;
- 34 ▶ amends the information required for a university to obtain a research license;
- 35 ▶ requires the electronic verification system to communicate dispensing information
- 36 to the controlled substance database;
- 37 ▶ allows the Compassionate Use Board to approve an individual for a medical
- 38 cannabis card for periods shorter than a standard initial period of validity;
- 39 ▶ allows a qualified medical provider to advertise the individual's registration as a
- 40 qualified medical provider;
- 41 ▶ clarifies certain duties of a qualified medical provider before recommending or
- 42 renewing a recommendation for medical cannabis;
- 43 ▶ requires DOH to record the issuance or revocation of a medical cannabis card in the
- 44 controlled substance database;
- 45 ▶ prohibits the removal or alteration of a label from a container that contains medical
- 46 cannabis;
- 47 ▶ authorizes DOH to issue a 15th medical cannabis pharmacy license in a specific
- 48 geographic region under certain circumstances;
- 49 ▶ allows DOH to charge a license fee for any change in location, ownership, or
- 50 company structure for a medical cannabis pharmacy;
- 51 ▶ requires DOH to rescind a notice of an intent to issue a medical cannabis pharmacy
- 52 license if the medical cannabis pharmacy does not begin operations by a certain
- 53 date;
- 54 ▶ imposes restrictions on medical cannabis pharmacy and pharmacy medical provider
- 55 advertising;
- 56 ▶ allows an emancipated minor to enter a medical cannabis pharmacy and amends

- 57 other access provisions;
- 58 ▶ modifies a medical cannabis pharmacy labeling requirement;
- 59 ▶ clarifies information a qualified medical provider must submit if the qualified
- 60 medical provider intends for a pharmacy medical provider to determine directions
- 61 of use and dosing guidelines for a medical cannabis recommendation;
- 62 ▶ requires a medical cannabis pharmacy to provide an opaque, child-resistant bag in
- 63 which a medical cannabis cardholder is required to keep a container of medical
- 64 cannabis while transporting the container in public;
- 65 ▶ amends provisions governing what a medical cannabis pharmacy may and may not
- 66 give at no cost;
- 67 ▶ repeals an outdated method for a patient to obtain medical cannabis without a
- 68 medical cannabis card;
- 69 ▶ amends provisions regarding a medical cannabis pharmacy's logo, advertising, and
- 70 educational events;
- 71 ▶ clarifies that a person is not prohibited from selling a medical cannabis device
- 72 within the state; and
- 73 ▶ makes technical and conforming changes.

74 **Money Appropriated in this Bill:**

75 None

76 **Other Special Clauses:**

77 This bill provides a special effective date.

78 This bill coordinates with S.B. 170, Consumer Protection for Cannabis Patients, by

79 providing substantive amendments.

80 **Utah Code Sections Affected:**

81 AMENDS:

82 **4-41a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

83 by Coordination Clause, Laws of Utah 2020, Chapter 148

84 **4-41a-201**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

85 by Coordination Clause, Laws of Utah 2020, Chapter 148

86 **4-41a-203**, as last amended by Laws of Utah 2020, Chapter 12

87 **4-41a-204**, as last amended by Laws of Utah 2020, Chapter 12

- 88 **4-41a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 89 **4-41a-403**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 90 **4-41a-501**, as last amended by Laws of Utah 2020, Chapter 148
- 91 **4-41a-602**, as last amended by Laws of Utah 2020, Chapter 12
- 92 **4-41a-603**, as last amended by Laws of Utah 2020, Chapter 12
- 93 **4-41a-701**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 94 **4-41a-702**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 95 Chapter 1
- 96 **4-41a-901**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5
- 97 **26-61a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 98 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 99 **26-61a-103**, as last amended by Laws of Utah 2020, Chapter 12
- 100 **26-61a-105**, as last amended by Laws of Utah 2020, Chapter 12
- 101 **26-61a-106**, as last amended by Laws of Utah 2020, Chapter 12
- 102 **26-61a-201**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 103 **26-61a-202**, as last amended by Laws of Utah 2020, Chapter 12
- 104 **26-61a-204**, as last amended by Laws of Utah 2020, Chapter 12
- 105 **26-61a-301**, as last amended by Laws of Utah 2020, Chapters 12, 148, 354 and last
- 106 amended by Coordination Clause, Laws of Utah 2020, Chapter 148
- 107 **26-61a-305**, as last amended by Laws of Utah 2020, Chapter 12
- 108 **26-61a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 109 **26-61a-501**, as last amended by Laws of Utah 2020, Chapter 12
- 110 **26-61a-502**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 111 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 112 **26-61a-504**, as last amended by Laws of Utah 2020, Chapter 12
- 113 **26-61a-505**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 114 **26-61a-605**, as last amended by Laws of Utah 2020, Chapter 12
- 115 **26-61a-606**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 116 **26-61a-607**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 117 **58-37-3.7**, as last amended by Laws of Utah 2020, Chapter 12
- 118 **58-37-3.9**, as last amended by Laws of Utah 2020, Chapter 12

119 ENACTS:

120 **4-41a-201.1**, Utah Code Annotated 1953

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

122 **26-61a-502**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
123 by Coordination Clause, Laws of Utah 2020, Chapter 148



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

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

126 **4-41a-102. Definitions.**

127 As used in this chapter:

128 ~~[(1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and~~
129 ~~tetrahydrocannabinolic acid.]~~

130 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may
131 be injurious to health, including:

- 132 (a) pesticides;
- 133 (b) heavy metals;
- 134 (c) solvents;
- 135 (d) microbial life;
- 136 (e) toxins; or
- 137 (f) foreign matter.

138 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in
139 Section **26-61-201**.

140 ~~[(2)]~~ (3) "Cannabis" means the same as that term is defined in Section **26-61a-102**.

141 (4) "Cannabis concentrate" means:

- 142 (a) the product of any chemical or physical process applied to naturally occurring
143 biomass that concentrates or isolates the cannabinoids contained in the biomass; and
- 144 (b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic
145 cannabinoid's purified state.

146 (5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not
147 intended to be sold as a cannabis plant product.

148 ~~[(3)]~~ (6) "Cannabis cultivation facility" means a person that:

- 150 (a) possesses cannabis;
- 151 (b) grows or intends to grow cannabis; and
- 152 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
153 processing facility, or a medical cannabis research licensee.
- 154 ~~[(4)]~~ (7) "Cannabis cultivation facility agent" means an individual who:
 - 155 (a) is an employee of a cannabis cultivation facility; and
 - 156 (b) holds a valid cannabis production establishment agent registration card.
- 157 (8) "Cannabis derivative product" means a product made using cannabis concentrate.
- 158 (9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold
159 in a form that is recognizable as a portion of a cannabis plant.
- 160 ~~[(5)]~~ (10) "Cannabis processing facility" means a person that:
 - 161 (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - 162 (b) possesses cannabis with the intent to manufacture a cannabis product;
 - 163 (c) manufactures or intends to manufacture a cannabis product from unprocessed
164 cannabis or a cannabis extract; and
 - 165 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
166 medical cannabis research licensee.
- 167 ~~[(6)]~~ (11) "Cannabis processing facility agent" means an individual who:
 - 168 (a) is an employee of a cannabis processing facility; and
 - 169 (b) holds a valid cannabis production establishment agent registration card.
- 170 ~~[(7)]~~ (12) "Cannabis product" means the same as that term is defined in Section
171 [26-61a-102](#).
- 172 ~~[(8)]~~ (13) "Cannabis production establishment" means a cannabis cultivation facility, a
173 cannabis processing facility, or an independent cannabis testing laboratory.
- 174 ~~[(9)]~~ (14) "Cannabis production establishment agent" means a cannabis cultivation
175 facility agent, a cannabis processing facility agent, or an independent cannabis testing
176 laboratory agent.
- 177 ~~[(10)]~~ (15) "Cannabis production establishment agent registration card" means a
178 registration card that the department issues that:
 - 179 (a) authorizes an individual to act as a cannabis production establishment agent; and
 - 180 (b) designates the type of cannabis production establishment for which an individual is

181 authorized to act as an agent.

182 ~~[(11)]~~ (16) "Community location" means a public or private elementary or secondary
183 school, a church, a public library, a public playground, or a public park.

184 ~~[(12)]~~ (17) "Cultivation space" means, quantified in square feet, the horizontal area in
185 which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area
186 if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above
187 other plants in multiple levels.

188 (18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid
189 identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.

190 ~~[(13)]~~ (19) "Department" means the Department of Agriculture and Food.

191 (20) "Derivative cannabinoid" means any cannabinoid that has been intentionally
192 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

193 ~~[(14)]~~ (21) "Family member" means a parent, step-parent, spouse, child, sibling,
194 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
195 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

196 ~~[(15)]~~ (22) (a) "Independent cannabis testing laboratory" means a person that:

- 197 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
198 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to
199 conduct a chemical or other analysis of the cannabis or cannabis product.

200 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
201 operates in accordance with Subsection 4-41a-201(14).

202 ~~[(16)]~~ (23) "Independent cannabis testing laboratory agent" means an individual who:

- 203 (a) is an employee of an independent cannabis testing laboratory; and
204 (b) holds a valid cannabis production establishment agent registration card.

205 (24) "Industrial hemp waste" means:

206 (a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp
207 biomass; or

208 (b) verified industrial hemp biomass with a total THC concentration of less than 0.3%
209 by dry weight.

210 ~~[(17)]~~ (25) "Inventory control system" means a system described in Section 4-41a-103.

211 (26) "Licensing board" or "board" means the Cannabis Production Establishment

212 Licensing Advisory Board created in Section 4-41a-201.1.

213 [~~(18)~~] (27) "Medical cannabis" means the same as that term is defined in Section
214 26-61a-102.

215 [~~(19)~~] (28) "Medical cannabis card" means the same as that term is defined in Section
216 26-61a-102.

217 [~~(20)~~] (29) "Medical cannabis pharmacy" means the same as that term is defined in
218 Section 26-61a-102.

219 [~~(21)~~] (30) "Medical cannabis pharmacy agent" means the same as that term is defined
220 in Section 26-61a-102.

221 [~~(22)~~] (31) "Medical cannabis research license" means a license that the department
222 issues to a research university for the purpose of obtaining and possessing medical cannabis for
223 academic research.

224 [~~(23)~~] (32) "Medical cannabis research licensee" means a research university that the
225 department licenses to obtain and possess medical cannabis for academic research, in
226 accordance with Section 4-41a-901.

227 [~~(24)~~] (33) "Medical cannabis treatment" means the same as that term is defined in
228 Section 26-61a-102.

229 [~~(25)~~] (34) "Medicinal dosage form" means the same as that term is defined in Section
230 26-61a-102.

231 [~~(26)~~] (35) "Qualified medical provider" means the same as that term is defined in
232 Section 26-61a-102.

233 [~~(27)~~] (36) "Qualified Production Enterprise Fund" means the fund created in Section
234 4-41a-104.

235 [~~(28)~~] (37) "Research university" means the same as that term is defined in Section
236 53B-7-702 and a private, nonprofit college or university in the state that:

- 237 (a) is accredited by the Northwest Commission on Colleges and Universities;
- 238 (b) grants doctoral degrees; and
- 239 (c) has a laboratory containing or a program researching a schedule I controlled
240 substance described in Section 58-37-4.

241 [~~(29)~~] (38) "State electronic verification [~~system~~" means the system described in Section
242 26-61a-103.

243 (39) "Synthetic cannabinoid" means any cannabinoid that:

244 (a) was chemically synthesized from starting materials other than a naturally occurring
 245 cannabinoid; and

246 (b) is not a derivative cannabinoid.

247 ~~[(30)]~~ (40) "Tetrahydrocannabinol" means a substance derived from cannabis or a
 248 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

249 ~~[(31)]~~ (41) "Total composite tetrahydrocannabinol" means all detectable forms of
 250 tetrahydrocannabinol.

251 (42) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined
 252 amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC =
 253 delta-9-THC + (THCA x 0.877)."

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

255 **4-41a-201. Cannabis production establishment -- License.**

256 (1) Except as provided in Subsection (14), a person may not operate a cannabis
 257 production establishment without a license that the department issues under this chapter.

258 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205~~[:]~~, for
 259 a licensing process that the department initiates after the effective date of this bill, the
 260 department, through the licensing board, shall issue licenses in accordance with Section
 261 4-41a-201.1.

262 ~~[(A) for a licensing process that the department initiated before September 23, 2019,~~
 263 ~~the department shall use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, to~~
 264 ~~review and rank applications for a cannabis production establishment license; and]~~

265 ~~[(B) for a licensing process that the department initiates after September 23, 2019, the~~
 266 ~~department shall issue a license to operate a cannabis production establishment in accordance~~
 267 ~~with the procedures described in Subsection (2)(a)(iii).]~~

268 ~~[(ii) The department may not issue a license to operate a cannabis production~~
 269 ~~establishment to an applicant who is not eligible for a license under this section.]~~

270 ~~[(iii)]~~ (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 271 Act, the department shall make rules to specify a transparent and efficient process to:

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

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

- 274 (C) timely and objectively evaluate applications;
- 275 (D) hold public hearings that the department deems appropriate; and
- 276 (E) select applicants to receive a license.
- 277 (iii) The department may not issue a license to operate a cannabis production
- 278 establishment to an applicant who is not eligible for a license under this section.
- 279 (b) An applicant is eligible for a license under this section if the applicant submits to
- 280 the ~~[department]~~ licensing board:
- 281 (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis
- 282 cultivation facility, addresses of no more than two facility locations, located in a zone described
- 283 in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production
- 284 establishment;
- 285 (ii) the name and address of any individual who has:
- 286 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
- 287 proposed cannabis production establishment;
- 288 (B) for a privately held company, a financial or voting interest in the proposed cannabis
- 289 production establishment; or
- 290 (C) the power to direct or cause the management or control of a proposed cannabis
- 291 production establishment;
- 292 (iii) an operating plan that:
- 293 (A) complies with Section 4-41a-204;
- 294 (B) includes operating procedures that comply with this chapter and any law the
- 295 municipality or county in which the person is located adopts that is consistent with Section
- 296 4-41a-406; and
- 297 (C) the department or licensing board approves;
- 298 (iv) a statement that the applicant will obtain and maintain a performance bond that a
- 299 surety authorized to transact surety business in the state issues in an amount of at least:
- 300 (A) [~~\$250,000~~] \$150,000 for each cannabis cultivation facility for which the applicant
- 301 applies; or
- 302 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
- 303 laboratory for which the applicant applies;
- 304 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the

305 department sets in accordance with Section [63J-1-504](#); and

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

310 (c) (i) A person may not locate a cannabis production establishment:

311 (A) within 1,000 feet of a community location; or

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

314 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
315 from the nearest entrance to the cannabis production establishment by following the shortest
316 route of ordinary pedestrian travel to the property boundary of the community location or
317 residential area.

318 (iii) The ~~[department]~~ licensing board may grant a waiver to reduce the proximity
319 requirements in Subsection (2)(c)(i) by up to 20% if the ~~[department]~~ licensing board
320 determines that it is not reasonably feasible for the applicant to site the proposed cannabis
321 production establishment without the waiver.

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

324 (3) ~~[(a)]~~ If the ~~[department]~~ licensing board approves an application for a license under
325 this section and Section [4-41a-201.1](#):

326 ~~[(+)]~~ (a) the applicant shall pay the department:

327 ~~[(A)]~~ (i) an initial license fee in an amount that, subject to Subsection [4-41a-104\(5\)](#), the
328 department sets in accordance with Section [63J-1-504](#); or

329 ~~[(B)]~~ (ii) a fee for a 120-day limited license to operate as a cannabis processing facility
330 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
331 Subsection (3)(a)(i)~~[(A)]~~[-]; and

332 ~~[(+)]~~ (b) the department shall notify the Department of Public Safety of the license
333 approval and the names of each individual described in Subsection (2)(b)(ii).

334 ~~[(b) (i) (A) Before July 1, 2020, the department may issue a 120-day limited license to
335 operate as a cannabis processing facility to an eligible applicant.]~~

336 ~~[(B) Except as provided in Subsection (3)(b)(i)(C), the department may not renew the~~
337 ~~120-day limited license.]~~

338 ~~[(C) At the termination of the 120-day limited license, the department may issue a~~
339 ~~full-year license in accordance with Section 4-41a-203.]~~

340 ~~[(ii) An applicant is eligible for the 120-day limited license described in Subsection~~
341 ~~(3)(b)(i) if the applicant:]~~

342 ~~[(A) is eligible for a full-year license under this section; and]~~

343 ~~[(B) has submitted an application for a full-year license under this section.]~~

344 (4) (a) Except as provided in Subsection (4)(b), ~~[the department]~~ a cannabis production
345 establishment shall ~~[require]~~ obtain a separate license for each type of cannabis production
346 establishment and each location of a cannabis production establishment.

347 (b) The ~~[department]~~ licensing board may issue a cannabis cultivation facility license
348 and a cannabis processing facility license to a person to operate at the same physical location or
349 at separate physical locations.

350 (5) If the ~~[department]~~ licensing board receives more than one application for a
351 cannabis production establishment within the same city or town, the ~~[department]~~ licensing
352 board shall consult with the local land use authority before approving any of the applications
353 pertaining to that city or town.

354 (6) The ~~[department]~~ licensing board may not issue a license to operate an independent
355 cannabis testing laboratory to a person who:

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

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

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

364 (7) The ~~[department]~~ licensing board may not issue a license to operate a cannabis
365 production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

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

367 (i) a felony; or
368 (ii) after December 3, 2018, a misdemeanor for drug distribution;
369 (b) is younger than 21 years old; or
370 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.
371 (8) (a) If an applicant for a cannabis production establishment license under this
372 section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the [department]
373 licensing board may not give preference to the applicant based on the applicant's status as a
374 holder of the license.
375 (b) If an applicant for a license to operate a cannabis cultivation facility under this
376 section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a,
377 Utah Medical Cannabis Act, the [department] licensing board:
378 (i) shall consult with the Department of Health regarding the applicant; and
379 (ii) may give consideration to the applicant based on the applicant's status as a holder
380 of a medical cannabis pharmacy license if:
381 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
382 result from the applicant's vertical integration than from a more competitive marketplace; and
383 (B) the [department] licensing board finds multiple other factors, in addition to the
384 existing license, that support granting the new license.
385 (9) The [department] licensing board may revoke a license under this part:
386 (a) if the cannabis production establishment does not begin cannabis production
387 operations within one year after the day on which the [department] licensing board issues the
388 initial license;
389 (b) after the third of the same violation of this chapter in any of the licensee's licensed
390 cannabis production establishments or medical cannabis pharmacies;
391 (c) if any individual described in Subsection (2)(b) is convicted, while the license is
392 active, under state or federal law of:
393 (i) a felony; or
394 (ii) after December 3, 2018, a misdemeanor for drug distribution;
395 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
396 the time of application, or fails to supplement the information described in Subsection
397 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the

398 application within 14 calendar days after the licensee receives notice of the investigation or
399 adverse action; or

400 (e) if the cannabis production establishment demonstrates a willful or reckless
401 disregard for the requirements of this chapter or the rules the department makes in accordance
402 with this chapter.

403 (10) (a) A person who receives a cannabis production establishment license under this
404 chapter, if the municipality or county where the licensed cannabis production establishment
405 will be located requires a local land use permit, shall submit to the [department] licensing
406 board a copy of the licensee's approved application for the land use permit within 120 days
407 after the day on which the [department] licensing board issues the license.

408 (b) If a licensee fails to submit to the [department] licensing board a copy of the
409 licensee's approved land use permit application in accordance with Subsection (10)(a), the
410 [department] licensing board may revoke the licensee's license.

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

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

415 (13) (a) The department's authority, and consequently the licensing board's authority, to
416 issue a license under this section is plenary and is not subject to review.

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

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

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

421 (14) Notwithstanding this section, the department:

422 (a) may not issue more than four licenses to operate an independent cannabis testing
423 laboratory;

424 [~~(a)~~] (b) may operate an independent cannabis testing laboratory;

425 [~~(b)~~] (c) if the department operates an independent cannabis testing laboratory, may not
426 cease operating the independent cannabis testing laboratory unless:

427 (i) the department issues at least two licenses to independent cannabis testing
428 laboratories; and

429 (ii) the department has ensured that the licensed independent cannabis testing
430 laboratories have sufficient capacity to provide the testing necessary to support the state's
431 medical cannabis market; and

432 ~~[(c)]~~ (d) after ceasing operations under Subsection ~~[(14)(b)(ii)]~~ (14)(d)(ii) shall resume
433 independent cannabis testing laboratory operations at any time if:

- 434 (i) fewer than two licensed independent cannabis testing laboratories are operating; or
- 435 (ii) the licensed independent cannabis testing laboratories become, in the department's
436 determination, unable to fully meet the market demand for testing.

437 Section 3. Section **4-41a-201.1** is enacted to read:

438 **4-41a-201.1. Cannabis Production Establishment Licensing Advisory Board --**
439 **Composition -- Duties.**

440 (1) As used in this section, "nominating individual or entity" means the individual or
441 entity described in Subsection (3)(a)(i) who nominates an individual for the commissioner's
442 appointment to the board.

443 (2) There is created within the department the Cannabis Production Establishment
444 Licensing Advisory Board.

445 (3) (a) The board shall consist of the following six members:

446 (i) the following five voting members whom the commissioner appoints:

447 (A) one member whom the speaker of the House of Representatives nominates;

448 (B) one member whom the president of the Senate nominates;

449 (C) one member whom the governor nominates;

450 (D) one member whom an organization representing medical cannabis patients
451 nominates; and

452 (E) a chemist who has experience with cannabis and who is associated with a research
453 university; and

454 (ii) the commissioner or the commissioner's designee as a non-voting member, except
455 to cast a deciding vote in the event of a tie.

456 (b) The commissioner or the commissioner's designee shall serve as the chair of the
457 board.

458 (4) (a) Except as provided in Subsection (4)(b), a voting board member shall serve a
459 term of four years, beginning July 1 and ending June 30.

460 (b) Notwithstanding Subsection (4)(a), for the initial appointments to the board, the
461 commissioner shall stagger the length of the terms of board members to ensure that the
462 commissioner appoints two or three board members every two years.

463 (c) As a board member's term expires:

464 (i) the board member is eligible for reappointment;

465 (ii) the nominating individual or entity shall nominate an individual for the
466 commissioner's consideration; and

467 (iii) the commissioner shall make an appointment for the new term before the end of
468 the member's term.

469 (d) When a vacancy occurs on the board for any reason other than the expiration of a
470 board member's term, the commissioner shall, in consultation with the nominating individual
471 or entity, appoint a replacement to the vacant position for the unexpired term.

472 (e) In making appointments, the commissioner shall ensure that no two members of the
473 board are employed by or represent the same company or nonprofit organization.

474 (f) The commissioner may remove a board member for cause, neglect of duty,
475 inefficiency, or malfeasance.

476 (5) (a) (i) Four members of the board constitute a quorum of the board.

477 (ii) An action of the majority of the board members when a quorum is present
478 constitutes an action of the board.

479 (b) The department shall provide staff support to the board.

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

482 (i) Section [63A-3-106](#);

483 (ii) Section [63A-3-107](#); and

484 (iii) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
485 [63A-3-107](#).

486 (6) The board shall:

487 (a) meet as called by the chair to review cannabis production establishment license
488 applications;

489 (b) review each license application for compliance with:

490 (i) this chapter; and

- 491 (ii) department rules;
- 492 (c) conduct a public hearing to consider the license application;
- 493 (d) approve the department's license application forms and checklists; and
- 494 (e) make a determination on each license application.
- 495 (7) The board shall hold a public hearing to review a cannabis production
- 496 establishment's license if the establishment:
- 497 (a) changes ownership by an interest of 20% or more;
- 498 (b) changes or adds a location;
- 499 (c) upgrades to a different licensing tier under department rule;
- 500 (d) changes extraction or formulation standard operating procedures;
- 501 (e) adds an industrial hemp processing or cultivation license to the same location as the
- 502 cannabis production establishment's processing facility; or
- 503 (f) as necessary based on the recommendation of the department.
- 504 (8) (a) The board shall meet annually in December to consider cannabis production
- 505 establishment license renewal applications.
- 506 (b) During the meeting described in Subsection (8)(a):
- 507 (i) a representative from each applicant for renewal shall:
- 508 (A) attend in person or electronically; or
- 509 (B) submit information before the meeting, as the board may require, for the board's
- 510 consideration; and
- 511 (ii) the board shall consider, for each cannabis cultivation facility seeking renewal,
- 512 information including:
- 513 (A) the amount of biomass the licensee produced during the current calendar year;
- 514 (B) the amount of biomass the licensee projects to produce during the following year;
- 515 (C) the amount of hemp waste the licensee currently holds;
- 516 (D) the current square footage or acres of growing area the licensee uses; and
- 517 (E) the square footage or acres of growing area the licensee projects to use in the
- 518 following year; and
- 519 (iii) the board shall consider, for each cannabis processing facility seeking renewal,
- 520 information including:
- 521 (A) methods and procedures for extraction;

522 (B) standard operating procedures; and
523 (C) a complete listing of the medical dosage forms that the licensee produces.
524 (c) The information a licensee or license applicant provides to the board for a license
525 determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the
526 applicant or licensee provides the board with the information regarding business confidentiality
527 required in Section 63G-2-309.

528 Section 4. Section **4-41a-203** is amended to read:

529 **4-41a-203. Renewal.**

530 The department shall renew a license issued under Section 4-41a-201 every year
531 [without opening a process described in Subsection 4-41a-201(2)(a) or convert a 120-day
532 limited license described in Subsection 4-41a-201(3)(b) into a full-year license if, at the time of
533 renewal:] if:

534 (1) the licensee meets the requirements of Section 4-41a-201 at the time of renewal;

535 (2) the board does not identify a failure of compliance with this chapter or department
536 rules in the review described in Section 4-41a-201.1;

537 [~~(2)~~] (3) the licensee pays the department a license renewal fee in an amount that,
538 subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;
539 and

540 [~~(3)~~] (4) if the cannabis production establishment changes the operating plan described
541 in Section 4-41a-204 that the department or licensing board approved under Subsection
542 4-41a-201(2)(b)(iii), the department approves the new operating plan.

543 Section 5. Section **4-41a-204** is amended to read:

544 **4-41a-204. Operating plan.**

545 (1) A person applying for a cannabis production establishment license or license
546 renewal shall submit to the department for the department's review a proposed operating plan
547 that complies with this section and that includes:

548 (a) a description of the physical characteristics of the proposed facility or, for a
549 cannabis cultivation facility, no more than two facility locations, including a floor plan and an
550 architectural elevation;

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

552 (i) each officer, director, and owner of the proposed cannabis production

553 establishment; and

554 (ii) any highly skilled or experienced prospective employee;

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

556 (d) a security plan;

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

558 including a description of how the inventory control system is compatible with the state

559 electronic verification system described in Section [26-61a-103](#);

560 (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a

561 manner that is sanitary and preserves the integrity of the cannabis;

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

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

564 (i) for an independent cannabis testing laboratory, the information described in

565 Subsection (4).

566 (2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan

567 includes the facility's intended:

568 (i) cannabis cultivation practices, including the facility's intended pesticide use and

569 fertilizer use; and

570 (ii) subject to Subsection (2)(b), acreage or square footage under cultivation and

571 anticipated cannabis yield.

572 (b) Except as provided in Subsection (2)(c)(i) or (d)(ii), a cannabis cultivation facility

573 may not:

574 (i) for a facility that cultivates cannabis only indoors, use more than 100,000 total

575 square feet of cultivation space;

576 (ii) for a facility that cultivates cannabis only outdoors, use more than four acres for

577 cultivation; and

578 (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor

579 cultivation, use more combined indoor square footage and outdoor acreage than allowed under

580 the department's formula described in Subsection (2)(e).

581 (c) (i) Each licensee may [~~annually~~] apply to the department for [~~authorization to~~

582 ~~exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.~~];

583 (A) a one-time, permanent increase of up to 20% of the limitation on the cannabis

584 cultivation facility's cultivation space; or

585 (B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on
586 the cannabis cultivation facility's cultivation space.

587 (ii) ~~[The department may, after]~~ After conducting a review ~~[as]~~ equivalent to the
588 review described in Subsection 4-41a-205(2)(a), if the department determines that additional
589 cultivation is needed, the department may:

590 (A) grant the [authorization] one-time, permanent increase described in Subsection
591 ~~[(2)(c)(i)] (2)(c)(i)(A); or~~

592 (B) grant the short-term increase described in Subsection (2)(c)(i)(B).

593 (d) If a licensee describes an intended acreage or square footage under cultivation
594 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b)~~[(i)]~~,
595 the licensee may not cultivate more than the licensee's identified intended acreage or square
596 footage under cultivation~~[, and]~~.

597 ~~[(ii) notwithstanding Subsection (2)(b), the department may allocate the remaining~~
598 ~~difference in acreage or square footage under cultivation to another licensee.]~~

599 (e) The department shall, in accordance with Title 63G, Chapter 3, Utah
600 Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor
601 cultivation that:

602 (i) does not exceed, in estimated cultivation yield, the aggregate limitations described
603 in Subsection (2)(b)(i) or (ii); and

604 (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

605 (f) (i) The department may authorize a cannabis cultivation facility to operate at no
606 more than two separate locations.

607 (ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two
608 cannabis cultivation facility locations combined may not exceed the cultivation limitations
609 described in this Subsection (2).

610 (3) A cannabis processing facility's operating plan shall include the facility's intended
611 cannabis processing practices, including the cannabis processing facility's intended:

612 (a) offered variety of cannabis product;

613 (b) cannabinoid extraction method;

614 (c) cannabinoid extraction equipment;

- 615 (d) processing equipment;
- 616 (e) processing techniques; and
- 617 (f) sanitation and manufacturing safety procedures for items for human consumption.

618 (4) An independent cannabis testing laboratory's operating plan shall include the
619 laboratory's intended:

- 620 (a) cannabis and cannabis product testing capability;
- 621 (b) cannabis and cannabis product testing equipment; and
- 622 (c) testing methods, standards, practices, and procedures for testing cannabis and
623 cannabis products.

624 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
625 establishment is subject to land use regulations, as defined in Sections 10-9a-103 and
626 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

627 Section 6. Section 4-41a-301 is amended to read:

628 **4-41a-301. Cannabis production establishment agent -- Registration.**

629 (1) An individual may not act as a cannabis production establishment agent unless the
630 department registers the individual as a cannabis production establishment agent, regardless of
631 whether the individual is a seasonal, temporary, or permanent employee.

632 (2) The following individuals, regardless of the individual's status as a qualified
633 medical provider, may not serve as a cannabis production establishment agent, have a financial
634 or voting interest of 2% or greater in a cannabis production establishment, or have the power to
635 direct or cause the management or control of a cannabis production establishment:

- 636 (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 637 (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
638 Practice Act;

639 (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
640 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

641 (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
642 Act.

643 (3) An independent cannabis testing laboratory agent may not act as an agent for a
644 medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a
645 cannabis cultivation facility.

646 (4) (a) The department shall, within 15 business days after the day on which the
647 department receives a complete application from a cannabis production establishment on
648 behalf of a prospective cannabis production establishment agent, register and issue a cannabis
649 production establishment agent registration card to the prospective agent if the cannabis
650 production establishment:

651 (i) provides to the department:

652 (A) the prospective agent's name and address;

653 (B) the name and location of a licensed cannabis production establishment where the
654 prospective agent will act as the cannabis production establishment's agent; and

655 (C) the submission required under Subsection (4)(b); and

656 (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5),
657 the department sets in accordance with Section 63J-1-504.

658 (b) Except for an applicant reapplying for a cannabis production establishment agent
659 registration card within less than one year after the expiration of the applicant's previous
660 cannabis production establishment agent registration card, each prospective agent described in
661 Subsection (4)(a) shall:

662 (i) submit to the department:

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

664 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
665 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
666 Generation Identification System's Rap Back Service; and

667 (ii) consent to a fingerprint background check by:

668 (A) the Bureau of Criminal Identification; and

669 (B) the Federal Bureau of Investigation.

670 (c) The Bureau of Criminal Identification shall:

671 (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against
672 the applicable state, regional, and national criminal records databases, including the Federal
673 Bureau of Investigation Next Generation Identification System;

674 (ii) report the results of the background check to the department;

675 (iii) maintain a separate file of fingerprints that prospective agents submit under
676 Subsection (4)(b) for search by future submissions to the local and regional criminal records

677 databases, including latent prints;

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

682 (v) establish a privacy risk mitigation strategy to ensure that the department only
683 receives notifications for an individual with whom the department maintains an authorizing
684 relationship.

685 (d) The department shall:

686 (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an
687 amount that the department sets in accordance with Section 63J-1-504 for the services that the
688 Bureau of Criminal Identification or another authorized agency provides under this section; and

689 (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal
690 Identification.

691 (5) The department shall designate, on an individual's cannabis production
692 establishment agent registration card:

693 (a) the name of the cannabis production establishment where the individual is
694 registered as an agent; and

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

697 (6) A cannabis production establishment agent shall comply with:

698 (a) a certification standard that the department develops; or

699 (b) a certification standard that the department has reviewed and approved.

700 (7) (a) The department shall ensure that the certification standard described in
701 Subsection (6) includes training:

702 (i) in Utah medical cannabis law;

703 (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

704 (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing
705 safety procedures for items for human consumption, and sanitation best practices; and

706 (iv) for an independent cannabis testing laboratory agent, in cannabis testing best
707 practices.

708 (b) The department shall review the training described in Subsection (7)(a) annually or
709 as often as necessary to ensure compliance with this section.

710 (8) For an individual who holds or applies for a cannabis production establishment
711 agent registration card:

712 (a) the department may revoke or refuse to issue the card if the individual violates the
713 requirements of this chapter; and

714 (b) the department shall revoke or refuse to issue the card if the individual is convicted
715 under state or federal law of:

716 (i) a felony; or

717 (ii) after December 3, 2018, a misdemeanor for drug distribution.

718 (9) (a) A cannabis production establishment agent registration card expires two years
719 after the day on which the department issues the card.

720 (b) A cannabis production establishment agent may renew the agent's registration card
721 if the agent:

722 (i) is eligible for a cannabis production establishment registration card under this
723 section;

724 (ii) certifies to the department in a renewal application that the information in
725 Subsection (4)(a) is accurate or updates the information; and

726 (iii) pays to the department a renewal fee in an amount that:

727 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section
728 63J-1-504; and

729 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
730 comparison to the original application process.

731 Section 7. Section **4-41a-403** is amended to read:

732 **4-41a-403. Advertising.**

733 (1) Except as provided in this section, a cannabis production establishment may not
734 advertise to the general public in any medium.

735 (2) A cannabis production establishment may advertise an employment opportunity at
736 the cannabis production establishment.

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

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

739 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
740 devices.

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

744 [~~(a)~~] (i) includes only:

745 [~~(i)~~] (A) in accordance with Subsection (4)(b), the cannabis production establishment's
746 name, logo, and hours of operation; and

747 [~~(ii)~~] (B) a green cross; and

748 [~~(b)~~] (ii) complies with local ordinances regulating signage.

749 (b) The department shall define standards for a cannabis production establishment's
750 name and logo to ensure a medical rather than recreational disposition.

751 (5) (a) A cannabis production establishment may hold an educational event for the
752 public or medical providers in accordance with this Subsection (5) and the rules described in
753 Subsection (5)(c).

754 (b) A cannabis production establishment may not include in an educational event
755 described in Subsection (5)(a):

756 (i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical
757 Cannabis Act;

758 (ii) any gift items or merchandise other than educational materials, as those terms are
759 defined by the department;

760 (iii) any marketing for a specific product from the cannabis production establishment
761 or any other statement, claim, or information that would violate the federal Food, Drug, and
762 Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

763 (iv) a presenter other than the following:

764 (A) a cannabis production establishment agent;

765 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

766 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
767 Practice Act;

768 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
769 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

770 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
771 Act; or

772 (F) a state employee.

773 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
774 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
775 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

776 Section 8. Section **4-41a-501** is amended to read:

777 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

778 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
779 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation
780 facility perimeter.

781 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the
782 [~~cannabis cultivation~~] facility's inventory control system to identify:

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

785 (b) each unique harvest of cannabis plants;

786 (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a
787 cannabis processing facility, or an independent cannabis testing laboratory; and

788 (d) any excess, contaminated, or deteriorated cannabis of which the cannabis
789 cultivation facility disposes.

790 [~~(3) In a cannabis cultivation facility's acquisition of material related to cannabis
791 cultivation, a cannabis cultivation facility may acquire industrial hemp, an industrial hemp
792 product, or industrial hemp waste from an industrial hemp cultivator or processor.]~~

793 (3) A cannabis cultivation facility shall identify cannabis biomass as cannabis
794 byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

795 (4) A cannabis cultivation facility shall either:

796 (a) ensure that a cannabis processing facility chemically or physically process cannabis
797 cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis
798 derivative products; or

799 (b) destroy cannabis cultivation byproduct in accordance with Section [4-41a-405](#).

800 (5) (a) (i) A cannabis cultivation facility may not purchase or otherwise receive

801 industrial hemp waste unless the waste meets department cannabis testing standards, as
802 determined by an independent cannabis testing laboratory, before the transfer of the waste to
803 the cannabis cultivation facility.

804 (ii) Upon receipt of the industrial hemp waste described in Subsection (5)(a)(i), the
805 cannabis cultivation facility shall assign a unique identifier to the industrial hemp waste that is
806 connected to the facility's inventory control system.

807 (iii) Industrial hemp waste described in this Subsection (5)(a) is considered to be
808 cannabis for all testing and regulatory purposes of the department.

809 (b) Except as provided in Subsection (5)(a), a cannabis production establishment or
810 agent may not receive industrial hemp waste for entry into the medical cannabis program.

811 Section 9. Section **4-41a-602** is amended to read:

812 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

813 (1) For any cannabis product that a cannabis processing facility processes or produces
814 and for any raw cannabis that the facility packages, the facility shall:

815 (a) label the cannabis or cannabis product with a label that:

816 (i) clearly and unambiguously states that the cannabis product or package contains
817 cannabis;

818 (ii) clearly displays the amount of total composite tetrahydrocannabinol and
819 cannabidiol in the labeled container;

820 (iii) has a unique identification number that:

821 (A) is connected to the inventory control system; and

822 (B) identifies the unique cannabis product manufacturing process the cannabis
823 processing facility used to manufacture the cannabis product;

824 (iv) identifies the cannabinoid extraction process that the cannabis processing facility
825 used to create the cannabis product;

826 (v) does not display an image, word, or phrase that the facility knows or should know
827 appeals to children; and

828 (vi) discloses each active or potentially active ingredient, in order of prominence, and
829 possible allergen; and

830 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a
831 container that:

832 (i) is tamper evident and tamper resistant;

833 (ii) does not appeal to children;

834 (iii) does not mimic a candy container;

835 [~~(iv) is opaque;~~]

836 [~~(v)~~] (iv) complies with child-resistant effectiveness standards that the United States
837 Consumer Product Safety Commission establishes; and

838 [~~(vi)~~] (v) includes a warning label that states: "WARNING: Cannabis has intoxicating
839 effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP
840 OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed
841 by a qualified medical provider."

842 (2) For any cannabis or cannabis product that the cannabis processing facility processes
843 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
844 cuboid shape, the facility shall:

845 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or
846 other image of the content of the container; and

847 (b) include on the label described in Subsection (1)(a) a warning about the risks of
848 over-consumption.

849 (3) For any cannabis product that contains any derivative cannabinoid or synthetic
850 cannabinoid, the cannabis processing facility shall ensure that the label clearly identifies each
851 derivative cannabinoid or synthetic cannabinoid.

852 [~~(3)~~] (4) The department shall make rules in accordance with Title 63G, Chapter 3,
853 Utah Administrative Rulemaking Act to establish:

854 (a) a standard labeling format that:

855 (i) complies with the requirements of this section; and

856 (ii) ensures inclusion of a pharmacy label; and

857 (b) additional requirements on packaging for cannabis and cannabis products to ensure
858 safety and product quality.

859 Section 10. Section **4-41a-603** is amended to read:

860 **4-41a-603. Cannabis product -- Product quality.**

861 (1) A cannabis processing facility:

862 (a) may not produce a cannabis product in a physical form that:

863 (i) the facility knows or should know appeals to children;
 864 (ii) is designed to mimic or could be mistaken for a candy product; or
 865 (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another
 866 flavor that the facility knows or should know appeals to children; and

867 (b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor
 868 that the department approves to facilitate minimizing the taste or odor of cannabis.

869 (2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile
 870 by up to 10% of the indicated amount of a given cannabinoid, by weight.

871 (3) A cannabis processing facility shall isolate derivative cannabinoids and synthetic
 872 cannabinoids to a purity of greater than 95%, as determined by an independent cannabis testing
 873 laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

874 ~~[(3)]~~ (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3,
 875 Utah Administrative Rulemaking Act, human safety standards for the manufacturing of
 876 cannabis products that are consistent with best practices for the use of cannabis.

877 Section 11. Section **4-41a-701** is amended to read:

878 **4-41a-701. Cannabis and cannabis product testing.**

879 ~~[(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis~~
 880 ~~processing facility unless an independent cannabis testing laboratory has tested a representative~~
 881 ~~sample of the cannabis or cannabis product to determine that the presence of contaminants,~~
 882 ~~including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material,~~
 883 ~~does not exceed an amount that is safe for human consumption.]~~

884 ~~[(2) A cannabis processing facility may not offer any cannabis or cannabis products for~~
 885 ~~sale to a medical cannabis pharmacy and a medical cannabis pharmacy may not offer any~~
 886 ~~cannabis or cannabis product for sale unless an independent cannabis testing laboratory has~~
 887 ~~tested a representative sample of the cannabis or cannabis product to determine:]~~

888 ~~[(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the~~
 889 ~~cannabis or cannabis product; and]~~

890 ~~[(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the~~
 891 ~~label claims the cannabis or cannabis product contains;]~~

892 ~~[(b) that the presence of contaminants, including mold, fungus, pesticides, microbial~~
 893 ~~contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for~~

894 ~~human consumption; and]~~

895 ~~[(e) for a cannabis product that is manufactured using a process that involves extraction~~
896 ~~using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that~~
897 ~~is not safe for human consumption.]~~

898 ~~[(3) By rule, in]~~

899 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
900 department may make rules to:

901 (a) determine required adulterant tests for a cannabis plant product, cannabis
902 concentrate, or cannabis product;

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

905 ~~[(b) shall] (c) establish protocols for a recall of cannabis or a cannabis product by a~~
906 ~~cannabis production establishment[:]; or~~

907 (d) allow the propagation of testing results forward to derived product if the processing
908 steps the cannabis production establishment uses to produce the product are unlikely to change
909 the results of the test.

910 ~~[(4)] (2) The department may require testing for a toxin if:~~

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

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

914 (3) (a) A cannabis production establishment may not:

915 (i) incorporate cannabis concentrate into a cannabis derivative product until an
916 independent cannabis testing laboratory tests the cannabis concentrate in accordance with
917 department rule; or

918 (ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an
919 independent cannabis testing laboratory tests a representative sample of the cannabis or
920 cannabis product in accordance with department rule.

921 (b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for
922 sale unless an independent cannabis testing laboratory has tested a representative sample of the
923 cannabis or cannabis product in accordance with department rule.

924 ~~[(5)] (4) The department shall establish by rule, in accordance with Title 63G, Chapter~~

925 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
 926 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

927 ~~[(6)]~~ (5) The department may require an independent cannabis testing laboratory to
 928 participate in a proficiency evaluation that the department conducts or that an organization that
 929 the department approves conducts.

930 Section 12. Section **4-41a-702** is amended to read:

931 **4-41a-702. Reporting -- Inspections -- Seizure by the department.**

932 (1) If an independent cannabis testing laboratory determines that the results of a lab test
 933 indicate that a cannabis or cannabis product batch may be unsafe for human use:

934 (a) the independent cannabis testing laboratory shall~~[(a)]~~ report the results and the
 935 cannabis or cannabis product batch to:

936 ~~[(A)]~~ (i) the department; and

937 ~~[(B)]~~ (ii) the cannabis production establishment that prepared the cannabis or cannabis
 938 product batch; ~~[and]~~

939 ~~[(ii) retain possession of the cannabis or cannabis product batch for two weeks in order
 940 to investigate the cause of the defective batch and to make a determination; and]~~

941 (b) the department shall place a hold on the cannabis or cannabis product batch to:

942 (i) investigate the cause of the defective batch; and

943 (ii) make a determination; and

944 ~~[(b)]~~ (c) the cannabis production establishment that prepared the cannabis or cannabis
 945 product batch may appeal the determination described in Subsection (1)(a)(ii) to the
 946 department.

947 (2) If the department determines, under Subsection (1)~~[(a)]~~(b)(ii) or following an
 948 appeal under Subsection (1)~~[(b)]~~(c), that a cannabis or cannabis product prepared by a cannabis
 949 production establishment is unsafe for human consumption, the department may seize,
 950 embargo, or destroy, in the same manner as a cannabis production establishment under Section
 951 **4-41a-405**, the cannabis or cannabis product batch.

952 (3) If an independent cannabis testing laboratory determines that the results of a lab test
 953 indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more
 954 than 10% from the amounts the label indicates, the cannabis processing facility may not sell the
 955 cannabis or cannabis product batch unless the facility replaces the incorrect label with a label

956 that correctly indicates the cannabinoid content.

957 Section 13. Section **4-41a-901** is amended to read:

958 **4-41a-901. Academic medical cannabis research -- License.**

959 (1) A medical cannabis research licensee may, subject to department rules described in
960 Subsection (4), obtain from a cannabis production establishment or a medical cannabis
961 pharmacy, and possess[;] cannabis for academic medical cannabis research.

962 (2) The department shall license a research university to obtain and possess cannabis
963 for the purpose of academic medical cannabis research if the research university submits to the
964 department:

- 965 (a) the location where the research university intends to conduct the research;
- 966 (b) the research university's research plan; and
- 967 (c) the name of the [~~employee~~] principal investigator of the research university who
968 will:

- 969 (i) supervise the [~~obtaining~~] procurement, possession, and security of cannabis and
970 cannabis product; and

- 971 [~~(ii) be responsible to possess and secure the cannabis; and~~]

- 972 [~~(iii)~~] (ii) oversee the academic research.

973 (3) The department shall maintain a list of each medical cannabis research licensee.

974 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
975 Administrative Rulemaking Act, to:

- 976 (a) establish requirements for a licensee to:

- 977 (i) participate in academic medical cannabis research;

- 978 (ii) obtain from a cannabis production establishment, and possess, cannabis for
979 academic medical cannabis research; and

- 980 (b) set sampling and testing procedures.

981 (5) A medical cannabis research licensee shall provide to the department written
982 consent allowing a representative of the department and local law enforcement to enter all
983 premises where the licensee possesses or stores cannabis for the purpose of:

- 984 (a) conducting a physical inspection; or

- 985 (b) ensuring compliance with the requirements of this chapter.

- 986 (6) An individual who has been convicted of a drug related felony within the last 10

987 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis
988 research licensee's license under this part.

989 (7) The department may set a fee, in accordance with Subsection [4-2-103\(2\)](#), for the
990 application for a medical cannabis research license.

991 Section 14. Section **26-61a-102** is amended to read:

992 **26-61a-102. Definitions.**

993 As used in this chapter:

994 (1) "Active tetrahydrocannabinol" means Delta-8-THC, Delta-9-THC, and
995 tetrahydrocannabinolic acid.

996 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in
997 Section [26-61-201](#).

998 [~~(1)~~] (3) "Cannabis" means marijuana.

999 [~~(2)~~] (4) "Cannabis cultivation facility" means the same as that term is defined in
1000 Section [4-41a-102](#).

1001 [~~(3)~~] (5) "Cannabis processing facility" means the same as that term is defined in
1002 Section [4-41a-102](#).

1003 [~~(4)~~] (6) "Cannabis product" means a product that:

1004 (a) is intended for human use; and

1005 (b) contains cannabis or tetrahydrocannabinol.

1006 [~~(5)~~] (7) "Cannabis production establishment" means the same as that term is defined
1007 in Section [4-41a-102](#).

1008 [~~(6)~~] (8) "Cannabis production establishment agent" means the same as that term is
1009 defined in Section [4-41a-102](#).

1010 [~~(7)~~] (9) "Cannabis production establishment agent registration card" means the same
1011 as that term is defined in Section [4-41a-102](#).

1012 [~~(8)~~] (10) "Community location" means a public or private elementary or secondary
1013 school, a church, a public library, a public playground, or a public park.

1014 (11) "Controlled substance database" means the controlled substance database created
1015 in Section [58-37f-201](#).

1016 (12) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:

1017 (a) is similar to Delta-9-THC with a lower psychotropic potency; and

- 1018 (b) interacts with the CB1 receptor of the nervous system.
- 1019 (13) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic
- 1020 cannabinoid in cannabis.
- 1021 [~~(9)~~] (14) "Department" means the Department of Health.
- 1022 [~~(10)~~] (15) "Designated caregiver" means:
- 1023 (a) an individual:
- 1024 (i) whom an individual with a medical cannabis patient card or a medical cannabis
- 1025 guardian card designates as the patient's caregiver; and
- 1026 (ii) who registers with the department under Section [26-61a-202](#); or
- 1027 (b) (i) a facility that an individual designates as a designated caregiver in accordance
- 1028 with Subsection [26-61a-202\(1\)\(b\)](#); or
- 1029 (ii) an assigned employee of the facility described in Subsection [26-61a-202\(1\)\(b\)\(ii\)](#).
- 1030 [~~(11)~~] (16) "Directions of use" means recommended routes of administration for a
- 1031 medical cannabis treatment and suggested usage guidelines.
- 1032 [~~(12)~~] (17) "Dosing guidelines" means a quantity range and frequency of administration
- 1033 for a recommended treatment of medical cannabis.
- 1034 [~~(13)~~] (18) "Financial institution" means a bank, trust company, savings institution, or
- 1035 credit union, chartered and supervised under state or federal law.
- 1036 [~~(14)~~] (19) "Home delivery medical cannabis pharmacy" means a medical cannabis
- 1037 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
- 1038 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
- 1039 that the state central patient portal facilitates.
- 1040 [~~(15)~~] (20) "Inventory control system" means the system described in Section
- 1041 [4-41a-103](#).
- 1042 [~~(16)~~] (21) "Legal dosage limit" means an amount that:
- 1043 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
- 1044 relevant qualified medical provider or the state central patient portal or pharmacy medical
- 1045 provider, in accordance with Subsection [~~26-61a-201(4)~~] [26-61a-502\(4\)](#) or (5), recommends;
- 1046 and
- 1047 (b) may not exceed:
- 1048 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

1049 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
1050 greater than 20 grams of active tetrahydrocannabinol.

1051 ~~[(17)]~~ (22) "Legal use termination date" means a date on the label of a container of
1052 unprocessed cannabis flower:

1053 (a) that is 60 days after the date of purchase of the cannabis; and

1054 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the
1055 primary residence of the relevant medical cannabis patient cardholder.

1056 ~~[(18)]~~ (23) "Marijuana" means the same as that term is defined in Section 58-37-2.

1057 ~~[(19)]~~ (24) "Medical cannabis" means cannabis in a medicinal dosage form or a
1058 cannabis product in a medicinal dosage form.

1059 ~~[(20)]~~ (25) "Medical cannabis card" means a medical cannabis patient card, a medical
1060 cannabis guardian card, or a medical cannabis caregiver card.

1061 ~~[(21)]~~ (26) "Medical cannabis cardholder" means:

1062 (a) a holder of a medical cannabis card; or

1063 (b) a facility or assigned employee, described in Subsection ~~[(10)]~~ (15)(b), only:

1064 (i) within the scope of the facility's or assigned employee's performance of the role of a
1065 medical cannabis patient cardholder's caregiver designation under Subsection
1066 26-61a-202(1)(b); and

1067 (ii) while in possession of documentation that establishes:

1068 (A) a caregiver designation described in Subsection 26-61a-202(1)(b);

1069 (B) the identity of the individual presenting the documentation; and

1070 (C) the relation of the individual presenting the documentation to the caregiver
1071 designation.

1072 ~~[(22)]~~ (27) "Medical cannabis caregiver card" means an electronic document that a
1073 cardholder may print or store on an electronic device or a physical card or document that:

1074 (a) the department issues to an individual whom a medical cannabis patient cardholder
1075 or a medical cannabis guardian cardholder designates as a designated caregiver; and

1076 (b) is connected to the electronic verification system.

1077 ~~[(23)]~~ (28) "Medical cannabis courier" means a courier that:

1078 (a) the department licenses in accordance with Section 26-61a-604; and

1079 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical

1080 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

1081 (29) "Medical cannabis courier agent" means an individual who:

1082 (a) is an employee of a medical cannabis courier; and

1083 (b) who holds a valid medical cannabis courier agent registration card.

1084 ~~[(24)]~~ (30) (a) "Medical cannabis device" means a device that an individual uses to
1085 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
1086 dosage form.

1087 (b) "Medical cannabis device" does not include a device that:

1088 (i) facilitates cannabis combustion; or

1089 (ii) an individual uses to ingest substances other than cannabis.

1090 ~~[(25)]~~ (31) "Medical cannabis guardian card" means an electronic document that a
1091 cardholder may print or store on an electronic device or a physical card or document that:

1092 (a) the department issues to the parent or legal guardian of a minor with a qualifying
1093 condition; and

1094 (b) is connected to the electronic verification system.

1095 ~~[(26)]~~ (32) "Medical cannabis patient card" means an electronic document that a
1096 cardholder may print or store on an electronic device or a physical card or document that:

1097 (a) the department issues to an individual with a qualifying condition; and

1098 (b) is connected to the electronic verification system.

1099 ~~[(27)]~~ (33) "Medical cannabis pharmacy" means a person that:

1100 (a) (i) acquires or intends to acquire ~~[(A) cannabis in a medicinal dosage form]~~
1101 medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing
1102 facility~~;~~ or another medical cannabis pharmacy or ~~[(B)]~~ a medical cannabis device; or

1103 (ii) possesses ~~[cannabis in a medicinal dosage form, a cannabis product in a medicinal~~
1104 ~~dosage form,]~~ medical cannabis or a medical cannabis device; and

1105 (b) sells or intends to sell ~~[cannabis in a medicinal dosage form, a cannabis product in a~~
1106 ~~medicinal dosage form,]~~ medical cannabis or a medical cannabis device to a medical cannabis
1107 cardholder.

1108 ~~[(28)]~~ (34) "Medical cannabis pharmacy agent" means an individual who:

1109 (a) is an employee of a medical cannabis pharmacy; and

1110 (b) who holds a valid medical cannabis pharmacy agent registration card.

1111 [~~(29)~~] (35) "Medical cannabis pharmacy agent registration card" means a registration
1112 card issued by the department that authorizes an individual to act as a medical cannabis
1113 pharmacy agent.

1114 [~~(30)~~] (36) "Medical cannabis shipment" means a shipment of medical cannabis or a
1115 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
1116 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
1117 electronic medical cannabis order that the state central patient portal facilitates.

1118 [~~(31)~~] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
1119 cannabis product in a medicinal dosage form, or a medical cannabis device.

1120 [~~(32)~~] (38) (a) "Medicinal dosage form" means:

1121 (i) for processed medical cannabis or a medical cannabis product, the following with a
1122 specific and consistent cannabinoid content:

1123 (A) a tablet;

1124 (B) a capsule;

1125 (C) a concentrated liquid or viscous oil;

1126 (D) a liquid suspension;

1127 (E) a topical preparation;

1128 (F) a transdermal preparation;

1129 (G) a sublingual preparation;

1130 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
1131 rectangular cuboid shape; or

1132 (I) a resin or wax;

1133 (ii) for unprocessed cannabis flower, a container described in Section [4-41a-602](#) that:

1134 (A) contains cannabis flowers in a quantity that varies by no more than 10% from the
1135 stated weight at the time of packaging;

1136 (B) at any time the medical cannabis cardholder transports or possesses the container in
1137 public, is contained within an opaque, child-resistant bag that the medical cannabis pharmacy
1138 provides; and

1139 (C) is labeled with the container's content and weight, the date of purchase, the legal
1140 use termination date, and after December 31, 2020, a barcode that provides information
1141 connected to an inventory control system; and

1142 (iii) a form measured in grams, milligrams, or milliliters.
1143 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
1144 (i) the medical cannabis cardholder has recently removed from the container described
1145 in Subsection ~~[(32)(a)(ii)]~~ (38)(a)(ii) for use; and
1146 (ii) does not exceed the quantity described in Subsection ~~[(32)(a)(ii)]~~ (38)(a)(ii).
1147 (c) "Medicinal dosage form" does not include:
1148 (i) any unprocessed cannabis flower outside of the container described in Subsection
1149 ~~[(32)(a)(ii)]~~ (38)(a)(ii), except as provided in Subsection ~~[(32)]~~ (38)(b);
1150 (ii) any unprocessed cannabis flower in a container described in Subsection
1151 ~~[(32)(a)(ii)]~~ (38)(a)(ii) after the legal use termination date; or
1152 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
1153 on a nail or other metal object that is heated by a flame, including a blowtorch.
1154 ~~[(33)]~~ (39) "Nonresident patient" means an individual who:
1155 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;
1156 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
1157 card under the laws of another state, district, territory, commonwealth, or insular possession of
1158 the United States; and
1159 (c) has been diagnosed with a qualifying condition as described in Section [26-61a-104](#).
1160 ~~[(34)]~~ (40) "Payment provider" means an entity that contracts with a cannabis
1161 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
1162 the establishment or pharmacy and other businesses or individuals.
1163 ~~[(35)]~~ (41) "Pharmacy medical provider" means the medical provider required to be on
1164 site at a medical cannabis pharmacy under Section [26-61a-403](#).
1165 ~~[(36)]~~ (42) "Provisional patient card" means a card that:
1166 (a) the department issues to a minor with a qualifying condition for whom:
1167 (i) a qualified medical provider has recommended a medical cannabis treatment; and
1168 (ii) the department issues a medical cannabis guardian card to the minor's parent or
1169 legal guardian; and
1170 (b) is connected to the electronic verification system.
1171 ~~[(37)]~~ (43) "Qualified medical provider" means an individual who is qualified to
1172 recommend treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).

1173 ~~[(38)]~~ (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in
1174 Section 26-61a-109.

1175 ~~[(39)]~~ (45) "Qualifying condition" means a condition described in Section 26-61a-104.

1176 ~~[(40)]~~ (46) "Recommend" or "recommendation" means, for a qualified medical
1177 provider, the act of suggesting the use of medical cannabis treatment, which:

1178 (a) certifies the patient's eligibility for a medical cannabis card; and

1179 (b) may include, at the qualified medical provider's discretion, directions of use, with
1180 or without dosing guidelines.

1181 ~~[(41)]~~ (47) "State central patient portal" means the website the department creates, in
1182 accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic
1183 medical cannabis order.

1184 ~~[(42)]~~ (48) "State central patient portal medical provider" means a physician or
1185 pharmacist that the department employs in relation to the state central patient portal to consult
1186 with medical cannabis cardholders in accordance with Section 26-61a-602.

1187 ~~[(43)]~~ (49) "State electronic verification system" means the system described in Section
1188 26-61a-103.

1189 (50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a
1190 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

1191 ~~[(44)]~~ (51) "Valid form of photo identification" means a valid United States federal- or
1192 state-issued photo identification, including:

1193 (a) a driver license;

1194 (b) a United States passport;

1195 (c) a United States passport card; or

1196 (d) a United States military identification card.

1197 Section 15. Section **26-61a-103** is amended to read:

1198 **26-61a-103. Electronic verification system.**

1199 (1) The Department of Agriculture and Food, the department, the Department of Public
1200 Safety, and the Department of Technology Services shall:

1201 (a) enter into a memorandum of understanding in order to determine the function and
1202 operation of the state electronic verification system in accordance with Subsection (2);

1203 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah

1204 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1205 maintain the state electronic verification system in coordination with the Department of
1206 Technology Services; and

1207 (c) select a third-party provider who:

1208 (i) meets the requirements contained in the request for proposals issued under
1209 Subsection (1)(b); and

1210 (ii) may not have any commercial or ownership interest in a cannabis production
1211 establishment or a medical cannabis pharmacy.

1212 (2) The Department of Agriculture and Food, the department, the Department of Public
1213 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
1214 2020, the state electronic verification system described in Subsection (1):

1215 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
1216 medical cannabis guardian card, provided that the card may not become active until the
1217 relevant qualified medical provider completes the associated medical cannabis
1218 recommendation;

1219 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1220 cannabis guardian card in accordance with Section [26-61a-201](#);

1221 (c) allows a qualified medical provider, or an employee described in Subsection (3)
1222 acting on behalf of the qualified medical provider, to:

1223 (i) access dispensing and card status information regarding a patient:

1224 (A) with whom the qualified medical provider has a provider-patient relationship; and

1225 (B) for whom the qualified medical provider has recommended or is considering
1226 recommending a medical cannabis card;

1227 (ii) electronically recommend, after an initial face-to-face visit with a patient described
1228 in Subsection [26-61a-201](#)(4)(b), treatment with cannabis in a medicinal dosage form or a
1229 cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

1230 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1231 medical cannabis guardian cardholder:

1232 (A) using telehealth services, for the qualified medical provider who originally
1233 recommended a medical cannabis treatment during a face-to-face visit with the patient; or

1234 (B) during a face-to-face visit with the patient, for a qualified medical provider who

1235 did not originally recommend the medical cannabis treatment during a face-to-face visit; and
1236 (iv) notate a determination of physical difficulty or undue hardship, described in
1237 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

1238 (d) connects with:

1239 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1240 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1241 medicinal dosage form, or a medical cannabis device, including:

1242 (A) the time and date of each purchase;

1243 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1244 purchased;

1245 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1246 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1247 device; and

1248 (D) the personally identifiable information of the medical cannabis cardholder who
1249 made the purchase; and

1250 (ii) any commercially available inventory control system that a cannabis production
1251 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1252 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1253 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1254 track and confirm compliance;

1255 (e) provides access to:

1256 (i) the department to the extent necessary to carry out the department's functions and
1257 responsibilities under this chapter;

1258 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
1259 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1260 41a, Cannabis Production Establishments; and

1261 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
1262 carry out the functions and responsibilities related to the participation of the following in the
1263 recommendation and dispensing of medical cannabis:

1264 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1265 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

1266 Practice Act;

1267 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

1268 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1269 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

1270 Assistant Act;

1271 (f) provides access to and interaction with the state central patient portal;

1272 (g) communicates dispensing information from a record that a medical cannabis

1273 pharmacy submits to the state electronic verification system under Subsection

1274 26-61a-502(6)(a)(ii) to the controlled substance database;

1275 [~~g~~] (h) provides access to state or local law enforcement:

1276 (i) during a law enforcement encounter, without a warrant, using the individual's driver

1277 license or state ID, only for the purpose of determining if the individual subject to the law

1278 enforcement encounter has a valid medical cannabis card; or

1279 (ii) after obtaining a warrant; and

1280 [~~h~~] (i) creates a record each time a person accesses the [database] system that

1281 identifies the person who accesses the [database] system and the individual whose records the

1282 person accesses.

1283 (3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic

1284 verification system is functionally capable of allowing employee access under this Subsection

1285 (3), an employee of a qualified medical provider may access the electronic verification system

1286 for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

1287 (i) the qualified medical provider has designated the employee as an individual

1288 authorized to access the electronic verification system on behalf of the qualified medical

1289 provider;

1290 (ii) the qualified medical provider provides written notice to the department of the

1291 employee's identity and the designation described in Subsection (3)(a)(i); and

1292 (iii) the department grants to the employee access to the electronic verification system.

1293 (b) An employee of a business that employs a qualified medical provider may access

1294 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the

1295 qualified medical provider if:

1296 (i) the qualified medical provider has designated the employee as an individual

1297 authorized to access the electronic verification system on behalf of the qualified medical
1298 provider;

1299 (ii) the qualified medical provider and the employing business jointly provide written
1300 notice to the department of the employee's identity and the designation described in Subsection
1301 (3)(b)(i); and

1302 (iii) the department grants to the employee access to the electronic verification system.

1303 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1304 (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1305 Practice Act;

1306 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
1307 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1308 (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1309 Assistant Act.

1310 (b) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1311 verification system is functionally capable of allowing provider access under this Subsection
1312 (4), a prescribing provider may access information in the electronic verification system
1313 regarding a patient the prescribing provider treats.

1314 (5) The department may release limited data that the system collects for the purpose of:

1315 (a) conducting medical and other department approved research;

1316 (b) providing the report required by Section 26-61a-703; and

1317 (c) other official department purposes.

1318 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1319 Administrative Rulemaking Act, to establish:

1320 (a) the limitations on access to the data in the state electronic verification system as
1321 described in this section; and

1322 (b) standards and procedures to ensure accurate identification of an individual
1323 requesting information or receiving information in this section.

1324 (7) (a) Any person who knowingly and intentionally releases any information in the
1325 state electronic verification system in violation of this section is guilty of a third degree felony.

1326 (b) Any person who negligently or recklessly releases any information in the state
1327 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1328 (8) (a) Any person who obtains or attempts to obtain information from the state
1329 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1330 (b) Any person who obtains or attempts to obtain information from the state electronic
1331 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1332 degree felony.

1333 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1334 intentionally use, release, publish, or otherwise make available to any other person information
1335 obtained from the state electronic verification system for any purpose other than a purpose
1336 specified in this section.

1337 (b) Each separate violation of this Subsection (9) is:

1338 (i) a third degree felony; and

1339 (ii) subject to a civil penalty not to exceed \$5,000.

1340 (c) The department shall determine a civil violation of this Subsection (9) in
1341 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1342 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
1343 General Fund.

1344 (e) This Subsection (9) does not prohibit a person who obtains information from the
1345 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1346 (i) including the information in the person's medical chart or file for access by a person
1347 authorized to review the medical chart or file;

1348 (ii) providing the information to a person in accordance with the requirements of the
1349 Health Insurance Portability and Accountability Act of 1996; or

1350 (iii) discussing or sharing that information about the patient with the patient.

1351 Section 16. Section **26-61a-105** is amended to read:

1352 **26-61a-105. Compassionate Use Board.**

1353 (1) (a) The department shall establish a Compassionate Use Board consisting of:

1354 (i) seven qualified medical providers that the executive director appoints and the
1355 Senate confirms:

1356 (A) who are knowledgeable about the medicinal use of cannabis;

1357 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
1358 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1359 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
1360 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
1361 pediatrics, or gastroenterology; and

1362 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the
1363 executive director or the director's designee.

1364 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
1365 the executive director shall ensure that at least two have a board certification in pediatrics.

1366 (2) (a) Of the members of the Compassionate Use Board that the executive director
1367 first appoints:

1368 (i) three shall serve an initial term of two years; and

1369 (ii) the remaining members shall serve an initial term of four years.

1370 (b) After an initial term described in Subsection (2)(a) expires:

1371 (i) each term is four years; and

1372 (ii) each board member is eligible for reappointment.

1373 (c) A member of the Compassionate Use Board may serve until a successor is
1374 appointed.

1375 (3) Four members constitute a quorum of the Compassionate Use Board.

1376 (4) A member of the Compassionate Use Board may receive:

1377 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
1378 service; and

1379 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the
1380 Division of Finance in accordance with Section 63A-3-107.

1381 (5) The Compassionate Use Board shall:

1382 (a) review and recommend for department approval a petition to the board regarding an
1383 individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection
1384 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
1385 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced
1386 period of validity, if:

1387 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
1388 the individual's qualified medical provider is actively treating the individual for an intractable
1389 condition that:

- 1390 (A) substantially impairs the individual's quality of life; and
1391 (B) has not, in the qualified medical provider's professional opinion, adequately
1392 responded to conventional treatments;
- 1393 (ii) the qualified medical provider:
1394 (A) recommends that the individual or minor be allowed to use medical cannabis; and
1395 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
1396 describing relevant treatment history including rationale for considering the use of medical
1397 cannabis; and
- 1398 (iii) the Compassionate Use Board determines that:
1399 (A) the recommendation of the individual's qualified medical provider is justified; and
1400 (B) based on available information, it may be in the best interests of the individual to
1401 allow the use of medical cannabis;
- 1402 (b) review and approve or deny the use of a medical cannabis device for an individual
1403 described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection
1404 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the
1405 individual or minor be allowed to use a medical cannabis device to vaporize the medical
1406 cannabis treatment;
- 1407 (c) unless no petitions are pending:
1408 (i) meet to receive or review compassionate use petitions at least quarterly; and
1409 (ii) if there are more petitions than the board can receive or review during the board's
1410 regular schedule, as often as necessary;
- 1411 (d) except as provided in Subsection (6), complete a review of each petition and
1412 recommend to the department approval or denial of the applicant for qualification for a medical
1413 cannabis card within 90 days after the day on which the board received the petition;
- 1414 (e) consult with the department regarding the criteria described in Subsection (6); and
1415 (f) report, before November 1 of each year, to the Health and Human Services Interim
1416 Committee:
- 1417 (i) the number of compassionate use recommendations the board issued during the past
1418 year; and
1419 (ii) the types of conditions for which the board recommended compassionate use.
1420 (6) The department shall make rules, in consultation with the Compassionate Use

1421 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
1422 establish a process and criteria for a petition to the board to automatically qualify for expedited
1423 final review and approval or denial by the department in cases where, in the determination of
1424 the department and the board:

1425 (a) time is of the essence;

1426 (b) engaging the full review process would be unreasonable in light of the petitioner's
1427 physical condition; and

1428 (c) sufficient factors are present regarding the petitioner's safety.

1429 (7) (a) (i) The department shall review:

1430 (A) any compassionate use for which the Compassionate Use Board recommends
1431 approval under Subsection (5)(d) to determine whether the board properly exercised the board's
1432 discretion under this section; and

1433 (B) any expedited petitions the department receives under the process described in
1434 Subsection (6).

1435 (ii) If the department determines that the Compassionate Use Board properly exercised
1436 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited
1437 petition merits approval based on the criteria established in accordance with Subsection (6), the
1438 department shall:

1439 (A) issue the relevant medical cannabis card; and

1440 (B) provide for the renewal of the medical cannabis card in accordance with the
1441 recommendation of the qualified medical provider described in Subsection (5)(a).

1442 (b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d),
1443 the individual seeking to obtain a medical cannabis card may petition the department to review
1444 the board's decision.

1445 (ii) If the department determines that the Compassionate Use Board's recommendation
1446 for denial under Subsection (5)(d) was arbitrary or capricious:

1447 (A) the department shall notify the Compassionate Use Board of the department's
1448 determination; and

1449 (B) the board shall reconsider the Compassionate Use Board's refusal to recommend
1450 approval under this section.

1451 (c) In reviewing the Compassionate Use Board's recommendation for approval or

1452 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall
1453 presume the board properly exercised the board's discretion unless the department determines
1454 that the board's recommendation was arbitrary or capricious.

1455 (8) Any individually identifiable health information contained in a petition that the
1456 Compassionate Use Board or department receives under this section is a protected record in
1457 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

1458 (9) The Compassionate Use Board shall annually report the board's activity to the
1459 Cannabinoid Product Board [~~created in Section 26-61-201~~].

1460 Section 17. Section **26-61a-106** is amended to read:

1461 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1462 **Treatment recommendation.**

1463 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a
1464 medical cannabis treatment unless the department registers the individual as a qualified
1465 medical provider in accordance with this section.

1466 (b) An individual who meets the qualifications in Subsections **26-61a-106**(2)(a)(iii)
1467 and (iv) may recommend a medical cannabis treatment without registering under Subsection
1468 (1)(a) until January 1, 2021.

1469 (2) (a) The department shall, within 15 days after the day on which the department
1470 receives an application from an individual, register and issue a qualified medical provider
1471 registration card to the individual if the individual:

1472 (i) provides to the department the individual's name and address;

1473 (ii) provides to the department a report detailing the individual's completion of the
1474 applicable continuing education requirement described in Subsection (3);

1475 (iii) provides to the department evidence that the individual:

1476 (A) has the authority to write a prescription;

1477 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1478 Controlled Substances Act; and

1479 (C) possesses the authority, in accordance with the individual's scope of practice, to
1480 prescribe a Schedule II controlled substance;

1481 (iv) provides to the department evidence that the individual is:

1482 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

1483 Practice Act;

1484 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1485 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1486 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1487 Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102,
1488 includes the recommending of medical cannabis, and whose supervising physician is a
1489 qualified medical provider; and

1490 (v) pays the department a fee in an amount that:

1491 (A) the department sets, in accordance with Section 63J-1-504; and

1492 (B) does not exceed \$300 for an initial registration.

1493 (b) The department may not register an individual as a qualified medical provider if the
1494 individual is:

1495 (i) a pharmacy medical provider; or

1496 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1497 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

1498 (3) (a) An individual shall complete the continuing education described in this
1499 Subsection (3) in the following amounts:

1500 (i) for an individual as a condition precedent to registration, four hours; and

1501 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1502 every two years.

1503 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1504 (i) complete continuing education:

1505 (A) regarding the topics described in Subsection (3)(d); and

1506 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1507 continuing education provider that the department recognizes as offering continuing education
1508 appropriate for the recommendation of cannabis to patients; and

1509 (ii) make a continuing education report to the department in accordance with a process
1510 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1511 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1512 Professional Licensing and:

1513 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,

1514 Nurse Practice Act, the Board of Nursing;

1515 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1516 Practice Act, the Physicians Licensing Board;

1517 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1518 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1519 and

1520 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1521 Assistant Act, the Physician Assistant Licensing Board.

1522 (c) The department may, in consultation with the Division of Occupational and
1523 Professional Licensing, develop the continuing education described in this Subsection (3).

1524 (d) The continuing education described in this Subsection (3) may discuss:

1525 (i) the provisions of this chapter;

1526 (ii) general information about medical cannabis under federal and state law;

1527 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1528 including risks and benefits;

1529 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1530 patient in pain management, risk management, potential addiction, or palliative care; and

1531 (v) best practices for recommending the form and dosage of medical cannabis products
1532 based on the qualifying condition underlying a medical cannabis recommendation.

1533 (4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not
1534 recommend a medical cannabis treatment to more than 275 of the qualified medical provider's
1535 patients at the same time, as determined by the number of medical cannabis cards under the
1536 qualified medical provider's name in the state electronic verification system.

1537 (b) A qualified medical provider may recommend a medical cannabis treatment to up to
1538 600 of the qualified medical provider's patients at any given time, as determined by the number
1539 of medical cannabis cards under the qualified medical provider's name in the state electronic
1540 verification system, if:

1541 (i) the appropriate American medical board has certified the qualified medical provider
1542 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1543 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1544 psychiatry; or

1545 (ii) a licensed business employs or contracts with the qualified medical provider for the
1546 specific purpose of providing hospice and palliative care.

1547 (5) A qualified medical provider may recommend medical cannabis to an individual
1548 under this chapter only in the course of a qualified medical provider-patient relationship after
1549 the qualifying medical provider has completed and documented in the patient's medical record
1550 a thorough assessment of the patient's condition and medical history based on the appropriate
1551 standard of care for the patient's condition.

1552 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the
1553 individual recommends medical cannabis treatment in accordance with this chapter.

1554 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1555 website, by an individual described in Subsection (6)(c), does not constitute advertising:

1556 (i) a green cross;

1557 (ii) a qualifying condition that the ~~[qualified medical provider]~~ individual treats; ~~[or]~~

1558 (iii) the individual's registration as a qualified medical provider; or

1559 ~~[(iii)]~~ (iv) a scientific study regarding medical cannabis use.

1560 (c) The following are subject to Subsection (6)(b):

1561 (i) before the department begins registering qualified medical providers:

1562 (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

1563 (B) a physician described in Subsection (2)(a)(iv)(B); or

1564 (C) a physician assistant described in Subsection (2)(a)(iv)(C); and

1565 (ii) after the department begins registering qualified medical providers, a qualified
1566 medical provider.

1567 (7) (a) A qualified medical provider registration card expires two years after the day on
1568 which the department issues the card.

1569 (b) The department shall renew a qualified medical provider's registration card if the
1570 provider:

1571 (i) applies for renewal;

1572 (ii) is eligible for a qualified medical provider registration card under this section,
1573 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

1574 (iii) certifies to the department in a renewal application that the information in
1575 Subsection (2)(a) is accurate or updates the information;

1576 (iv) submits a report detailing the completion of the continuing education requirement
1577 described in Subsection (3); and

1578 (v) pays the department a fee in an amount that:

1579 (A) the department sets, in accordance with Section 63J-1-504; and

1580 (B) does not exceed \$50 for a registration renewal.

1581 (8) The department may revoke the registration of a qualified medical provider who
1582 fails to maintain compliance with the requirements of this section.

1583 (9) A qualified medical provider may not receive any compensation or benefit for the
1584 qualified medical provider's medical cannabis treatment recommendation from:

1585 (a) a cannabis production establishment or an owner, officer, director, board member,
1586 employee, or agent of a cannabis production establishment;

1587 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1588 employee, or agent of a medical cannabis pharmacy; or

1589 (c) a qualified medical provider or pharmacy medical provider.

1590 Section 18. Section 26-61a-201 is amended to read:

1591 **26-61a-201. Medical cannabis patient card -- Provisional patient card -- Medical**
1592 **cannabis guardian card application -- Application -- Fees -- Studies.**

1593 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
1594 which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202
1595 submits an application in accordance with this section or Section 26-61a-202:

1596 (a) issue a medical cannabis patient card to an individual described in Subsection
1597 (2)(a);

1598 (b) issue a medical cannabis guardian card to an individual described in Subsection
1599 (2)(b);

1600 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1601 (d) issue a medical cannabis caregiver card to an individual described in Subsection
1602 26-61a-202(4).

1603 (2) (a) An individual is eligible for a medical cannabis patient card if:

1604 (i) (A) the individual is at least 21 years old; or

1605 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate
1606 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends

1607 department approval of the petition;

1608 (ii) the individual is a Utah resident;

1609 (iii) the individual's qualified medical provider recommends treatment with medical

1610 cannabis in accordance with Subsection (4);

1611 (iv) the individual signs an acknowledgment stating that the individual received the

1612 information described in Subsection (8); and

1613 (v) the individual pays to the department a fee in an amount that, subject to Subsection

1614 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

1615 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1616 (A) is at least 18 years old;

1617 (B) is a Utah resident;

1618 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical

1619 provider recommends a medical cannabis treatment, the individual petitions the Compassionate

1620 Use Board under Section [26-61a-105](#), and the Compassionate Use Board recommends

1621 department approval of the petition;

1622 (D) the individual signs an acknowledgment stating that the individual received the

1623 information described in Subsection (8);

1624 (E) pays to the department a fee in an amount that, subject to Subsection

1625 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#), plus the cost of the

1626 criminal background check described in Section [26-61a-203](#); and

1627 (F) the individual has not been convicted of a misdemeanor or felony drug distribution

1628 offense under either state or federal law, unless the individual completed any imposed sentence

1629 six months or more before the day on which the individual applies for a medical cannabis

1630 guardian card.

1631 (ii) The department shall notify the Department of Public Safety of each individual that

1632 the department registers for a medical cannabis guardian card.

1633 (c) (i) A minor is eligible for a provisional patient card if:

1634 (A) the minor has a qualifying condition;

1635 (B) the minor's qualified medical provider recommends a medical cannabis treatment

1636 to address the minor's qualifying condition;

1637 (C) ~~[the minor's parent or legal guardian]~~ one of the minor's parents or legal guardians

1638 petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use
1639 Board recommends department approval of the petition; and

1640 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1641 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1642 medical cannabis caregiver card under Section 26-61a-202.

1643 (ii) The department shall automatically issue a provisional patient card to the minor
1644 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1645 guardian card to the minor's parent or legal guardian.

1646 (d) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1647 verification system is functionally capable of servicing the designation, if the parent or legal
1648 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a
1649 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1650 designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that
1651 the minor has adequate and safe access to the recommended medical cannabis treatment.

1652 (3) (a) An individual who is eligible for a medical cannabis card described in
1653 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
1654 department:

1655 (i) through an electronic application connected to the state electronic verification
1656 system;

1657 (ii) with the recommending qualified medical provider; and

1658 (iii) with information including:

1659 (A) the applicant's name, gender, age, and address;

1660 (B) the number of the applicant's valid form of photo identification;

1661 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1662 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1663 and

1664 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1665 holds the associated medical cannabis guardian card.

1666 (b) The department shall ensure that a medical cannabis card the department issues
1667 under this section contains the information described in Subsection (3)(a)(iii).

1668 (c) (i) If a qualified medical provider determines that, because of age, illness, or

1669 disability, a medical cannabis patient cardholder requires assistance in administering the
1670 medical cannabis treatment that the qualified medical provider recommends, the qualified
1671 medical provider may indicate the cardholder's need in the state electronic verification system.

1672 (ii) If a qualified medical provider makes the indication described in Subsection
1673 (3)(c)(i):

1674 (A) the department shall add a label to the relevant medical cannabis patient card
1675 indicating the cardholder's need for assistance; and

1676 (B) any adult who is 18 years old or older and who is physically present with the
1677 cardholder at the time the cardholder needs to use the recommended medical cannabis
1678 treatment may handle the medical cannabis treatment and any associated medical cannabis
1679 device as needed to assist the cardholder in administering the recommended medical cannabis
1680 treatment; and

1681 (C) an individual of any age who is physically present with the cardholder in the event
1682 of an emergency medical condition, as that term is defined in Section [31A-22-627](#), may handle
1683 the medical cannabis treatment and any associated medical cannabis device as needed to assist
1684 the cardholder in administering the recommended medical cannabis treatment.

1685 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

1686 (A) ingest or inhale medical cannabis;

1687 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1688 of the immediate area where the cardholder is present or with an intent other than to provide
1689 assistance to the cardholder; or

1690 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1691 the cardholder is not in the process of being dosed with medical cannabis.

1692 (4) To recommend a medical cannabis treatment to a patient or to renew a
1693 recommendation, a qualified medical provider shall:

1694 (a) before recommending or renewing a recommendation for medical cannabis in a
1695 medicinal dosage form or a cannabis product in a medicinal dosage form:

1696 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1697 guardian's valid form of identification described in Subsection (3)(a);

1698 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1699 or legal guardian in:

1700 (A) the state electronic verification system; and
1701 (B) the controlled substance database created in Section 58-37f-201; and
1702 (iii) consider the recommendation in light of the patient's qualifying condition and
1703 history of medical cannabis and controlled substance use during an initial face-to-face visit
1704 with the patient; and
1705 (b) state in the qualified medical provider's recommendation that the patient:
1706 (i) suffers from a qualifying condition, including the type of qualifying condition; and
1707 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1708 product in a medicinal dosage form.
1709 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1710 department issues under this section is valid for the lesser of:
1711 (i) an amount of time that the qualified medical provider determines; or
1712 (ii) (A) for the first issuance, 90 days;
1713 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or
1714 (C) for a renewal, one year if, after at least one year following the issuance of the
1715 original medical cannabis card, the qualified medical provider determines that the patient has
1716 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.
1717 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1718 illness described in Section 26-61a-104 does not expire.
1719 (ii) The recommending qualified medical provider may revoke a recommendation that
1720 the provider made in relation to a terminal illness described in Section 26-61a-104 if the
1721 medical cannabis cardholder no longer has the terminal illness.
1722 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1723 renewable if:
1724 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1725 (b); or
1726 (ii) the cardholder received the medical cannabis card through the recommendation of
1727 the Compassionate Use Board under Section 26-61a-105.
1728 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:
1729 (i) using the application process described in Subsection (3); or
1730 (ii) through phone or video conference with the qualified medical provider who made

1731 the recommendation underlying the card, at the qualifying medical provider's discretion.

1732 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1733 pay to the department a renewal fee in an amount that:

1734 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1735 63J-1-504; and

1736 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1737 comparison to the original application process.

1738 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1739 patient card renews automatically at the time the minor's parent or legal guardian renews the
1740 parent or legal guardian's associated medical cannabis guardian card.

1741 ~~[(e) The department may revoke a medical cannabis guardian card if the cardholder
1742 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
1743 under either state or federal law.]~~

1744 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1745 cannabis card with the patient's name.

1746 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1747 purchase, in accordance with this chapter and the recommendation underlying the card,
1748 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1749 medical cannabis device.

1750 (ii) A cardholder under this section may possess or transport, in accordance with this
1751 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1752 cannabis product in a medicinal dosage form, or a medical cannabis device.

1753 (iii) To address the qualifying condition underlying the medical cannabis treatment
1754 recommendation:

1755 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1756 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1757 or a medical cannabis device; and

1758 (B) a medical cannabis guardian cardholder may assist the associated provisional
1759 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1760 product in a medicinal dosage form, or a medical cannabis device.

1761 (c) If a licensed medical cannabis pharmacy is not operating within the state after

1762 January 1, 2021, a cardholder under this section:
1763 (i) may possess:
1764 (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;
1765 (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and
1766 (C) marijuana drug paraphernalia; and
1767 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).
1768 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1769 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1770 to an individual receiving a medical cannabis card:
1771 (a) risks associated with medical cannabis treatment;
1772 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1773 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1774 Subsection 26-61a-104(1); and
1775 (c) other relevant warnings and safety information that the department determines.
1776 (9) The department may establish procedures by rule, in accordance with Title 63G,
1777 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1778 provisions of this section.
1779 (10) (a) On or before January 1, 2021, the department shall establish by rule, in
1780 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1781 an individual from another state to register with the Department of Health in order to purchase
1782 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
1783 individual is visiting the state.
1784 (b) The department may only provide the registration process described in Subsection
1785 (10)(a):
1786 (i) to a nonresident patient; and
1787 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
1788 per visitation period.
1789 (11) (a) A person may submit to the department a request to conduct a research study
1790 using medical cannabis cardholder data that the state electronic verification system contains.
1791 (b) The department shall review a request described in Subsection (11)(a) to determine
1792 whether an institutional review board, as that term is defined in Section 26-61-102, could

1793 approve the research study.

1794 (c) At the time an individual applies for a medical cannabis card, the department shall
1795 notify the individual:

1796 (i) of how the individual's information will be used as a cardholder;

1797 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1798 consent under Subsection (11)(d), the individual consents to the use of the individual's
1799 information for external research; and

1800 (iii) that the individual may withdraw consent for the use of the individual's
1801 information for external research at any time, including at the time of application.

1802 (d) An applicant may, through the medical cannabis card application, and a medical
1803 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
1804 cardholder's consent to participate in external research at any time.

1805 (e) The department may release, for the purposes of a study described in this
1806 Subsection (11), information about a cardholder under this section who consents to participate
1807 under Subsection (11)(c).

1808 (f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of
1809 consent:

1810 (i) applies to external research that is initiated after the withdrawal of consent; and

1811 (ii) does not apply to research that was initiated before the withdrawal of consent.

1812 (g) The department may establish standards for a medical research study's validity, by
1813 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1814 (12) The department shall record the issuance or revocation of a medical cannabis card
1815 under this section in the controlled substance database.

1816 Section 19. Section **26-61a-202** is amended to read:

1817 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**
1818 **Revocation.**

1819 (1) (a) A cardholder described in Section **26-61a-201** may designate, through the state
1820 central patient portal, up to two individuals, or an individual and a facility in accordance with
1821 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical
1822 provider notates in the electronic verification system that the provider determines that, due to
1823 physical difficulty or undue hardship, including concerns of distance to a medical cannabis

1824 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the
1825 qualified medical provider recommends.

1826 (b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1827 verification system is functionally capable of servicing the designation, a cardholder described
1828 in Section 26-61a-201 who is a patient in one of the following types of facilities may designate
1829 the facility as one of the caregivers described in Subsection (1)(a):

1830 (A) an assisted living facility, as that term is defined in Section 26-21-2;

1831 (B) a nursing care facility, as that term is defined in Section 26-21-2; or

1832 (C) a general acute hospital, as that term is defined in Section 26-21-2.

1833 (ii) A facility may assign one or more employees to assist patients with medical
1834 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1835 (iii) The department shall make rules to regulate the practice of facilities and facility
1836 employees serving as designated caregivers under this Subsection (1)(b).

1837 (c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in
1838 consultation with the minor and the minor's qualified medical provider, may designate, through
1839 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1840 minor, if the department determines that the parent or legal guardian is not eligible for a
1841 medical cannabis guardian card under Section 26-61a-201.

1842 (2) An individual that the department registers as a designated caregiver under this
1843 section and a facility described in Subsection (1)(b):

1844 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
1845 card;

1846 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1847 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1848 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1849 cardholder;

1850 (c) may not charge a fee to an individual to act as the individual's designated caregiver
1851 or for a service that the designated caregiver provides in relation to the role as a designated
1852 caregiver;

1853 (d) may accept reimbursement from the designating medical cannabis cardholder for
1854 direct costs the designated caregiver incurs for assisting with the designating cardholder's

1855 medicinal use of cannabis; and
1856 (e) if a licensed medical cannabis pharmacy is not operating within the state after
1857 January 1, 2021:
1858 (i) may possess up to the legal dosage limit of:
1859 (A) unprocessed medical cannabis in a medicinal dosage form;
1860 (B) a cannabis product in a medicinal dosage form; and
1861 (ii) may possess marijuana drug paraphernalia; and
1862 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).
1863 (3) (a) The department shall:
1864 (i) within 15 days after the day on which an individual submits an application in
1865 compliance with this section, issue a medical cannabis card to the applicant if the applicant:
1866 (A) is designated as a caregiver under Subsection (1);
1867 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and
1868 (C) complies with this section; and
1869 (ii) notify the Department of Public Safety of each individual that the department
1870 registers as a designated caregiver.
1871 (b) The department shall ensure that a medical cannabis caregiver card contains the
1872 information described in Subsection (5)(b).
1873 (4) An individual is eligible for a medical cannabis caregiver card if the individual:
1874 (a) is at least 21 years old;
1875 (b) is a Utah resident;
1876 (c) pays to the department a fee in an amount that, subject to Subsection
1877 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1878 criminal background check described in Section 26-61a-203;
1879 (d) signs an acknowledgment stating that the applicant received the information
1880 described in Subsection 26-61a-201(8); and
1881 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
1882 a felony under either state or federal law, unless the individual completes any imposed sentence
1883 two or more years before the day on which the individual submits the application.
1884 (5) An eligible applicant for a medical cannabis caregiver card shall:
1885 (a) submit an application for a medical cannabis caregiver card to the department

1886 through an electronic application connected to the state electronic verification system; and

1887 (b) submit the following information in the application described in Subsection (5)(a):

1888 (i) the applicant's name, gender, age, and address;

1889 (ii) the name, gender, age, and address of the cardholder described in Section

1890 26-61a-201 who designated the applicant; and

1891 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,

1892 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical

1893 cannabis guardian cardholder.

1894 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1895 department issues under this section is valid for the lesser of:

1896 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1897 designated the caregiver determines; or

1898 (b) the amount of time remaining before the card of the cardholder described in Section
1899 26-61a-201 expires.

1900 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1901 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1902 cardholder described in Section 26-61a-201 who designated the caregiver:

1903 (i) renews the cardholder's card; and

1904 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1905 (b) The department shall provide a method in the card renewal process to allow a
1906 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1907 (i) signify that the cardholder renews the caregiver's designation;

1908 (ii) remove a caregiver's designation; or

1909 (iii) designate a new caregiver.

1910 (8) The department may revoke a medical cannabis caregiver card if the designated
1911 caregiver:

1912 (a) violates this chapter; or

1913 (b) is convicted under state or federal law of:

1914 (i) a felony drug distribution offense; or

1915 (ii) after December 3, 2018, a misdemeanor [~~for~~] drug distribution offense.

1916 (9) The department shall record the issuance or revocation of a medical cannabis card

1917 under this section in the controlled substance database.

1918 Section 20. Section **26-61a-204** is amended to read:

1919 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**
1920 **requirements -- Rebuttable presumption.**

1921 (1) (a) A medical cannabis cardholder who possesses medical cannabis that the
1922 cardholder purchased under this chapter:

1923 (i) shall carry:

1924 (A) at all times the cardholder's medical cannabis card; and

1925 (B) after the earlier of January 1, 2021, or the day on which the individual purchases
1926 any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label
1927 that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy
1928 and includes an identification number that links the medical cannabis to the inventory control
1929 system; and

1930 (ii) may possess up to the legal dosage limit of:

1931 (A) unprocessed cannabis in medicinal dosage form; and

1932 (B) a cannabis product in medicinal dosage form; [~~and~~]

1933 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii)[~~]~~;

1934 (iv) may only possess the medical cannabis in the container in which the cardholder
1935 received the medical cannabis from the medical cannabis pharmacy; and

1936 (v) may not alter or remove any label described in Section [4-41a-602](#) from the
1937 container described in Subsection (1)(a)(iv).

1938 (b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who
1939 possesses medical cannabis in violation of Subsection (1)(a) is:

1940 (i) guilty of an infraction; and

1941 (ii) subject to a \$100 fine.

1942 (c) A medical cannabis cardholder or a nonresident patient who possesses medical
1943 cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice
1944 the legal dosage limit is:

1945 (i) for a first offense:

1946 (A) guilty of an infraction; and

1947 (B) subject to a fine of up to \$100; and

- 1948 (ii) for a second or subsequent offense:
1949 (A) guilty of a class B misdemeanor; and
1950 (B) subject to a fine of \$1,000.
1951 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
1952 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
1953 conduct underlying the penalty described in Subsection (1)(b) or (c).
1954 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
1955 dosage form is:
1956 (i) for a first offense:
1957 (A) guilty of an infraction; and
1958 (B) subject to a fine of up to \$100; and
1959 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,
1960 Chapter 37, Utah Controlled Substances Act.
1961 (f) A medical cannabis cardholder or a nonresident patient who possesses medical
1962 cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties
1963 described in Title 58, Chapter 37, Utah Controlled Substances Act.
1964 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
1965 as that term is defined in Section [31A-22-627](#).
1966 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a
1967 provisional patient cardholder, or a nonresident patient may not use, in public view, medical
1968 cannabis or a cannabis product.
1969 (c) In the event of an emergency medical condition, an individual described in
1970 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
1971 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
1972 medicinal dosage form or a cannabis product in a medicinal dosage form.
1973 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:
1974 (i) for a first offense:
1975 (A) guilty of an infraction; and
1976 (B) subject to a fine of up to \$100; and
1977 (ii) for a second or subsequent offense:
1978 (A) guilty of a class B misdemeanor; and

1979 (B) subject to a fine of \$1,000.

1980 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
1981 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
1982 medical cannabis device that corresponds with the cannabis or cannabis product:

1983 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,
1984 cannabis product, or medical cannabis device legally; and

1985 (b) there is no probable cause, based solely on the cardholder's possession of the
1986 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
1987 cannabis device, to believe that the cardholder is engaging in illegal activity.

1988 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
1989 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
1990 device, and the individual represents to the law enforcement officer that the individual holds a
1991 valid medical cannabis card, but the individual does not have the medical cannabis card in the
1992 individual's possession at the time of the stop by the law enforcement officer, the law
1993 enforcement officer shall attempt to access the state electronic verification system to determine
1994 whether the individual holds a valid medical cannabis card.

1995 (b) If the law enforcement officer is able to verify that the individual described in
1996 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

1997 (i) may not arrest or take the individual into custody for the sole reason that the
1998 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
1999 medicinal dosage form, or a medical cannabis device; and

2000 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

2001 Section 21. Section **26-61a-301** is amended to read:

2002 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

2003 (1) A person may not operate as a medical cannabis pharmacy without a license that
2004 the department issues under this part.

2005 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department
2006 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
2007 Chapter 6a, Utah Procurement Code.

2008 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
2009 an applicant who is not eligible for a license under this section.

2010 (b) An applicant is eligible for a license under this section if the applicant submits to
2011 the department:

2012 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
2013 operate the medical cannabis pharmacy;

2014 (ii) the name and address of an individual who:

2015 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in
2016 the proposed medical cannabis pharmacy;

2017 (B) for a privately held company, a financial or voting interest in the proposed medical
2018 cannabis pharmacy; or

2019 (C) has the power to direct or cause the management or control of a proposed medical
2020 cannabis pharmacy;

2021 (iii) a statement that the applicant will obtain and maintain a performance bond that a
2022 surety authorized to transact surety business in the state issues in an amount of at least
2023 \$125,000 for each application that the applicant submits to the department;

2024 (iv) an operating plan that:

2025 (A) complies with Section 26-61a-304;

2026 (B) includes operating procedures to comply with the operating requirements for a
2027 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
2028 law that is consistent with Section 26-61a-507; and

2029 (C) the department approves;

2030 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
2031 department sets in accordance with Section 63J-1-504; and

2032 (vi) a description of any investigation or adverse action taken by any licensing
2033 jurisdiction, government agency, law enforcement agency, or court in any state for any
2034 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
2035 or businesses.

2036 (c) (i) A person may not locate a medical cannabis pharmacy:

2037 (A) within 200 feet of a community location; or

2038 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
2039 as primarily residential.

2040 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured

2041 from the nearest entrance to the medical cannabis pharmacy establishment by following the
2042 shortest route of ordinary pedestrian travel to the property boundary of the community location
2043 or residential area.

2044 (iii) The department may grant a waiver to reduce the proximity requirements in
2045 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
2046 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

2047 (iv) An applicant for a license under this section shall provide evidence of compliance
2048 with the proximity requirements described in Subsection (2)(c)(i).

2049 (d) The department may not issue a license to an eligible applicant that the department
2050 has selected to receive a license until the selected eligible applicant obtains the performance
2051 bond described in Subsection (2)(b)(iii).

2052 (e) If the department receives more than one application for a medical cannabis
2053 pharmacy within the same city or town, the department shall consult with the local land use
2054 authority before approving any of the applications pertaining to that city or town.

2055 (3) If the department selects an applicant for a medical cannabis pharmacy license
2056 under this section, the department shall:

2057 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2058 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); ~~and~~

2059 (b) notify the Department of Public Safety of the license approval and the names of
2060 each individual described in Subsection (2)(b)(ii)~~[-]; and~~

2061 (c) charge the licensee a fee in an amount that, subject to Subsection [26-61a-109\(5\)](#),
2062 the department sets in accordance with Section [63J-1-504](#), for any change in location,
2063 ownership, or company structure.

2064 (4) The department may not issue a license to operate a medical cannabis pharmacy to
2065 an applicant if an individual described in Subsection (2)(b)(ii):

2066 (a) has been convicted under state or federal law of:

2067 (i) a felony; or

2068 (ii) after December 3, 2018, a misdemeanor for drug distribution;

2069 (b) is younger than 21 years old; or

2070 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

2071 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds

2072 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give
2073 preference to the applicant based on the applicant's status as a holder of the license.

2074 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
2075 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis
2076 Production Establishments, the department:

2077 (i) shall consult with the Department of Agriculture and Food regarding the applicant;
2078 and

2079 (ii) may give consideration to the applicant based on the applicant's status as a holder
2080 of a license to operate a cannabis cultivation facility if:

2081 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
2082 result from the applicant's vertical integration than from a more competitive marketplace; and

2083 (B) the department finds multiple other factors, in addition to the existing license, that
2084 support granting the new license.

2085 (6) (a) The department may revoke a license under this part:

2086 ~~[(a)]~~ (i) if the medical cannabis pharmacy does not begin operations within one year
2087 after the day on which the department issues the initial license;

2088 ~~[(b)]~~ (ii) after the third the same violation of this chapter in any of the licensee's
2089 licensed cannabis production establishments or medical cannabis pharmacies;

2090 ~~[(c)]~~ (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the
2091 license is active, under state or federal law of:

2092 ~~[(i)]~~ (A) a felony; or

2093 ~~[(ii)]~~ (B) after December 3, 2018, a misdemeanor for drug distribution;

2094 ~~[(d)]~~ (iv) if the licensee fails to provide the information described in Subsection
2095 (2)(b)(vi) at the time of application, or fails to supplement the information described in
2096 Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission
2097 of the application within 14 calendar days after the licensee receives notice of the investigation
2098 or adverse action; or

2099 ~~[(e)]~~ (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard
2100 for the requirements of this chapter or the rules the department makes in accordance with this
2101 chapter.

2102 (b) The department shall rescind a notice of an intent to issue a license under this part

2103 to an applicant or revoke a license issued under this part if the associated medical cannabis
2104 pharmacy does not begin operation on or before June 1, 2021.

2105 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
2106 if the municipality or county where the licensed medical cannabis pharmacy will be located
2107 requires a local land use permit, shall submit to the department a copy of the licensee's
2108 approved application for the land use permit within 120 days after the day on which the
2109 department issues the license.

2110 (b) If a licensee fails to submit to the department a copy the licensee's approved land
2111 use permit application in accordance with Subsection (7)(a), the department may revoke the
2112 licensee's license.

2113 (8) The department shall deposit the proceeds of a fee imposed by this section [~~in~~] into
2114 the Qualified Patient Enterprise Fund.

2115 (9) The department shall begin accepting applications under this part on or before
2116 March 1, 2020.

2117 (10) (a) The department's authority to issue a license under this section is plenary and is
2118 not subject to review.

2119 (b) Notwithstanding Subsection (2), the decision of the department to award a license
2120 to an applicant is not subject to:

- 2121 (i) Title 63G, Chapter 6a, Part 16, Protests; or
- 2122 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2123 Section 22. Section **26-61a-305** is amended to read:

2124 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**
2125 **pharmacies.**

2126 (1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of
2127 applicants apply, the department shall issue [~~14~~] up to 15 medical cannabis pharmacy licenses
2128 in accordance with this section.

2129 (b) If [~~fewer than 14~~] an insufficient number of qualified applicants apply [~~for a~~] for
2130 the available number of medical cannabis pharmacy [~~license~~] licenses, the department shall
2131 issue a medical cannabis pharmacy license to each qualified applicant.

2132 (c) The department may issue the licenses described in Subsection (1)(a) [~~in two~~
2133 ~~phases~~] in accordance with this Subsection (1)(c).

2134 (i) Using one procurement process, the department may issue eight licenses to an initial
2135 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis
2136 pharmacies.

2137 (ii) If the department issues licenses in two phases in accordance with ~~[this]~~ Subsection
2138 (1)(c)(i), the department shall:

2139 (A) divide the state into no less than four geographic regions;

2140 (B) issue at least one license in each geographic region during each phase of issuing
2141 licenses; and

2142 (C) complete the process of issuing medical cannabis pharmacy licenses no later than
2143 July 1, 2020.

2144 (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the
2145 license recipient will locate the medical cannabis pharmacy within a county of the fourth, fifth,
2146 or sixth class, or a county of the third class that does not border a county of the first or second
2147 class, in the eastern or southern geographic regions that the department identifies under
2148 Subsection (1)(c)(ii).

2149 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in
2150 addition to the licenses described in Subsection (1)(a) if the department determines, in
2151 consultation with the Department of Agriculture and Food and after an annual or more frequent
2152 analysis of the current and anticipated market for medical cannabis, that each additional license
2153 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical
2154 cannabis cardholders.

2155 (ii) The department shall:

2156 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2157 make rules to establish criteria and processes for the consultation, analysis, and application for
2158 a license described in Subsection (1)(d)(i);

2159 (B) before November 30, 2020, report on the rules described in Subsection
2160 (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

2161 (C) report to the Executive Appropriations Committee of the Legislature before each
2162 time the department issues an additional license under Subsection (1)(d)(i) regarding the results
2163 of the consultation and analysis described in Subsection (1)(d)(i) and the application of the
2164 criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

2165 (2) (a) If there are more qualified applicants than there are available licenses for
2166 medical cannabis pharmacies, the department shall:

2167 (i) evaluate each applicant and award the license to the applicant that best
2168 demonstrates:

2169 (A) experience with establishing and successfully operating a business that involves
2170 complying with a regulatory environment, tracking inventory, and training, evaluating, and
2171 monitoring employees;

2172 (B) an operating plan that will best ensure the safety and security of patrons and the
2173 community;

2174 (C) positive connections to the local community;

2175 (D) the suitability of the proposed location and the location's accessibility for
2176 qualifying patients;

2177 (E) the extent to which the applicant can increase efficiency and reduce the cost of
2178 medical cannabis for patients; and

2179 (F) a strategic plan described in Subsection [26-61a-304\(7\)](#) that has a comparatively
2180 high likelihood of success; and

2181 (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably
2182 maximize access to the largest number of medical cannabis cardholders.

2183 (b) In making the evaluation described in Subsection (2)(a), the department may give
2184 increased consideration to applicants who indicate a willingness to:

2185 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic
2186 medical cannabis orders that the state central patient portal facilitates; and

2187 (ii) accept payments through:

2188 (A) a payment provider that the Division of Finance approves, in consultation with the
2189 state treasurer, in accordance with Section [26-61a-603](#); or

2190 (B) a financial institution in accordance with Subsection [26-61a-603\(4\)](#).

2191 (3) The department may conduct a face-to-face interview with an applicant for a
2192 license that the department evaluates under Subsection (2).

2193 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery
2194 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's
2195 operating plan demonstrates the functional and technical ability to:

2196 (i) safely conduct transactions for medical cannabis shipments;
2197 (ii) accept electronic medical cannabis orders that the state central patient portal
2198 facilitates; and
2199 (iii) accept payments through:
2200 (A) a payment provider that the Division of Finance approves, in consultation with the
2201 state treasurer, in accordance with Section 26-61a-603; or
2202 (B) a financial institution in accordance with Subsection 26-61a-603(4).
2203 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy
2204 shall identify in the applicant's operating plan any information relevant to the department's
2205 evaluation described in Subsection (4)(a), including:
2206 (i) the name and contact information of the payment provider;
2207 (ii) the nature of the relationship between the prospective licensee and the payment
2208 provider;
2209 (iii) the processes of the following to safely and reliably conduct transactions for
2210 medical cannabis shipments:
2211 (A) the prospective licensee; and
2212 (B) the electronic payment provider or the financial institution described in Subsection
2213 (4)(a)(iii); and
2214 (iv) the ability of the licensee to comply with the department's rules regarding the
2215 secure transportation and delivery of medical cannabis or medical cannabis product to a
2216 medical cannabis cardholder.
2217 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy
2218 that the department designates as a home delivery medical cannabis pharmacy may deliver
2219 medical cannabis shipments in accordance with this chapter.
2220 Section 23. Section 26-61a-403 is amended to read:
2221 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**
2222 (1) (a) A medical cannabis pharmacy:
2223 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
2224 Practice Act, as a pharmacy medical provider;
2225 (ii) may employ a physician who has the authority to write a prescription and is
2226 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah

2227 Osteopathic Medical Practice Act, as a pharmacy medical provider;

2228 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)

2229 works onsite during all business hours; and

2230 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as

2231 the pharmacist-in-charge to oversee the operation of and generally supervise the medical

2232 cannabis pharmacy.

2233 (b) An individual may not serve as a pharmacy medical provider unless the department

2234 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

2235 (2) (a) The department shall, within 15 days after the day on which the department

2236 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy

2237 medical provider, register and issue a pharmacy medical provider registration card to the

2238 prospective pharmacy medical provider if the medical cannabis pharmacy:

2239 (i) provides to the department:

2240 (A) the prospective pharmacy medical provider's name and address;

2241 (B) the name and location of the licensed medical cannabis pharmacy where the

2242 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

2243 (C) a report detailing the completion of the continuing education requirement described

2244 in Subsection (3); and

2245 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is

2246 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the

2247 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical

2248 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2249 (ii) pays a fee to the department in an amount that, subject to Subsection

2250 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2251 (b) The department may not register a qualified medical provider or a state central

2252 patient portal medical provider as a pharmacy medical provider.

2253 (3) (a) A pharmacy medical provider shall complete the continuing education described

2254 in this Subsection (3) in the following amounts:

2255 (i) as a condition precedent to registration, four hours; and

2256 (ii) as a condition precedent to renewal of the registration, four hours every two years.

2257 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

- 2258 (i) complete continuing education:
- 2259 (A) regarding the topics described in Subsection (3)(d); and
- 2260 (B) offered by the department under Subsection (3)(c) or an accredited or approved
- 2261 continuing education provider that the department recognizes as offering continuing education
- 2262 appropriate for the medical cannabis pharmacy practice; and
- 2263 (ii) make a continuing education report to the department in accordance with a process
- 2264 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
- 2265 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
- 2266 Professional Licensing and:
- 2267 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
- 2268 Pharmacy Practice Act, the Board of Pharmacy;
- 2269 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
- 2270 Practice Act, the Physicians Licensing Board; and
- 2271 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah
- 2272 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.
- 2273 (c) The department may, in consultation with the Division of Occupational and
- 2274 Professional Licensing, develop the continuing education described in this Subsection (3).
- 2275 (d) The continuing education described in this Subsection (3) may discuss:
- 2276 (i) the provisions of this chapter;
- 2277 (ii) general information about medical cannabis under federal and state law;
- 2278 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
- 2279 including risks and benefits;
- 2280 (iv) recommendations for medical cannabis as it relates to the continuing care of a
- 2281 patient in pain management, risk management, potential addiction, and palliative care; or
- 2282 (v) best practices for recommending the form and dosage of a medical cannabis
- 2283 product based on the qualifying condition underlying a medical cannabis recommendation.
- 2284 (4) (a) A pharmacy medical provider registration card expires two years after the day
- 2285 on which the department issues or renews the card.
- 2286 (b) A pharmacy medical provider may renew the provider's registration card if the
- 2287 provider:
- 2288 (i) is eligible for a pharmacy medical provider registration card under this section;

- 2289 (ii) certifies to the department in a renewal application that the information in
2290 Subsection (2)(a) is accurate or updates the information;
- 2291 (iii) submits a report detailing the completion of the continuing education requirement
2292 described in Subsection (3); and
- 2293 (iv) pays to the department a renewal fee in an amount that:
- 2294 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2295 Section 63J-1-504; and
- 2296 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2297 comparison to the original application process.
- 2298 (5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the
2299 individual dispenses medical cannabis.
- 2300 (b) For purposes of this Subsection (5), the communication of the following, through a
2301 website, by a pharmacy medical provider, does not constitute advertising:
- 2302 (i) a green cross;
- 2303 (ii) the individual's registration as a pharmacy medical provider; or
- 2304 (iii) a scientific study regarding medical cannabis use.
- 2305 Section 24. Section 26-61a-501 is amended to read:
- 2306 **26-61a-501. Operating requirements -- General.**
- 2307 (1) (a) A medical cannabis pharmacy shall operate:
- 2308 (i) at the physical address provided to the department under Section 26-61a-301; and
- 2309 (ii) in accordance with the operating plan provided to the department under Section
2310 26-61a-301 and, if applicable, 26-61a-304.
- 2311 (b) A medical cannabis pharmacy shall notify the department before a change in the
2312 medical cannabis pharmacy's physical address or operating plan.
- 2313 (2) An individual may not enter a medical cannabis pharmacy unless the individual:
- 2314 (a) is at least 18 years old or is an emancipated minor under Section 78A-6-805; and
- 2315 (b) except as provided in Subsection (5)[~~5~~]:
- 2316 (i) possesses a valid:
- 2317 [~~(i)~~] (A) medical cannabis pharmacy agent registration card;
- 2318 [~~(ii)~~] (B) pharmacy medical provider registration card; or
- 2319 [~~(iii)~~] (C) medical cannabis card[~~5~~];

2320 (ii) is an employee of the department or the Department of Agriculture and Food
2321 performing an inspection under Section 26-61a-504; or

2322 (iii) is another individual as the department provides.

2323 (3) A medical cannabis pharmacy may not employ an individual who is younger than
2324 21 years old.

2325 (4) A medical cannabis pharmacy may not employ an individual who has been
2326 convicted of a felony under state or federal law.

2327 (5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an
2328 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
2329 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
2330 the individual at all times while the individual is at the medical cannabis pharmacy and
2331 maintains a record of the individual's access.

2332 (6) A medical cannabis pharmacy shall operate in a facility that has:

2333 (a) a single, secure public entrance;

2334 (b) a security system with a backup power source that:

2335 (i) detects and records entry into the medical cannabis pharmacy; and

2336 (ii) provides notice of an unauthorized entry to law enforcement when the medical
2337 cannabis pharmacy is closed; and

2338 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
2339 cannabis product.

2340 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
2341 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
2342 26-61a-502(2).

2343 (8) ~~[A]~~ Except for an emergency situation described in Subsection 26-61a-201(3)(c), a
2344 medical cannabis pharmacy may not allow any individual to consume cannabis on the property
2345 or premises of the medical cannabis pharmacy.

2346 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
2347 first indicating on the cannabis or cannabis product label the name of the medical cannabis
2348 pharmacy.

2349 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
2350 following information regarding each recommendation underlying a transaction:

- 2351 (i) the qualified medical provider's name, address, and telephone number;
- 2352 (ii) the patient's name and address;
- 2353 (iii) the date of issuance;
- 2354 (iv) directions of use and dosing guidelines or an indication that the qualified medical
- 2355 provider did not recommend specific directions of use or dosing guidelines; and
- 2356 (v) if the patient did not complete the transaction, the name of the medical cannabis
- 2357 cardholder who completed the transaction.

2358 (b) (i) Except as provided in Subsection [~~(10)(b)(ii)~~] (10)(b)(iii), a medical cannabis

2359 pharmacy may not sell medical cannabis unless the medical cannabis has a label securely

2360 affixed to the container indicating the following minimum information:

- 2361 (A) the name, address, and telephone number of the medical cannabis pharmacy;
- 2362 (B) the unique identification number that the medical cannabis pharmacy assigns;
- 2363 (C) the date of the sale;
- 2364 (D) the name of the patient;
- 2365 (E) the name of the qualified medical provider who recommended the medical
- 2366 cannabis treatment;
- 2367 (F) directions for use and cautionary statements, if any;
- 2368 (G) the amount dispensed and the cannabinoid content;
- 2369 (H) the suggested use date;
- 2370 (I) for unprocessed cannabis flower, the legal use termination date; and
- 2371 (J) any other requirements that the department determines, in consultation with the
- 2372 Division of Occupational and Professional Licensing and the Board of Pharmacy.

2373 (ii) A medical cannabis pharmacy is exempt from the following labeling requirements

2374 if the information is already provided on the product label that a cannabis production

2375 establishment affixes:

- 2376 (A) Subsection (10)(b)(i)(B) regarding a unique identification number;
- 2377 (B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;
- 2378 (C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and
- 2379 (D) Subsection (10)(b)(i)(H) regarding a suggested use date.

2380 [~~(ii)~~] (iii) A medical cannabis pharmacy may sell medical cannabis to another medical

2381 cannabis pharmacy without a label described in Subsection (10)(b)(i).

2382 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:
2383 (a) unless the medical cannabis cardholder has had a consultation under Subsection
2384 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of
2385 cannabis, a cannabis product, or a medical cannabis device, personal counseling with the
2386 pharmacy medical provider; and
2387 (b) provide a telephone number or website by which the cardholder may contact a
2388 pharmacy medical provider for counseling.

2389 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
2390 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
2391 medical cannabis device, or medical cannabis product in a locked box or other secure
2392 receptacle within the medical cannabis pharmacy.

2393 (b) A medical cannabis pharmacy with a disposal program described in Subsection
2394 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
2395 can access deposited medical cannabis or medical cannabis products.

2396 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2397 medical cannabis products by:

2398 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2399 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2400 products from the medical cannabis pharmacy; and
2401 (ii) disposing of the deposited medical cannabis or medical cannabis products in
2402 accordance with:

2403 (A) federal and state law, rules, and regulations related to hazardous waste;
2404 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
2405 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
2406 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2407 3, Utah Administrative Rulemaking Act.

2408 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
2409 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
2410 by a medical cannabis pharmacy.

2411 Section 25. Section **26-61a-502** is amended to read:
2412 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**

2413 **Reporting -- Form of cannabis or cannabis product.**

2414 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
2415 chapter:

2416 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2417 from another medical cannabis pharmacy or a cannabis processing facility that is licensed
2418 under Section 4-41a-201;

2419 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2420 acquired from another medical cannabis pharmacy or a cannabis processing facility that is
2421 licensed under Section 4-41a-201;

2422 (iii) a medical cannabis device; or

2423 (iv) educational material related to the medical use of cannabis.

2424 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2425 an individual with:

2426 (i) (A) a medical cannabis card; or

2427 (B) a department registration described in Subsection [~~26-61a-202(10)~~]

2428 26-61a-201(10); [~~or~~] and

2429 [~~(C) until December 31, 2020, a letter from a medical provider in accordance with~~
2430 ~~Subsection (10); and~~]

2431 (ii) a corresponding valid form of photo identification.

2432 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
2433 cannabis-based drug that the United States Food and Drug Administration has approved.

2434 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
2435 medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a
2436 minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the
2437 approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

2438 (2) A medical cannabis pharmacy:

2439 (a) may dispense to a medical cannabis cardholder [~~or to an individual described in~~
2440 ~~Subsection (10)(b)~~], in any one 28-day period, up to the legal dosage limit of:

2441 (i) unprocessed cannabis that:

2442 (A) is in a medicinal dosage form; and

2443 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and

2444 cannabidiol in the cannabis; and

2445 (ii) a cannabis product that is in a medicinal dosage form; and

2446 (b) may not dispense:

2447 (i) more medical cannabis than described in Subsection (2)(a); or

2448 (ii) to an individual whose qualified medical provider~~[, or for an individual described~~

2449 ~~in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i);]~~ did not

2450 recommend directions of use and dosing guidelines, until the individual consults with the

2451 pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

2452 (3) An individual with a medical cannabis card ~~[or an individual described in~~

2453 ~~Subsection (10)(a)]:~~

2454 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:

2455 (i) unprocessed cannabis in a medicinal dosage form; and

2456 (ii) a cannabis product in a medicinal dosage form;

2457 (b) may not purchase:

2458 (i) more medical cannabis than described in Subsection (3)(a); or

2459 (ii) if the relevant qualified medical provider did not recommend directions of use and

2460 dosing guidelines, until the individual consults with the pharmacy medical provider in

2461 accordance with Subsection (4), any medical cannabis; and

2462 (c) may not use a route of administration that the relevant qualified medical provider or

2463 the pharmacy medical provider, in accordance with Subsection (4) or (5), has not

2464 recommended.

2465 (4) If a qualified medical provider recommends treatment with medical cannabis but

2466 ~~[does not provide]~~ wishes for the pharmacy medical provider to determine directions of use and

2467 dosing guidelines:

2468 (a) the qualified medical provider shall ~~[document in the recommendation]~~ provide to

2469 the pharmacy medical provider any of the following information that the qualified medical

2470 provider feels would be needed to provide appropriate directions of use and dosing guidelines:

2471 (i) ~~[an evaluation of]~~ information regarding the qualifying condition underlying the

2472 recommendation;

2473 (ii) information regarding prior treatment attempts with medical cannabis; and

2474 (iii) portions of the patient's current medication list; and

2475 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the
2476 pharmacy medical provider shall:

2477 (i) review pertinent medical records, including the qualified medical provider
2478 documentation described in Subsection (4)(a); and

2479 (ii) unless the pertinent medical records show directions of use and dosing guidelines
2480 from a state central patient portal medical provider in accordance with Subsection (5), after
2481 completing the review described in Subsection (4)(b)(i) and consulting with the recommending
2482 qualified medical provider as needed, determine the best course of treatment through
2483 consultation with the cardholder regarding:

2484 (A) the patient's qualifying condition underlying the recommendation from the
2485 qualified medical provider;

2486 (B) indications for available treatments;

2487 (C) directions of use and dosing guidelines; and

2488 (D) potential adverse reactions.

2489 (5) (a) A state central patient portal medical provider may provide the consultation and
2490 make the determination described in Subsection (4)(b) for a medical cannabis patient
2491 cardholder regarding an electronic order that the state central patient portal facilitates.

2492 (b) The state central patient portal medical provider described in Subsection (5)(a)
2493 shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)
2494 in the pertinent medical records.

2495 (6) (a) A medical cannabis pharmacy shall:

2496 [~~(a)~~ (i)] (A) access the state electronic verification system before dispensing
2497 cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the
2498 cardholder or, where applicable, the associated patient has met the maximum amount of
2499 medical cannabis described in Subsection (2); and

2500 [~~(i)~~] (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met
2501 the maximum amount described in Subsection (2)[~~-(A)~~], decline the sale[;] and [~~(B)~~] notify the
2502 qualified medical provider who made the underlying recommendation;

2503 [~~(b)~~] (ii) submit a record to the state electronic verification system each time the
2504 medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

2505 (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews

2506 each medical cannabis transaction before dispensing the medical cannabis to the cardholder in
2507 accordance with pharmacy practice standards;

2508 [~~(e)~~] (iv) package any medical cannabis that is in a container that:

2509 [~~(i)~~] (A) complies with Subsection 4-41a-602(2) or, if applicable,

2510 26-61a-102[~~(32)~~](39)(a)(ii);

2511 [~~(ii)~~] (B) is tamper-resistant and tamper-evident; and

2512 [~~(iii)~~] ~~opaque; and~~

2513 (C) provides an opaque, child-resistant bag for the medical cannabis cardholder's use in

2514 transporting the container in public; and

2515 [~~(d)~~] (v) for a product that is a cube that is designed for ingestion through chewing or
2516 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2517 of over-consumption.

2518 (b) A medical cannabis cardholder transporting or possessing the container described
2519 in Subsection (6)(a)(iv) in public shall keep the container within the opaque, child-resistant bag
2520 that the medical cannabis pharmacist provides.

2521 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2522 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2523 intentionally designed or constructed to resemble a cigarette.

2524 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2525 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2526 individual's respiratory system.

2527 (8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the
2528 medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

2529 (b) A medical cannabis pharmacy may give, at no cost, educational material related to
2530 the medical use of cannabis.

2531 (9) The department may impose a uniform fee on each medical cannabis transaction in
2532 a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the
2533 department sets in accordance with Section 63J-1-504.

2534 [~~(10)~~] (a) ~~Except as provided in Subsection (10)(b), until December 31, 2020, an~~
2535 ~~individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from~~
2536 ~~a licensed medical cannabis pharmacy if:]~~

2537 ~~[(i) the individual presents to the medical cannabis pharmacy a letter from the medical~~
2538 ~~professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical~~
2539 ~~professional's medical cannabis recommendation for the individual;]~~

2540 ~~[(ii) the medical cannabis pharmacy receives independent confirmation from the~~
2541 ~~medical professional described in Subsection (10)(a)(i) or an employee of the medical~~
2542 ~~professional that the letter is valid;]~~

2543 ~~[(iii) the medical cannabis pharmacy:]~~

2544 ~~[(A) scans or photocopies the individual's letter and the individual's valid form of~~
2545 ~~photo identification;]~~

2546 ~~[(B) creates a record of the transaction, including the documents described in~~
2547 ~~Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis~~
2548 ~~the individual purchased; and]~~

2549 ~~[(C) provides information to the individual about obtaining a medical cannabis card;~~
2550 ~~and]~~

2551 ~~[(iv) unless the medical professional recommends specific directions of using and~~
2552 ~~dosing guidelines in the letter, the pharmacy medical provider determines the best course of~~
2553 ~~treatment through consultation with the individual regarding;]~~

2554 ~~[(A) the individual's qualifying condition underlying the recommendation from the~~
2555 ~~medical professional;]~~

2556 ~~[(B) indications for available treatments;]~~

2557 ~~[(C) directions of use and dosing guidelines; and]~~

2558 ~~[(D) potential adverse reactions;]~~

2559 ~~[(b) (i) An individual who purchases medical cannabis from a medical cannabis~~
2560 ~~pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different~~
2561 ~~medical cannabis pharmacy under Subsection (10)(a).]~~

2562 ~~[(ii) If the department notifies a medical cannabis pharmacy, in accordance with~~
2563 ~~Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a)~~
2564 ~~from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an~~
2565 ~~item listed in Subsection (1)(a) to the individual under Subsection (10)(a).]~~

2566 ~~[(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the~~
2567 ~~individual is a medical cannabis cardholder.]~~

2568 ~~[(c) (i) Until December 31, 2020, on or before the first day of each month, each~~
2569 ~~medical cannabis pharmacy shall provide to the department, in a secure manner, information~~
2570 ~~identifying each individual who has purchased medical cannabis from the medical cannabis~~
2571 ~~pharmacy under Subsection (10)(a).]~~

2572 ~~[(ii) The department shall review information the department receives under~~
2573 ~~Subsection (10)(c)(i) to identify any individuals who:]~~

2574 ~~[(A) have purchased medical cannabis under Subsection (10)(a) from more than one~~
2575 ~~pharmacy; or]~~

2576 ~~[(B) hold a medical cannabis card.]~~

2577 ~~[(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the~~
2578 ~~department shall notify each medical cannabis pharmacy regarding:]~~

2579 ~~[(A) the identification of the individual; and]~~

2580 ~~[(B) the individual's ineligibility to purchase medical cannabis for a reason described in~~
2581 ~~Subsection (10)(b).]~~

2582 ~~[(H)]~~ (10) A medical cannabis pharmacy may purchase and store medical cannabis
2583 devices regardless of whether the seller has a cannabis-related license under this title or Title 4,
2584 Chapter 41a, Cannabis Production Establishments.

2585 Section 26. Section **26-61a-504** is amended to read:

2586 **26-61a-504. Inspections.**

2587 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
2588 treatment recommendation files and other records in accordance with this chapter, department
2589 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
2590 104-191, 110 Stat. 1936, as amended.

2591 (2) The department or the Department of Agriculture and Food may inspect the
2592 records, facility, and inventory of a medical cannabis pharmacy at any time during business
2593 hours in order to determine if the medical cannabis pharmacy complies with this chapter and
2594 Title 4, Chapter 41a, Cannabis Production Establishments.

2595 (3) An inspection under this section may include:

2596 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other
2597 physical or electronic information, or any combination of the above;

2598 (b) questioning of any relevant individual;

2599 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
2600 or label;

2601 (d) random sampling of medical cannabis by the Department of Agriculture and Food
2602 [~~to make the determinations described in Subsection 4-41a-701(2)~~] in accordance with rules
2603 described in Section 4-41a-701; or

2604 (e) seizure of medical cannabis, medical cannabis devices, or educational material as
2605 evidence in a department investigation or inspection or in instances of compliance failure.

2606 (4) In making an inspection under this section, the department or the Department of
2607 Agriculture and Food may freely access any area and review and make copies of a book,
2608 record, paper, document, data, or other physical or electronic information, including financial
2609 data, sales data, shipping data, pricing data, and employee data.

2610 (5) Failure to provide the department, the Department of Agriculture and Food, or the
2611 authorized agents of the department or the Department of Agriculture and Food immediate
2612 access to records and facilities during business hours in accordance with this section may result
2613 in:

2614 (a) the imposition of a civil monetary penalty that the department sets in accordance
2615 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2616 (b) license or registration suspension or revocation; or

2617 (c) an immediate cessation of operations under a cease and desist order that the
2618 department issues.

2619 (6) Notwithstanding any other provision of law, the department may temporarily store
2620 in any department facility the items the department seizes under Subsection (3)(e) until the
2621 department:

2622 (a) determines that sufficient compliance justifies the return of the seized items; or

2623 (b) disposes of the items in the same manner as a cannabis production establishment in
2624 accordance with Section 4-41a-405.

2625 Section 27. Section **26-61a-505** is amended to read:

2626 **26-61a-505. Advertising.**

2627 (1) Except as provided in this section, a medical cannabis pharmacy may not advertise
2628 in any medium.

2629 (2) A medical cannabis pharmacy may advertise an employment opportunity at the

2630 medical cannabis pharmacy.

2631 (3) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a
2632 medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy
2633 that:

2634 ~~[(a)]~~ (i) includes only:

2635 ~~[(i)]~~ (A) in accordance with Subsection (3)(b), the medical cannabis pharmacy's name,
2636 logo, and hours of operation; and

2637 ~~[(ii)]~~ (B) a green cross; and

2638 ~~[(b)]~~ (ii) complies with local ordinances regulating signage.

2639 (b) The department shall define standards for a medical cannabis pharmacy's name and
2640 logo to ensure a medical rather than recreational disposition.

2641 (4) (a) A medical cannabis pharmacy may maintain a website that includes information
2642 about:

2643 (i) the location and hours of operation of the medical cannabis pharmacy;

2644 (ii) a product or service available at the medical cannabis pharmacy;

2645 (iii) personnel affiliated with the medical cannabis pharmacy;

2646 (iv) best practices that the medical cannabis pharmacy upholds; and

2647 (v) educational material related to the medical use of cannabis, as defined by the
2648 department.

2649 (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2650 Administrative Rulemaking Act, to define the educational material described in Subsection
2651 (4)(a).

2652 (5) (a) A medical cannabis pharmacy may hold an educational event for the public or
2653 medical providers in accordance with this Subsection (5) and the rules described in Subsection
2654 (5)(c).

2655 (b) A medical cannabis pharmacy may not include in an educational event described in
2656 Subsection (5)(a):

2657 (i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis
2658 Production Establishments;

2659 (ii) any gift items or merchandise other than educational materials, as those terms are
2660 defined by the department;

2661 (iii) any marketing for a specific product from the medical cannabis pharmacy or any
2662 other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic
2663 Act, 21 U.S.C. Sec. 301, et seq.; or

2664 (iv) a presenter other than the following:

2665 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

2666 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
2667 Practice Act;

2668 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
2669 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2670 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
2671 Assistant Act; ~~or~~

2672 (E) a medical practitioner, similar to the practitioners described in this Subsection
2673 (5)(b)(iv), who is licensed in another state or country;

2674 ~~(F)~~ (F) a state employee~~[-];~~ or

2675 (G) if the presentation relates to a cannabis topic other than medical treatment or
2676 medical conditions, an individual whom the department approves based on the individual's
2677 background and credentials in the presented topic.

2678 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2679 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
2680 event described in Subsection (5)(a), including:

2681 (i) a minimum age of 21 years old for attendees[-]; and

2682 (ii) an exception to the minimum age for a medical cannabis patient cardholder who is
2683 at least 18 years old.

2684 Section 28. Section **26-61a-605** is amended to read:

2685 **26-61a-605. Medical cannabis shipment transportation.**

2686 (1) The department shall ensure that each home delivery medical cannabis pharmacy is
2687 capable of delivering, directly or through a medical cannabis courier, medical cannabis
2688 shipments in a secure manner.

2689 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed
2690 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
2691 cannabis orders that the state central patient portal facilitates.

2692 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
2693 Subsection (2)(a), the pharmacy shall:

2694 (i) impose security and personnel requirements on the medical cannabis courier
2695 sufficient to ensure the security and safety of medical cannabis shipments; and

2696 (ii) provide regular oversight of the medical cannabis courier.

2697 (3) Except for an individual with a valid medical cannabis card who transports a
2698 shipment the individual receives, an individual may not transport a medical cannabis shipment
2699 unless the individual is:

2700 (a) a registered pharmacy medical provider;

2701 (b) a registered medical cannabis pharmacy agent; or

2702 (c) a registered agent of the medical cannabis courier described in Subsection (2).

2703 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
2704 possess a physical or electronic transportation manifest that:

2705 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
2706 inventory control system;

2707 (b) includes origin and destination information for the medical cannabis shipment the
2708 individual is transporting; and

2709 (c) indicates the departure and estimated arrival times and locations of the individual
2710 transporting the medical cannabis shipment.

2711 (5) In addition to the requirements in Subsections (3) and (4), the department may
2712 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2713 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2714 Rulemaking Act, requirements for transporting medical cannabis shipments that are related to
2715 safety for human consumption of cannabis or a cannabis product.

2716 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
2717 manifest that does not meet the requirements of Subsection (4).

2718 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
2719 (6)(a) is:

2720 (i) guilty of an infraction; and

2721 (ii) subject to a \$100 fine.

2722 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not

2723 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2724 underlying the violation described in Subsection (6)(b).

2725 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
2726 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
2727 minimis administrative error:

2728 (i) this chapter does not apply; and

2729 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2730 Substances Act.

2731 Section 29. Section **26-61a-606** is amended to read:

2732 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
2733 **card -- Rebuttable presumption.**

2734 (1) An individual may not serve as a medical cannabis courier agent unless:

2735 (a) the individual is an employee of a licensed medical cannabis courier; and

2736 (b) the department registers the individual as a medical cannabis courier agent.

2737 (2) (a) The department shall, within 15 days after the day on which the department
2738 receives a complete application from a medical cannabis courier on behalf of a medical
2739 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
2740 the prospective agent if the medical cannabis courier:

2741 (i) provides to the department:

2742 (A) the prospective agent's name and address;

2743 (B) the name and address of the medical cannabis courier;

2744 (C) the name and address of each home delivery medical cannabis pharmacy with
2745 which the medical cannabis courier contracts to deliver medical cannabis shipments; and

2746 (D) the submission required under Subsection (2)(b);

2747 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
2748 law of:

2749 (A) a felony; or

2750 (B) after December 3, 2018, a misdemeanor for drug distribution; and

2751 (iii) pays the department a fee in an amount that, subject to Subsection **26-61a-109(5)**,
2752 the department sets in accordance with Section **63J-1-504**.

2753 (b) Except for an applicant reapplying for a medical cannabis courier agent registration

2754 card within less than one year after the expiration of the applicant's previous medical cannabis
2755 courier agent registration card, each prospective agent described in Subsection (2)(a) shall:
2756 (i) submit to the department:
2757 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
2758 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
2759 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
2760 Generation Identification System's Rap Back Service; and
2761 (ii) consent to a fingerprint background check by:
2762 (A) the Bureau of Criminal Identification; and
2763 (B) the Federal Bureau of Investigation.
2764 (c) The Bureau of Criminal Identification shall:
2765 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
2766 the applicable state, regional, and national criminal records databases, including the Federal
2767 Bureau of Investigation Next Generation Identification System;
2768 (ii) report the results of the background check to the department;
2769 (iii) maintain a separate file of fingerprints that prospective agents submit under
2770 Subsection (2)(b) for search by future submissions to the local and regional criminal records
2771 databases, including latent prints;
2772 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2773 Generation Identification System's Rap Back Service for search by future submissions to
2774 national criminal records databases, including the Next Generation Identification System and
2775 latent prints; and
2776 (v) establish a privacy risk mitigation strategy to ensure that the department only
2777 receives notifications for an individual with whom the department maintains an authorizing
2778 relationship.
2779 (d) The department shall:
2780 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
2781 amount that the department sets in accordance with Section 63J-1-504 for the services that the
2782 Bureau of Criminal Identification or another authorized agency provides under this section; and
2783 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
2784 Identification.

2785 (3) The department shall designate on an individual's medical cannabis courier agent
2786 registration card the name of the medical cannabis ~~courier~~ pharmacy where the individual is
2787 registered as an agent and each home delivery medical cannabis courier for which the medical
2788 cannabis courier delivers medical cannabis shipments.

2789 (4) (a) A medical cannabis courier agent shall comply with a certification standard that
2790 the department develops, in collaboration with the Division of Occupational and Professional
2791 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
2792 designates by rule in collaboration with the Division of Occupational and Professional
2793 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
2794 Administrative Rulemaking Act.

2795 (b) The department shall ensure that the certification standard described in Subsection
2796 (4)(a) includes training in:

- 2797 (i) Utah medical cannabis law;
- 2798 (ii) the medical cannabis shipment process; and
- 2799 (iii) medical cannabis courier agent best practices.

2800 (5) (a) A medical cannabis courier agent registration card expires two years after the
2801 day on which the department issues or renews the card.

2802 (b) A medical cannabis courier agent may renew the agent's registration card if the
2803 agent:

- 2804 (i) is eligible for a medical cannabis courier agent registration card under this section;
- 2805 (ii) certifies to the department in a renewal application that the information in
2806 Subsection (2)(a) is accurate or updates the information; and
- 2807 (iii) pays to the department a renewal fee in an amount that:

2808 (A) subject to Subsection [26-61a-109\(5\)](#), the department sets in accordance with
2809 Section [63J-1-504](#); and

2810 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2811 comparison to the original application process.

2812 (6) The department may revoke or refuse to issue or renew the medical cannabis
2813 courier agent registration card of an individual who:

- 2814 (a) violates the requirements of this chapter; or
- 2815 (b) is convicted under state or federal law of:

- 2816 (i) a felony; or
2817 (ii) after December 3, 2018, a misdemeanor for drug distribution.
- 2818 (7) A medical cannabis courier agent whom the department has registered under this
2819 section shall carry the agent's medical cannabis courier agent registration card with the agent at
2820 all times when:
- 2821 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
2822 pharmacy, or a medical cannabis cardholder's home address; and
2823 (b) the agent is handling a medical cannabis shipment.
- 2824 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
2825 the shipment in compliance with Subsection (7):
- 2826 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
2827 (b) there is no probable cause, based solely on the agent's possession of the medical
2828 cannabis shipment that the agent is engaging in illegal activity.
- 2829 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:
- 2830 (i) guilty of an infraction; and
2831 (ii) subject to a \$100 fine.
- 2832 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
2833 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2834 underlying the violation described in Subsection (9)(a).
- 2835 Section 30. Section **26-61a-607** is amended to read:
- 2836 **26-61a-607. Home delivery of medical cannabis shipments.**
- 2837 (1) An individual may not receive and a medical cannabis pharmacy agent or a medical
2838 cannabis courier agent may not deliver a medical cannabis shipment from a home delivery
2839 medical cannabis pharmacy unless:
- 2840 (a) the individual receiving the shipment presents:
- 2841 (i) a valid form of photo identification; and
2842 (ii) a valid medical cannabis card under the same name that appears on the valid form
2843 of photo identification; and
- 2844 (b) the delivery occurs at the medical cannabis cardholder's home address that is on file
2845 in the state electronic verification system.
- 2846 (2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent

2847 distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

- 2848 (a) verify the shipment information using the state electronic verification system;
- 2849 (b) ensure that the individual satisfies the identification requirements in Subsection (1);
- 2850 (c) verify that payment is complete; and
- 2851 (d) record the completion of the shipment transaction in a manner such that the
- 2852 delivery of the shipment will later be recorded within a reasonable period in the electronic
- 2853 verification system.

2854 (3) The medical cannabis courier shall:

- 2855 (a) (i) store each medical cannabis shipment in a secure manner until the recipient
- 2856 medical cannabis cardholder receives the shipment or the medical cannabis courier returns the
- 2857 shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4);
- 2858 and

- 2859 (ii) ensure that only a medical cannabis courier agent is able to access the medical
- 2860 cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

- 2861 (b) return any undelivered medical cannabis shipment to the home delivery medical
- 2862 cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has
- 2863 possessed the shipment for 10 business days; and

- 2864 (c) return any medical cannabis shipment to the home delivery medical cannabis
- 2865 pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to
- 2866 accept the shipment.

- 2867 (4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy
- 2868 agent returns an undelivered medical cannabis shipment that remains unopened, the home
- 2869 delivery medical cannabis pharmacy may repackaging or otherwise reuse the shipment.

- 2870 (b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent
- 2871 returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears
- 2872 to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the
- 2873 shipment by:

- 2874 (i) rendering the shipment unusable and unrecognizable before transporting the
- 2875 shipment from the home delivery medical cannabis pharmacy; and

- 2876 (ii) disposing of the shipment in accordance with:

- 2877 (A) federal and state laws, rules, and regulations related to hazardous waste;

- 2878 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
- 2879 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
- 2880 (D) other regulations that the department makes in accordance with Title 63G, Chapter
- 2881 3, Utah Administrative Rulemaking Act.

2882 Section 31. Section **58-37-3.7** is amended to read:

2883 **58-37-3.7. Medical cannabis decriminalization.**

2884 (1) As used in this section:

- 2885 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).
- 2886 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).
- 2887 (c) "Legal dosage limit" means the same as that term is defined in Section [26-61a-102](#).
- 2888 (d) "Medical cannabis card" means the same as that term is defined in Section
- 2889 [26-61a-102](#).
- 2890 (e) "Medical cannabis device" means the same as that term is defined in Section
- 2891 [26-61a-102](#).
- 2892 (f) "Medicinal dosage form" means the same as that term is defined in Section
- 2893 [26-61a-102](#).
- 2894 (g) "Nonresident patient" means the same as that term is defined in Section
- 2895 [26-61a-102](#).
- 2896 (h) "Qualifying condition" means the same as that term is defined in Section
- 2897 [26-61a-102](#).
- 2898 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
- 2899 [58-37-3.9](#).

2900 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or

2901 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

2902 (a) at the time of the arrest or citation, the individual:

2903 (i) (A) had been diagnosed with a qualifying condition; and

2904 (B) had a pre-existing provider-patient relationship with an advanced practice

2905 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed

2906 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,

2907 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under

2908 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness

2909 described in Subsection (2)(a)(i)(A) could benefit from the use in question;

2910 (ii) for possession, was:

2911 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
2912 is a minor; or

2913 (B) the spouse of an individual described in Subsection (2)(a)(i); or

2914 (iii) (A) for possession, was a medical cannabis cardholder; or

2915 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
2916 condition under the supervision of a medical cannabis guardian cardholder; and

2917 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
2918 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
2919 dosage limit:

2920 (A) unprocessed cannabis in a medicinal dosage form; or

2921 (B) a cannabis product in a medicinal dosage form; and

2922 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
2923 medical cannabis device.

2924 (3) A nonresident patient is not guilty under this chapter for the use or possession of
2925 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

2926 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
2927 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
2928 dosage limit:

2929 (i) unprocessed cannabis in a medicinal dosage form; or

2930 (ii) a cannabis product in a medicinal dosage form; and

2931 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
2932 medical cannabis device.

2933 (4) (a) There is a rebuttable presumption against an allegation of use or possession of
2934 marijuana or tetrahydrocannabinol if:

2935 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the
2936 sample; and

2937 (ii) the individual provides evidence that the individual possessed or used cannabidiol
2938 or a cannabidiol product.

2939 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that

2940 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized
2941 under:

2942 (i) Section 4-41-402; or

2943 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

2944 (5) (a) An individual is not guilty under this chapter for the use or possession of
2945 marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

2946 (b) Nothing in this section prohibits a person, either within the state or outside the
2947 state, from selling a medical cannabis device within the state.

2948 (c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
2949 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for
2950 the protections of this section to sell a medical cannabis device.

2951 Section 32. Section 58-37-3.9 is amended to read:

2952 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**
2953 **illness.**

2954 (1) As used in this section:

2955 (a) "Cannabis" means marijuana.

2956 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

2957 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

2958 (d) "Medical cannabis cardholder" means the same as that term is defined in Section
2959 26-61a-102.

2960 (e) "Medical cannabis device" means the same as that term is defined in Section
2961 26-61a-102.

2962 (f) " Medicinal dosage form" means the same as that term is defined in Section
2963 26-61a-102.

2964 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic
2965 description as described in Subsection 58-37-4(2)(a)(iii)(AA).

2966 (2) Notwithstanding any other provision of law, except as otherwise provided in this
2967 section:

2968 (a) an individual is not guilty of a violation of this title for the following conduct if the
2969 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis
2970 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

2971 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,
2972 selling, or offering to sell cannabis or a cannabis product; or

2973 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct
2974 described in Subsection (2)(a)(i); and

2975 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if
2976 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,
2977 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

2978 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis
2979 device; or

2980 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct
2981 described in Subsection (2)(b)(i).

2982 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or
2983 heating of medical cannabis.

2984 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical
2985 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking
2986 or combustion of cannabis.

2987 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or
2988 engages in any other conduct described in Subsection (3)(b):

2989 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah
2990 Medical Cannabis Act; and

2991 (ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug
2992 paraphernalia for the conduct described in Subsection (3)(b):

2993 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

2994 (B) for a second or subsequent offense, subject to charges under this chapter.

2995 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,
2996 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
2997 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a
2998 penalty described in this chapter for:

2999 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis
3000 product; or

3001 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3002 (5) (a) Nothing in this section prohibits a person, either within the state or outside the
3003 state, from selling a medical cannabis device within the state.

3004 (b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
3005 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for
3006 the protections of this section to sell a medical cannabis device.

3007 Section 33. **Effective date.**

3008 If approved by two-thirds of all the members elected to each house, this bill takes effect
3009 upon approval by the governor, or the day following the constitutional time limit of Utah
3010 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
3011 the date of veto override.

3012 Section 34. **Coordinating S.B. 192 with S.B. 170 -- Substantive amendments.**

3013 If this S.B. 192 and S.B. 170, Consumer Protection for Cannabis Patients, both pass and
3014 become law, it is the intent of the Legislature that the Office of Legislative Research and
3015 General Counsel shall prepare the Utah Code database for publication by amending Subsection
3016 26-61a-502(4)(a) to read:

3017 "(4) If a [~~qualified~~] recommending medical provider recommends treatment with
3018 medical cannabis but [~~does not provide~~] wishes for the pharmacy medical provider to
3019 determine directions of use and dosing guidelines:

3020 (a) the [~~qualified~~] recommending medical provider shall [~~document in the~~
3021 recommendation] provide to the pharmacy medical provider, either through the state electronic
3022 verification system or through a medical cannabis pharmacy's recording of a recommendation
3023 under the order of a limited medical provider, any of the following information that the
3024 recommending medical provider feels would be needed to provide appropriate directions of use
3025 and dosing guidelines:

3026 (i) [~~an evaluation of~~] information regarding the qualifying condition underlying the
3027 recommendation;

3028 (ii) information regarding prior treatment attempts with medical cannabis; and

3029 (iii) portions of the patient's current medication list; and".