

Senator Luz Escamilla proposes the following substitute bill:

MEDICAL CANNABIS AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill enacts provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires cannabis processing facilities and medical cannabis pharmacies to provide terpene information for certain cannabis products;
- ▶ modifies patient caps for qualified medical providers;
- ▶ for the initial issuance of a medical cannabis card, extends the expiration date from six months to one year unless the recommending medical provider provides a shorter expiration date;
- ▶ allows the Department of Health and Human Services to revoke a medical cannabis patient card if the recommending medical provider withdraws the provider's recommendation for medical cannabis;
- ▶ allows certain physician assistants to diagnose post-traumatic stress syndrome for the purpose of recommending medical cannabis;
- ▶ allows medical cannabis pharmacies to maintain a liquid cash account instead of a surety bond;



- ▶ allows the Compassionate Use Board to review the recommendation of a cannabis product that must be vaporized under certain circumstances;
- ▶ allows a recommending medical provider to provide an initial recommendation for medical cannabis virtually under certain circumstances;
- ▶ modifies continuing education requirements for qualified medical providers;
- ▶ allows an individual residing in certain care facilities to use an expired license to obtain medical cannabis;
- ▶ consolidates certain criminal background check requirements for guardians and caregivers;
- ▶ for publicly traded medical cannabis pharmacies, changes the ownership percentage an individual must have to be:
 - listed in an application for a license; or
 - required to submit a background check;
- ▶ repeals provisions related to the state central patient portal medical provider;
- ▶ removes the requirement that before an individual obtains a medical cannabis pharmacy agent card that the individual be employed by a medical cannabis pharmacy;
- ▶ removes the requirement that before an individual obtains a medical cannabis courier agent card that the individual be employed by a medical cannabis courier;
- ▶ authorizes a medical cannabis pharmacy to engage in targeted marketing; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 4-41a-602**, as last amended by Laws of Utah 2022, Chapter 290
- 26-61-202**, as last amended by Laws of Utah 2022, Chapter 415
- 26-61a-102**, as last amended by Laws of Utah 2022, Chapters 290, 452
- 26-61a-103**, as last amended by Laws of Utah 2022, Chapters 290, 415

57 **26-61a-104**, as last amended by Laws of Utah 2022, Chapters 277, 452
58 **26-61a-105**, as last amended by Laws of Utah 2022, Chapter 452
59 **26-61a-106**, as last amended by Laws of Utah 2022, Chapters 415, 452
60 **26-61a-116**, as enacted by Laws of Utah 2022, Chapter 452
61 **26-61a-201**, as last amended by Laws of Utah 2022, Chapters 198, 290 and 452
62 **26-61a-202**, as last amended by Laws of Utah 2022, Chapters 290, 452
63 **26-61a-301**, as last amended by Laws of Utah 2022, Chapter 290
64 **26-61a-302**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
65 **26-61a-401**, as last amended by Laws of Utah 2022, Chapters 290, 415
66 **26-61a-403**, as last amended by Laws of Utah 2022, Chapters 415, 452
67 **26-61a-501**, as last amended by Laws of Utah 2022, Chapters 290, 415
68 **26-61a-502**, as last amended by Laws of Utah 2022, Chapter 290
69 **26-61a-503**, as last amended by Laws of Utah 2022, Chapter 415
70 **26-61a-505**, as last amended by Laws of Utah 2022, Chapter 452 and last amended by
71 Coordination Clause, Laws of Utah 2022, Chapter 290
72 **26-61a-506**, as last amended by Laws of Utah 2022, Chapter 415
73 **26-61a-601**, as last amended by Laws of Utah 2021, Chapter 337
74 **26-61a-604**, as last amended by Laws of Utah 2022, Chapters 290, 452
75 **26-61a-606**, as last amended by Laws of Utah 2022, Chapters 290, 415
76 **26-61a-607**, as last amended by Laws of Utah 2022, Chapter 452
77 **58-17b-502**, as last amended by Laws of Utah 2022, Chapter 465
78 **58-67-502**, as last amended by Laws of Utah 2021, Chapter 337
79 **58-68-502**, as last amended by Laws of Utah 2021, Chapter 337
80 **78A-2-231**, as last amended by Laws of Utah 2022, Chapter 256
81 **80-3-110**, as last amended by Laws of Utah 2022, Chapter 256
82 **80-4-109**, as enacted by Laws of Utah 2021, Chapter 261
83 ENACTS:
84 **26-61a-117**, Utah Code Annotated 1953
85 **26-61a-206**, Utah Code Annotated 1953
86 REPEALS:
87 **26-61a-602**, as last amended by Laws of Utah 2020, Chapter 354

88
89 *Be it enacted by the Legislature of the state of Utah:*

90 Section 1. Section **4-41a-602** is amended to read:

91 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

95 (i) clearly and unambiguously states that the cannabis product or package contains
96 cannabis;

97 (ii) clearly displays the amount of total composite tetrahydrocannabinol, cannabidiol,
98 and any known cannabinoid described in Subsection **4-41a-701**(4) in the labeled container;

99 (iii) has a unique identification number that:

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

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

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

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

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

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

111 (i) is tamper evident and tamper resistant;

112 (ii) does not appeal to children;

113 (iii) does not mimic a candy container;

114 (iv) complies with child-resistant effectiveness standards that the United States
115 Consumer Product Safety Commission establishes; and

116 (v) includes a warning label that states:

117 (A) for a container labeled before July 1, 2021, "WARNING: Cannabis has
118 intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its

influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."; or

(B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

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

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

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

(3) For any cannabis product that contains any derivative cannabinoid or synthetic cannabinoid, the cannabis processing facility shall ensure that the label clearly:

(a) identifies each derivative cannabinoid or synthetic cannabinoid; and

(b) identifies that each derivative or synthetic cannabinoid is a derivative or synthetic cannabinoid.

(4) Beginning January 1, 2024, test for terpene profiles and record the highest five terpene profiles for:

(a) raw cannabis; or

(b) a cannabis product:

(i) contained in a vaporizer cartridge; or

(ii) in concentrate form.

~~[(4)]~~ (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) shall make rules to establish:

(i) a standard labeling format that:

(A) complies with the requirements of this section; and

(B) ensures inclusion of a pharmacy label; and

(ii) additional requirements on packaging for cannabis and cannabis products to ensure

150 safety and product quality; and

151 (b) may make rules to further define standards regarding images, words, phrases, or
152 containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

153 Section 2. Section **26-61-202** is amended to read:

154 **26-61-202. Duties.**

155 (1) The board shall review any available scientific research related to the human use of
156 cannabis, a cannabinoid product, or an expanded cannabinoid product that:

157 (a) was conducted under a study approved by an IRB;

158 (b) was conducted or approved by the federal government; or

159 (c) (i) was conducted in another country; and

160 (ii) demonstrates, as determined by the board, a sufficient level of scientific reliability
161 and significance to merit the board's review.

162 (2) Based on the research described in Subsection (1), the board shall evaluate the
163 safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products,
164 including:

165 (a) medical conditions that respond to cannabis, cannabinoid products, and expanded
166 cannabinoid products;

167 (b) cannabis and cannabinoid dosage amounts and medical dosage forms;

168 (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products
169 with other treatments; and

170 (d) contraindications, adverse reactions, and potential side effects from use of cannabis,
171 cannabinoid products, and expanded cannabinoid products.

172 (3) (a) Based on the board's evaluation under Subsection (2), the board shall develop
173 guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid
174 product that include:

175 ~~[(a)]~~ (i) a list of medical conditions, if any, that the board determines are appropriate
176 for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded
177 cannabinoid product;

178 ~~[(b)]~~ (ii) a list of contraindications, side effects, and adverse reactions that are
179 associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;

180 ~~[(c)]~~ (iii) a list of potential drug-drug interactions between medications that the United

States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and

~~[(4)]~~ (iv) any other guideline the board determines appropriate.

~~[(4)]~~ (b) The board shall submit the guidelines described in Subsection (3) to the director of the Division of Professional Licensing.

~~[(5)]~~ (c) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act.

(4) The board shall provide a report to the Health and Human Services Interim Committee regarding the board's work before October 1 of each year.

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

26-61a-102. Definitions.

As used in this chapter:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Advertise" or "advertising" means information provided by a medical cannabis pharmacy in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 18 years old.

~~[(2)]~~ (3) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section **26-61-201**.

~~[(3)]~~ (4) "Cannabis" means marijuana.

~~[(4)]~~ (5) "Cannabis cultivation facility" means the same as that term is defined in Section **4-41a-102**.

~~[(5)]~~ (6) "Cannabis processing facility" means the same as that term is defined in Section **4-41a-102**.

~~[(6)]~~ (7) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

212 ~~[(7)]~~ (8) "Cannabis production establishment" means the same as that term is defined
213 in Section [4-41a-102](#).

214 ~~[(8)]~~ (9) "Cannabis production establishment agent" means the same as that term is
215 defined in Section [4-41a-102](#).

216 ~~[(9)]~~ (10) "Cannabis production establishment agent registration card" means the same
217 as that term is defined in Section [4-41a-102](#).

218 ~~[(10)]~~ (11) "Community location" means a public or private elementary or secondary
219 school, a church, a public library, a public playground, or a public park.

220 ~~[(11)]~~ (12) "Conditional medical cannabis card" means an electronic medical cannabis
221 card that the department issues in accordance with Subsection [26-61a-201](#)(1)(b) to allow an
222 applicant for a medical cannabis card to access medical cannabis during the department's
223 review of the application.

224 ~~[(12)]~~ (13) "Controlled substance database" means the controlled substance database
225 created in Section [58-37f-201](#).

226 (14) "Delivery address" means:

227 (a) for a medical cannabis cardholder who is not a facility, the medical cannabis
228 cardholder's home address; or

229 (b) for a medical cannabis cardholder that is a facility, the facility's address.

230 ~~[(13)]~~ (15) "Department" means the Department of Health.

231 ~~[(14)]~~ (16) "Designated caregiver" means:

232 (a) an individual:

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

235 (ii) who registers with the department under Section [26-61a-202](#); or

236 (b) (i) a facility that an individual designates as a designated caregiver in accordance
237 with Subsection [26-61a-202](#)(1)(b); or

238 (ii) an assigned employee of the facility described in Subsection [26-61a-202](#)(1)(b)(ii).

239 ~~[(15)]~~ (17) "Directions of use" means recommended routes of administration for a
240 medical cannabis treatment and suggested usage guidelines.

241 ~~[(16)]~~ (18) "Dosing guidelines" means a quantity range and frequency of administration
242 for a recommended treatment of medical cannabis.

243 [(17)] (19) "Financial institution" means a bank, trust company, savings institution, or
244 credit union, chartered and supervised under state or federal law.

245 (20) "Government issued photo identification" means any of the following forms of
246 identification:

247 (a) a valid state-issued driver license or identification card;

248 (b) a valid United States federal-issued photo identification, including:

249 (i) a United States passport;

250 (ii) a United States passport card;

251 (iii) a United States military identification card; or

252 (iv) a permanent resident card or alien registration receipt card; or

253 (c) a foreign passport.

254 [(18)] (21) "Home delivery medical cannabis pharmacy" means a medical cannabis
255 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
256 cannabis shipments to a ~~[medical cannabis cardholder's home address]~~ delivery address to
257 fulfill electronic orders that the state central patient portal facilitates.

258 [(19)] (22) "Inventory control system" means the system described in Section
259 4-41a-103.

260 [(20)] (23) "Legal dosage limit" means an amount that:

261 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
262 relevant recommending medical provider or the state central patient portal or pharmacy
263 medical provider, in accordance with Subsection 26-61a-502(4) ~~[or (5)]~~, recommends; and

264 (b) may not exceed:

265 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

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

268 [(21)] (24) "Legal use termination date" means a date on the label of a container of
269 unprocessed cannabis flower:

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

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

273 [(22)] (25) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26-61a-106(1)(b).

~~[(23)]~~ (26) "Marijuana" means the same as that term is defined in Section 58-37-2.

~~[(24)]~~ (27) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

~~[(25)]~~ (28) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

~~[(26)]~~ (29) "Medical cannabis cardholder" means:

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

(b) a facility or assigned employee, described in Subsection ~~[(14)(b)]~~ (16)(b), only:

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

(ii) while in possession of documentation that establishes:

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

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

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

~~[(27)]~~ (30) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

~~[(28)]~~ (31) "Medical cannabis courier" means a courier that:

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

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

~~[(29)]~~ (32) "Medical cannabis courier agent" means an individual ~~[who:]~~

305 ~~[(a) is an employee of a medical cannabis courier; and]~~
306 ~~[(b)]~~ who holds a valid medical cannabis courier agent registration card issued by the
307 department.

308 ~~[(30)]~~ (33) (a) "Medical cannabis device" means a device that an individual uses to
309 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
310 dosage form.

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

312 (i) facilitates cannabis combustion; or

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

314 ~~[(31)]~~ (34) "Medical cannabis guardian card" means an electronic document that a
315 cardholder may print or store on an electronic device or a physical card or document that:

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

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

319 ~~[(32)]~~ (35) "Medical cannabis patient card" means an electronic document that a
320 cardholder may print or store on an electronic device or a physical card or document that:

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

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

323 ~~[(33)]~~ (36) "Medical cannabis pharmacy" means a person that:

324 (a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a
325 medicinal dosage form from a cannabis processing facility or another medical cannabis
326 pharmacy or a medical cannabis device; or

327 (ii) possesses medical cannabis or a medical cannabis device; and

328 (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical
329 cannabis cardholder.

330 ~~[(34)]~~ (37) "Medical cannabis pharmacy agent" means an individual ~~[who:]~~

331 ~~[(a) is an employee of a medical cannabis pharmacy; and]~~

332 ~~[(b)]~~ who holds a valid medical cannabis pharmacy agent registration card issued by
333 the department.

334 ~~[(35)]~~ (38) "Medical cannabis pharmacy agent registration card" means a registration
335 card issued by the department that authorizes an individual to act as a medical cannabis

336 pharmacy agent.

337 ~~[(36)]~~ (39) "Medical cannabis shipment" means a shipment of medical cannabis or a
338 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
339 cannabis courier delivers to a ~~[medical cannabis cardholder's home address]~~ delivery address to
340 fulfill an electronic medical cannabis order that the state central patient portal facilitates.

341 ~~[(37)]~~ (40) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
342 cannabis product in a medicinal dosage form, or a medical cannabis device.

343 ~~[(38)]~~ (41) (a) "Medicinal dosage form" means:

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

346 (A) a tablet;

347 (B) a capsule;

348 (C) a concentrated liquid or viscous oil;

349 (D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

350 (E) a topical preparation;

351 (F) a transdermal preparation;

352 (G) a sublingual preparation;

353 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
354 rectangular cuboid shape;

355 (I) a resin or wax; or

356 (J) an aerosol; or

357 (ii) for unprocessed cannabis flower, a container described in Section ~~4-41a-602~~ that:

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

360 (B) at any time the medical cannabis cardholder transports or possesses the container in
361 public, is contained within an opaque bag or box that the medical cannabis pharmacy provides;
362 and

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

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

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

- (i) the medical cannabis cardholder has recently removed from the container described in Subsection ~~[(38)]~~ (41)(a)(ii) for use; and
- (ii) does not exceed the quantity described in Subsection ~~[(38)]~~ (41)(a)(ii).

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

- (i) any unprocessed cannabis flower outside of the container described in Subsection ~~[(38)]~~ (41)(a)(ii), except as provided in Subsection ~~[(38)]~~ (41)(b);
- (ii) any unprocessed cannabis flower in a container described in Subsection ~~[(38)]~~ (41)(a)(ii) after the legal use termination date;
- (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch; or
- (iv) a liquid suspension that is branded as a beverage.

~~[(39)]~~ (42) "Nonresident patient" means an individual who:

- (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;
- (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and
- (c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

~~[(40)]~~ (43) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

~~[(41)]~~ (44) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

~~[(42)]~~ (45) "Provisional patient card" means a card that:

- (a) the department issues to a minor with a qualifying condition for whom:
 - (i) a recommending medical provider has recommended a medical cannabis treatment;

and

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

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

~~[(43)]~~ (46) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

~~[(44)]~~ (47) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

~~[(45)]~~ (48) "Qualifying condition" means a condition described in Section 26-61a-104.

~~[(46)]~~ (49) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

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

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

~~[(47)]~~ (50) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

~~[(48)]~~ (51) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

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

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

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

~~[(49)]~~ (52) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

~~[(50)] "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with~~

~~medical cannabis cardholders in accordance with Section 26-61a-602.]~~

~~[(51)]~~ (53) "State electronic verification system" means the system described in Section 26-61a-103.

(54) "Targeted marketing" means the promotion by a medical cannabis pharmacy of a medical cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication that requires acknowledgment by the individual receiving or accessing the communication that the individual is at least 18 years old;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event; or

(c) other marketing material that is physically available or digitally displayed in:

(i) a medical cannabis pharmacy; and

(ii) an area where only a medical cannabis cardholder has access.

~~[(52)]~~ (55) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

~~[(53)]~~ (56) "THC analog" means the same as that term is defined in Section 4-41-102.

~~[(54) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:]~~

~~[(a) a valid state-issued driver license or identification card;]~~

~~[(b) a valid United States federal-issued photo identification, including:]~~

~~[(i) a United States passport;]~~

~~[(ii) a United States passport card;]~~

~~[(iii) a United States military identification card; or]~~

~~[(iv) a permanent resident card or alien registration receipt card; or]~~

~~[(c) a passport that another country issued.]~~

Section 4. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

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

(a) enter into a memorandum of understanding in order to determine the function and

operation of the state electronic verification system in accordance with Subsection (2);

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

(c) select a third-party provider who:

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

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

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

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

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

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

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

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

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

(ii) electronically recommend~~[, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(a)(iii),]~~ treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing

491 guidelines; ~~and~~

492 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
493 medical cannabis guardian cardholder:

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

496 (B) during a face-to-face visit with the patient, for a qualified medical provider who
497 did not originally recommend the medical cannabis treatment during a face-to-face visit~~[-]; and~~

498 (iv) submit an initial application, renewal application, or application payment on behalf
499 of an individual applying for any of the following:

500 (A) a medical cannabis patient card;

501 (B) a medical cannabis guardian card; or

502 (C) a medical cannabis caregiver card;

503 ~~(d) [beginning on the earlier of September 1, 2021, or the date on which the electronic~~
504 ~~verification system is functionally capable of facility medical cannabis pharmacy recording,~~
505 ~~]allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in~~
506 ~~accordance with Subsection 26-61a-501(10)(a), to:~~

507 (i) access the electronic verification system to review the history within the system of a
508 patient with whom the provider or agent is interacting, limited to read-only access for medical
509 cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge
510 authorizes add and edit access;

511 (ii) record a patient's recommendation from a limited medical provider, including any
512 directions of use, dosing guidelines, or caregiver indications from the limited medical provider;
513 ~~and~~

514 (iii) record a limited medical provider's renewal of the provider's previous
515 recommendation; and

516 (iv) submit an initial application, renewal application, or application payment on behalf
517 of an individual applying for any of the following:

518 (A) a medical cannabis patient card;

519 (B) a medical cannabis guardian card; or

520 (C) a medical cannabis caregiver card;

521 (e) connects with:

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

(A) the time and date of each purchase;

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

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

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

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

(f) provides access to:

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

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

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

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

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

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

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

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

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

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection

~~[26-61a-502(6)(a)(ii)]~~ 26-61a-502(5)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) ~~[Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an]~~ An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

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

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written

notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

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

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

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

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

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

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

(b) ~~[Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a]~~ A prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

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

(a) conducting medical and other department approved research;

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

(c) other official department purposes.

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

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

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

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

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

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

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

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

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

(i) a third degree felony; and

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

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

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

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

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

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

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

Section 5. Section **26-61a-104** is amended to read:

26-61a-104. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

- 646 (a) HIV or acquired immune deficiency syndrome;
647 (b) Alzheimer's disease;
648 (c) amyotrophic lateral sclerosis;
649 (d) cancer;
650 (e) cachexia;
651 (f) persistent nausea that is not significantly responsive to traditional treatment, except
652 for nausea related to:
653 (i) pregnancy;
654 (ii) cannabis-induced cyclical vomiting syndrome; or
655 (iii) cannabinoid hyperemesis syndrome;
656 (g) Crohn's disease or ulcerative colitis;
657 (h) epilepsy or debilitating seizures;
658 (i) multiple sclerosis or persistent and debilitating muscle spasms;
659 (j) post-traumatic stress disorder that is being treated and monitored by a licensed
660 mental health therapist, as that term is defined in Section 58-60-102, and that:
661 (i) has been diagnosed by a healthcare provider or mental health provider employed or
662 contracted by the United States Veterans Administration, evidenced by copies of medical
663 records from the United States Veterans Administration that are included as part of the
664 qualified medical provider's pre-treatment assessment and medical record documentation; or
665 (ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of
666 the patient, by a provider who is:
667 (A) a licensed board-eligible or board-certified psychiatrist;
668 (B) a licensed psychologist with a master's-level degree;
669 (C) a licensed clinical social worker with a master's-level degree; [or]
670 (D) a licensed advanced practice registered nurse who is qualified to practice within
671 the psychiatric mental health nursing specialty and who has completed the clinical practice
672 requirements in psychiatric mental health nursing, including in psychotherapy, in accordance
673 with Subsection 58-31b-302(5)(g); or
674 (E) a licensed physician assistant who is qualified to specialize in mental health care
675 under Section 58-70a-501.1;
676 (k) autism;

- 677 (l) a terminal illness when the patient's remaining life expectancy is less than six
678 months;
- 679 (m) a condition resulting in the individual receiving hospice care;
- 680 (n) a rare condition or disease that:
- 681 (i) affects less than 200,000 individuals in the United States, as defined in Section 526
682 of the Federal Food, Drug, and Cosmetic Act; and
- 683 (ii) is not adequately managed despite treatment attempts using:
- 684 (A) conventional medications other than opioids or opiates; or
- 685 (B) physical interventions;
- 686 (o) pain lasting longer than two weeks that is not adequately managed, in the qualified
687 medical provider's opinion, despite treatment attempts using:
- 688 (i) conventional medications other than opioids or opiates; or
- 689 (ii) physical interventions;
- 690 (p) pain that is expected to last for two weeks or longer for an acute condition,
691 including a surgical procedure, for which a medical professional may generally prescribe
692 opioids for a limited duration, subject to Subsection 26-61a-201(5)(c); and
- 693 (q) a condition that the Compassionate Use Board approves under Section 26-61a-105,
694 on an individual, case-by-case basis.

695 Section 6. Section 26-61a-105 is amended to read:

696 **26-61a-105. Compassionate Use Board.**

- 697 (1) (a) The department shall establish a Compassionate Use Board consisting of:
- 698 (i) seven qualified medical providers that the executive director appoints and the
699 Senate confirms:
- 700 (A) who are knowledgeable about the medicinal use of cannabis;
- 701 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
702 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
- 703 (C) ~~[whom the appropriate board certifies]~~ who are board certified by the American
704 Board of Medical Specialties or an American Osteopathic Association Specialty Certifying
705 Board in the specialty of neurology, pain medicine and pain management, medical oncology,
706 psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or
707 gastroenterology; and

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

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

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

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

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

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

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

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

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

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

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

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

(5) The Compassionate Use Board shall:

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

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

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

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

(ii) the qualified medical provider:

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

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

(iii) the Compassionate Use Board determines that:

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

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

(b) ~~[review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;]~~ when a qualified medical provider recommends that an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) be allowed to use a medical cannabis device or medical cannabis product to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis product;

(c) unless no petitions are pending:

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

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

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

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

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

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

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

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

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

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

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

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

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

(A) issue the relevant medical cannabis card; and

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

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

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

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

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

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

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

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board.

Section 7. Section **26-61a-106** is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

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

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section **58-5a-102**.

(b) ~~[Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection **26-61a-103**(2)(d), an]~~ An individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) that the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) that the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

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

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

(ii) provides to the department ~~[a report detailing the individual's completion of the]~~
~~[applicable continuing education requirement described in Subsection (3)]~~ an acknowledgment
that the individual has completed four hours of continuing education related to medical
cannabis;

(iii) provides to the department evidence that the individual meets the recommending
qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the
information described in Subsection (10)(a); and

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

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

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

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

(i) a pharmacy medical provider; or

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

(3) (a) An individual shall complete the continuing education ~~[described in this~~
~~Subsection (3)]~~ related to medical cannabis in the following amounts:

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

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

~~[(b) In accordance with Subsection (3)(a), a qualified medical provider shall:]~~

~~[(i) complete continuing education:]~~

~~[(A) regarding the topics described in Subsection (3)(d); and]~~

~~[(B) offered by the department under Subsection (3)(e) or an accredited or approved
continuing education provider that the department recognizes as offering continuing education
appropriate for the recommendation of cannabis to patients; and]~~

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

894 ~~[(A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing~~
895 ~~Act, the Podiatric Physician Board;]~~

896 ~~[(B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,~~
897 ~~Nurse Practice Act, the Board of Nursing;]~~

898 ~~[(C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical~~
899 ~~Practice Act, the Physicians Licensing Board;]~~

900 ~~[(D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah~~
901 ~~Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;~~
902 ~~and]~~

903 ~~[(E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician~~
904 ~~Assistant Act, the Physician Assistant Licensing Board;]~~

905 ~~[(e)]~~ (b) The department may, in consultation with the Division of Professional
906 Licensing, develop ~~[the]~~ continuing education ~~[described in this Subsection (3)]~~ related to
907 medical cannabis.

908 ~~[(d)]~~ (c) The continuing education described in this Subsection (3) may discuss:
909 (i) the provisions of this chapter;
910 (ii) general information about medical cannabis under federal and state law;
911 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
912 including risks and benefits;
913 (iv) recommendations for medical cannabis as it relates to the continuing care of a
914 patient in pain management, risk management, potential addiction, or palliative care; and
915 (v) best practices for recommending the form and dosage of medical cannabis products
916 based on the qualifying condition underlying a medical cannabis recommendation.

917 (4) ~~[(a) Except as provided in Subsection (4)(b), a qualified medical provider may not~~
918 ~~recommend a medical cannabis treatment to more than 275 of the qualified medical provider's~~
919 ~~patients at the same time, as determined by the number of medical cannabis cards under the~~
920 ~~qualified medical provider's name in the state electronic verification system;]~~

921 ~~[(b) A qualified medical provider may recommend a medical cannabis treatment to up~~
922 ~~to 600 of the qualified medical provider's patients at any given time, as determined by the~~
923 ~~number of medical cannabis cards under the qualified medical provider's name in the state~~
924 ~~electronic verification system, if:]~~

925 ~~[(i) the appropriate American medical board has certified the qualified medical~~
926 ~~provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain,~~
927 ~~hospice and palliative medicine, physical medicine and rehabilitation, rheumatology,~~
928 ~~endocrinology, or psychiatry; or]~~

929 ~~[(ii) a licensed business employs or contracts with the qualified medical provider for~~
930 ~~the specific purpose of providing hospice and palliative care.]~~

931 (a) Except as provided in Subsection (4)(b), a qualified medical provider may not
932 recommend a medical cannabis treatment to more than 2% of the total amount of medical
933 cannabis patient cardholders.

934 (b) If a qualified medical provider receives payment from an insurance plan for
935 services provided under this chapter, then the patient whose insurance plan was billed does not
936 count toward the 2% patient cap described in Subsection (4)(a).

937 (5) A recommending medical provider may recommend medical cannabis to an
938 individual under this chapter only in the course of a provider-patient relationship after the
939 recommending medical provider has completed and documented in the patient's medical record
940 a thorough assessment of the patient's condition and medical history based on the appropriate
941 standard of care for the patient's condition.

942 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the
943 individual recommends a medical cannabis treatment.

944 (b) Notwithstanding Subsection (6)(a) and subject to Section 26-61a-116, a qualified
945 medical provider or clinic or office that employs a qualified medical provider may advertise the
946 following:

947 (i) a green cross;
948 (ii) the provider's or clinic's name and logo;
949 (iii) a qualifying condition that the individual treats;
950 (iv) that the individual is registered as a qualified medical provider and recommends
951 medical cannabis; or

952 (v) a scientific study regarding medical cannabis use.

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

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

956 provider:

957 (i) applies for renewal;

958 (ii) is eligible for a qualified medical provider registration card under this section,
959 including maintaining an unrestricted license under the recommending qualifications;

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

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

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

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

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

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

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

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

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

975 (c) a recommending medical provider or pharmacy medical provider.

976 (10) (a) On or before November 1, 2021, a qualified medical provider shall report to
977 the department, in a manner designated by the department:

978 (i) if applicable, that the qualified medical provider or the entity that employs the
979 qualified medical provider represents online or on printed material that the qualified medical
980 provider is a qualified medical provider or offers medical cannabis recommendations to
981 patients; and

982 (ii) the fee amount that the qualified medical provider or the entity that employs the
983 qualified medical provider charges a patient for a medical cannabis recommendation, either as
984 an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

985 (b) The department shall:

986 (i) ensure that the following information related to qualified medical providers and

entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 8. Section 26-61a-116 is amended to read:

26-61a-116. Advertising.

(1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis[-], including:

(a) a promotional discount or incentive;

(b) a particular medical cannabis product, medical cannabis device, medical cannabis brand, or medicinal dosage form; or

(c) an assurance of a medical outcome related to a medical cannabis treatment.

~~[(2) Notwithstanding any authorization to advertise regarding medical cannabis under this chapter, the person advertising may not advertise:]~~

~~[(a) using promotional discounts or incentives;]~~

~~[(b) a particular medical cannabis product, medical cannabis device, or medicinal dosage form; or]~~

~~[(c) an assurance regarding an outcome related to medical cannabis treatment.]~~

~~[(3)]~~ (2) Notwithstanding Subsection (1):

(a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and

(b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.

1018 ~~[(4)]~~ (3) To ensure that the name and logo of a licensee under this chapter have a
1019 medical rather than a recreational disposition, the name and logo of the licensee:

1020 (a) may include terms and images associated with:

1021 (i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy,"
1022 "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate,"
1023 "relief," "treatment," and "patient;" or

1024 (ii) the plant form of cannabis, including "leaf," "flower," and "bloom";

1025 (b) may not include:

1026 (i) any term, statement, design representation, picture, or illustration that is associated
1027 with a recreational disposition or that appeals to children;

1028 (ii) an emphasis on a psychoactive ingredient;

1029 (iii) a specific cannabis strain; or

1030 (iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass,"
1031 "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke,"
1032 "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust,"
1033 "bong," "budtender," "dab," "blaze," "toke," or "420."

1034 ~~[(5)]~~ (4) The department shall define standards for advertising authorized under this
1035 chapter, including names and logos in accordance with Subsection (4), to ensure a medical
1036 rather than recreational disposition.

1037 Section 9. Section **26-61a-117** is enacted to read:

1038 **26-61a-117. Government issued photo identification.**

1039 A government issued photo identification is valid for purposes of this chapter if the
1040 identification:

1041 (1) is unexpired;

1042 (2) expired within the previous six months; or

1043 (3) is expired and belongs to an individual who:

1044 (a) as reported by the individual's recommending medical provider is in hospice or has
1045 a terminal illness; or

1046 (b) is a patient or resident of:

1047 (i) an assisted living facility, as defined in Section 26-21-2;

1048 (ii) a nursing care facility, as defined in Section 26-21-2; or

(iii) a general acute hospital, as defined in Section [26-21-2](#).

Section 10. Section **26-61a-201** is amended to read:

**26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card --
Conditional medical cannabis card -- Application -- Fees -- Studies.**

(1) (a) [~~The department shall;~~] Subject to Section [26-61a-206](#), within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section [26-61a-202](#) submits an application in accordance with this section or Section [26-61a-202](#), the department shall:

- (i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);
- (ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);
- (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and
- (iv) issue a medical cannabis caregiver card to an individual described in Subsection [26-61a-202](#)(4).

(b) (i) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon~~] Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection [26-61a-501](#)(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

- (A) 60 days; or
- (B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

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

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

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

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

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203[; ~~and~~].

~~[(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.]~~

1111 (ii) The department shall notify the Department of Public Safety of each individual that
1112 the department registers for a medical cannabis guardian card.

1113 (c) (i) A minor is eligible for a provisional patient card if:

1114 (A) the minor has a qualifying condition;

1115 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1116 to address the minor's qualifying condition;

1117 (C) one of the minor's parents or legal guardians petitions the Compassionate Use
1118 Board under Section 26-61a-105, and the Compassionate Use Board recommends department
1119 approval of the petition; and

1120 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1121 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1122 medical cannabis caregiver card under Section 26-61a-202.

1123 (ii) The department shall automatically issue a provisional patient card to the minor
1124 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1125 guardian card to the minor's parent or legal guardian.

1126 (d) ~~[Beginning on the earlier of September 1, 2021, or the date on which the electronic~~
1127 ~~verification system is functionally capable of servicing the designation, if]~~ If the parent or legal
1128 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a
1129 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1130 designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that
1131 the minor has adequate and safe access to the recommended medical cannabis treatment.

1132 (3) (a) An individual who is eligible for a medical cannabis card described in
1133 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
1134 department:

1135 (i) through an electronic application connected to the state electronic verification
1136 system;

1137 (ii) with the recommending medical provider; and

1138 (iii) with information including:

1139 (A) the applicant's name, gender, age, and address;

1140 (B) the number of the applicant's ~~[valid form of]~~ government issued photo
1141 identification;

1142 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1143 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1144 and

1145 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1146 holds the associated medical cannabis guardian card.

1147 (b) The department shall ensure that a medical cannabis card the department issues
1148 under this section contains the information described in Subsection (3)(a)(iii).

1149 (c) (i) If a recommending medical provider determines that, because of age, illness, or
1150 disability, a medical cannabis patient cardholder requires assistance in administering the
1151 medical cannabis treatment that the recommending medical provider recommends, the
1152 recommending medical provider may indicate the cardholder's need in the state electronic
1153 verification system, either directly or, for a limited medical provider, through the order
1154 described in Subsections 26-61a-106(1)(c) and (d).

1155 (ii) If a recommending medical provider makes the indication described in Subsection
1156 (3)(c)(i):

1157 (A) the department shall add a label to the relevant medical cannabis patient card
1158 indicating the cardholder's need for assistance;

1159 (B) any adult who is 18 years old or older and who is physically present with the
1160 cardholder at the time the cardholder needs to use the recommended medical cannabis
1161 treatment may handle the medical cannabis treatment and any associated medical cannabis
1162 device as needed to assist the cardholder in administering the recommended medical cannabis
1163 treatment; and

1164 (C) an individual of any age who is physically present with the cardholder in the event
1165 of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle
1166 the medical cannabis treatment and any associated medical cannabis device as needed to assist
1167 the cardholder in administering the recommended medical cannabis treatment.

1168 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

1169 (A) ingest or inhale medical cannabis;

1170 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1171 of the immediate area where the cardholder is present or with an intent other than to provide
1172 assistance to the cardholder; or

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

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

(a) visit with the patient face-to-face for an initial recommendation unless the patient:

(i) prefers a virtual visit; and

(ii) (A) is on hospice or has a terminal illness according to the patient's medical provider; or

(B) is a resident of an assisted living facility, as defined in Section 26-21-2, or a nursing care facility, as defined in Section 26-21-2;

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

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's [valid form of identification] government issued photo identification described in Subsection (3)(a);

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

(A) for a qualified medical provider, the state electronic verification system; and

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

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during [an initial face-to-face] a visit with the patient; and

[~~(b)~~] (c) state in the recommending medical provider's recommendation that the patient:

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

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

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

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

(ii) one year from the day the card is issued.

1204 ~~[(ii) (A) six months for the first issuance, and, except as provided in Subsection~~
1205 ~~(5)(a)(ii)(B), for a renewal; or]~~
1206 ~~[(B) for a renewal, one year if, after at least one year following the issuance of the~~
1207 ~~original medical cannabis card, the recommending medical provider determines that the patient~~
1208 ~~has been stabilized on the medical cannabis treatment and a one-year renewal period is~~
1209 ~~justified.]~~

1210 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1211 illness described in Section 26-61a-104 expires after one year.

1212 (ii) The recommending medical provider may revoke a recommendation that the
1213 provider made in relation to a terminal illness described in Section 26-61a-104 if the medical
1214 cannabis cardholder no longer has the terminal illness.

1215 (c) A medical cannabis card that the department issues in relation to acute pain as
1216 described in Section 26-61a-104 expires 30 days after the day on which the department first
1217 issues a conditional or full medical cannabis card.

1218 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1219 renewable if:

1220 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1221 (b); or

1222 (ii) the cardholder received the medical cannabis card through the recommendation of
1223 the Compassionate Use Board under Section 26-61a-105.

1224 (b) The recommending medical provider who made the underlying recommendation
1225 for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card
1226 through phone or video conference with the cardholder, at the recommending medical
1227 provider's discretion.

1228 (c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b)
1229 shall pay to the department a renewal fee in an amount that:

1230 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1231 63J-1-504; and

1232 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1233 comparison to the original application process.

1234 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional

patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

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

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

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

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

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

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

(8) (a) The department may revoke a medical cannabis card that the department issues under this section if:

(i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or

(ii) the cardholder:

~~[(a)]~~ (A) violates this chapter; or

~~[(b)]~~ (B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following

to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

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

(11) (a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

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

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

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

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

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's

information for external research at any time, including at the time of application.

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

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

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

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

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

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

Section 11. Section **26-61a-202** is amended to read:

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

(1) (a) A cardholder described in Section **26-61a-201** may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

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

(A) for a patient or resident, an assisted living facility, as that term is defined in Section **26-21-2**;

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

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

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

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

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

(d) (i) Beginning on the earlier of September 1, 2022, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis caregiver card under this Subsection (1)(d), upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26-61a-104, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this

section and a facility described in Subsection (1)(b):

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

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

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

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section 26-61a-201 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each

1390 additional medical cannabis patient who designates the caregiver; and
1391 (iv) is not subject to an additional background check.
1392 (4) An individual is eligible for a medical cannabis caregiver card if the individual:
1393 (a) is at least 21 years old;
1394 (b) is a Utah resident;
1395 (c) pays to the department a fee in an amount that, subject to Subsection
1396 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1397 criminal background check described in Section 26-61a-203; and
1398 (d) signs an acknowledgment stating that the applicant received the information
1399 described in Subsection 26-61a-201(9)[; and].
1400 ~~[(e) has not been convicted of a misdemeanor or felony drug distribution offense that is~~
1401 ~~a felony under either state or federal law, unless the individual completes any imposed sentence~~
1402 ~~two or more years before the day on which the individual submits the application.]~~
1403 (5) An eligible applicant for a medical cannabis caregiver card shall:
1404 (a) submit an application for a medical cannabis caregiver card to the department
1405 through an electronic application connected to the state electronic verification system; and
1406 (b) submit the following information in the application described in Subsection (5)(a):
1407 (i) the applicant's name, gender, age, and address;
1408 (ii) the name, gender, age, and address of the cardholder described in Section
1409 26-61a-201 who designated the applicant;
1410 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
1411 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
1412 cannabis guardian cardholder; and
1413 (iv) any additional information that the department requests to assist in matching the
1414 application with the designating medical cannabis patient.
1415 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1416 department issues under this section is valid for the lesser of:
1417 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1418 designated the caregiver determines; or
1419 (b) the amount of time remaining before the card of the cardholder described in Section
1420 26-61a-201 expires.

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

(i) renews the cardholder's card; and

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

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

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

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

~~[(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:]~~

~~[(a) violates this chapter; or]~~

~~[(b) is convicted under state or federal law of:]~~

~~[(i) a felony drug distribution offense; or]~~

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

~~[(9)]~~ (8) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 12. Section 26-61a-206 is enacted to read:

26-61a-206. Denial or revocation of guardian and caregiver card.

The department may deny or revoke a medical cannabis guardian card or a medical cannabis caregiver card if the applicant or cardholder:

(1) violates the requirements of this chapter; or

(2) unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application, has been convicted of any of the following under state or federal law:

(a) a drug distribution offense that is a felony within the preceding 10 years; or

(b) after December 3, 2018, a drug distribution offense that is a misdemeanor.

Section 13. Section 26-61a-301 is amended to read:

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

(1) A person may not operate as a medical cannabis pharmacy without a license that

1452 the department issues under this part.

1453 (2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department
1454 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
1455 Chapter 6a, Utah Procurement Code.

1456 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
1457 an applicant who is not eligible for a license under this section.

1458 (b) An applicant is eligible for a license under this section if the applicant submits to
1459 the department:

1460 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
1461 operate the medical cannabis pharmacy;

1462 (ii) the name and address of an individual who:

1463 (A) for a publicly traded company, has a financial or voting interest of [2] 10% or
1464 greater in the proposed medical cannabis pharmacy;

1465 (B) for a privately held company, a financial or voting interest in the proposed medical
1466 cannabis pharmacy; or

1467 (C) has the power to direct or cause the management or control of a proposed medical
1468 cannabis pharmacy;

1469 (iii) ~~[a statement that the applicant will obtain and maintain a performance bond that a~~
1470 ~~surety authorized to transact surety business in the state issues in an amount of at least~~
1471 ~~\$100,000]~~ for each application that the applicant submits to the department, a statement from
1472 the applicant that the applicant will obtain and maintain:

1473 (A) a performance bond in the amount of \$100,000 issued by a surety authorized to
1474 transact surety business in the state; or

1475 (B) a liquid cash account in the amount of \$100,000 with a financial institution;

1476 (iv) an operating plan that:

1477 (A) complies with Section 26-61a-304;

1478 (B) includes operating procedures to comply with the operating requirements for a
1479 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
1480 law that is consistent with Section 26-61a-507; and

1481 (C) the department approves;

1482 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the

1483 department sets in accordance with Section 63J-1-504; and

1484 (vi) a description of any investigation or adverse action taken by any licensing
1485 jurisdiction, government agency, law enforcement agency, or court in any state for any
1486 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
1487 or businesses.

1488 (c) (i) A person may not locate a medical cannabis pharmacy:

1489 (A) within 200 feet of a community location; or

1490 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
1491 as primarily residential.

1492 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
1493 from the nearest entrance to the medical cannabis pharmacy establishment by following the
1494 shortest route of ordinary pedestrian travel to the property boundary of the community location
1495 or residential area.

1496 (iii) The department may grant a waiver to reduce the proximity requirements in
1497 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
1498 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

1499 (iv) An applicant for a license under this section shall provide evidence of compliance
1500 with the proximity requirements described in Subsection (2)(c)(i).

1501 (d) The department may not issue a license to an eligible applicant that the department
1502 has selected to receive a license until the selected eligible applicant ~~[obtains the performance~~
1503 ~~bond described in]~~ complies with the bond or liquid cash requirement described in Subsection
1504 (2)(b)(iii).

1505 (e) If the department receives more than one application for a medical cannabis
1506 pharmacy within the same city or town, the department shall consult with the local land use
1507 authority before approving any of the applications pertaining to that city or town.

1508 (3) If the department selects an applicant for a medical cannabis pharmacy license
1509 under this section, the department shall:

1510 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
1511 26-61a-109(5), the department sets in accordance with Section 63J-1-504;

1512 (b) notify the Department of Public Safety of the license approval and the names of
1513 each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

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

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

(i) shall consult with the Department of Agriculture and Food regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:

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

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

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

(i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is

1545 active, under state or federal law of:

1546 (A) a felony; or

1547 (B) after December 3, 2018, a misdemeanor for drug distribution;

1548 (iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at

1549 the time of application, or fails to supplement the information described in Subsection

1550 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the

1551 application within 14 calendar days after the licensee receives notice of the investigation or

1552 adverse action;

1553 (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for

1554 the requirements of this chapter or the rules the department makes in accordance with this

1555 chapter; or

1556 (vi) if, after a change of ownership described in Subsection (11)(c), the department

1557 determines that the medical cannabis pharmacy no longer meets the minimum standards for

1558 licensure and operation of the medical cannabis pharmacy described in this chapter.

1559 (b) The department shall rescind a notice of an intent to issue a license under this part

1560 to an applicant or revoke a license issued under this part if the associated medical cannabis

1561 pharmacy does not begin operation on or before June 1, 2021.

1562 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,

1563 if the municipality or county where the licensed medical cannabis pharmacy will be located

1564 requires a local land use permit, shall submit to the department a copy of the licensee's

1565 approved application for the land use permit within 120 days after the day on which the

1566 department issues the license.

1567 (b) If a licensee fails to submit to the department a copy the licensee's approved land

1568 use permit application in accordance with Subsection (7)(a), the department may revoke the

1569 licensee's license.

1570 (8) The department shall deposit the proceeds of a fee imposed by this section into the

1571 Qualified Patient Enterprise Fund.

1572 (9) The department shall begin accepting applications under this part on or before

1573 March 1, 2020.

1574 (10) (a) The department's authority to issue a license under this section is plenary and is

1575 not subject to review.

1576 (b) Notwithstanding Subsection (2), the decision of the department to award a license
1577 to an applicant is not subject to:

1578 (i) Title 63G, Chapter 6a, Part 16, Protests; or

1579 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

1580 (11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

1581 (b) A medical cannabis pharmacy shall report in writing to the department no later than
1582 10 business days before the date of any change of ownership of the medical cannabis
1583 pharmacy.

1584 (c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

1585 (i) concurrent with the report described in Subsection (11)(b), the medical cannabis
1586 pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection
1587 (2)(c);

1588 (ii) within 30 days of the submission of the application, the department shall:

1589 (A) conduct an application review; and

1590 (B) award a license to the medical cannabis pharmacy for the remainder of the term of
1591 the medical cannabis pharmacy's license before the ownership change if the medical cannabis
1592 pharmacy meets the minimum standards for licensure and operation of the medical cannabis
1593 pharmacy described in this chapter; and

1594 (iii) if the department approves the license application, notwithstanding Subsection (3),
1595 the medical cannabis pharmacy shall pay a license fee that the department sets in accordance
1596 with Section 63J-1-504 in an amount that covers the board's cost of conducting the application
1597 review.

1598 Section 14. Section 26-61a-302 is amended to read:

1599 **26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal**
1600 **background checks.**

1601 (1) Each applicant to whom the department issues a notice of intent to award a license
1602 to operate as a medical cannabis pharmacy shall submit, before the department may award the
1603 license, from each individual who has a financial or voting interest of [2] 10% or greater in the
1604 applicant or who has the power to direct or cause the management or control of the applicant:

1605 (a) a fingerprint card in a form acceptable to the Department of Public Safety;

1606 (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

1607 registration of the individual's fingerprints in the Federal Bureau of Investigation Next
1608 Generation Identification System's Rap Back Service; and
1609 (c) consent to a fingerprint background check by:
1610 (i) the Bureau of Criminal Identification; and
1611 (ii) the Federal Bureau of Investigation.
1612 (2) The Bureau of Criminal Identification shall:
1613 (a) check the fingerprints the applicant submits under Subsection (1) against the
1614 applicable state, regional, and national criminal records databases, including the Federal
1615 Bureau of Investigation Next Generation Identification System;
1616 (b) report the results of the background check to the department;
1617 (c) maintain a separate file of fingerprints that applicants submit under Subsection (1)
1618 for search by future submissions to the local and regional criminal records databases, including
1619 latent prints;
1620 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
1621 Generation Identification System's Rap Back Service for search by future submissions to
1622 national criminal records databases, including the Next Generation Identification System and
1623 latent prints; and
1624 (e) establish a privacy risk mitigation strategy to ensure that the department only
1625 receives notifications for an individual with whom the department maintains an authorizing
1626 relationship.
1627 (3) The department shall:
1628 (a) assess an individual who submits fingerprints under Subsection (1) a fee in an
1629 amount that the department sets in accordance with Section 63J-1-504 for the services that the
1630 Bureau of Criminal Identification or another authorized agency provides under this section; and
1631 (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal
1632 Identification.

1633 Section 15. Section **26-61a-401** is amended to read:

1634 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

1635 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical
1636 cannabis pharmacy unless the department registers the individual as a medical cannabis
1637 pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

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

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) ~~[Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each]~~ Each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

1700 (a) violates the requirements of this chapter; or
1701 (b) is convicted under state or federal law of:
1702 (i) a felony within the preceding 10 years; or
1703 (ii) after December 3, 2018, a misdemeanor for drug distribution.
1704 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the
1705 day on which the department issues or renews the card.
1706 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the
1707 agent:
1708 (i) is eligible for a medical cannabis pharmacy agent registration card under this
1709 section;
1710 (ii) certifies to the department in a renewal application that the information in
1711 Subsection (3)(a) is accurate or updates the information; and
1712 (iii) pays to the department a renewal fee in an amount that:
1713 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1714 Section 63J-1-504; and
1715 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1716 comparison to the original application process.
1717 (9) (a) As a condition precedent to registration and renewal of a medical cannabis
1718 pharmacy agent registration card, a medical cannabis pharmacy agent shall:
1719 (i) complete at least one hour of continuing education regarding patient privacy and
1720 federal health information privacy laws that is offered by the department under Subsection
1721 (9)(b) or an accredited or approved continuing education provider that the department
1722 recognizes as offering continuing education appropriate for the medical cannabis pharmacy
1723 practice; and
1724 (ii) make a continuing education report to the department in accordance with a process
1725 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1726 Administrative Rulemaking Act, and in collaboration with the Division of Professional
1727 Licensing and the Board of Pharmacy.
1728 (b) The department may, in consultation with the Division of Professional Licensing,
1729 develop the continuing education described in this Subsection (9).
1730 (c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each

1731 medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to
1732 the state electronic verification system is in compliance with this Subsection (9).

1733 (10) A medical cannabis pharmacy shall:

1734 (a) maintain a list of employees that have a medical cannabis pharmacy agent
1735 registration card; and

1736 (b) provide the list to the department upon request.

1737 Section 16. Section **26-61a-403** is amended to read:

1738 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

1739 (1) (a) A medical cannabis pharmacy:

1740 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
1741 Practice Act, as a pharmacy medical provider;

1742 (ii) may employ a physician who has the authority to write a prescription and is
1743 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1744 Osteopathic Medical Practice Act, as a pharmacy medical provider;

1745 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
1746 works onsite during all business hours; and

1747 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
1748 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
1749 cannabis pharmacy.

1750 (b) An individual may not serve as a pharmacy medical provider unless the department
1751 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

1752 (2) (a) The department shall, within 15 days after the day on which the department
1753 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
1754 medical provider, register and issue a pharmacy medical provider registration card to the
1755 prospective pharmacy medical provider if the medical cannabis pharmacy:

1756 (i) provides to the department:

1757 (A) the prospective pharmacy medical provider's name and address;

1758 (B) the name and location of the licensed medical cannabis pharmacy where the
1759 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

1760 (C) a report detailing the completion of the continuing education requirement described
1761 in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider [~~or a state central patient portal medical provider~~] as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

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

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

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

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

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

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

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

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

1793 (i) the provisions of this chapter;
1794 (ii) general information about medical cannabis under federal and state law;
1795 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1796 including risks and benefits;
1797 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1798 patient in pain management, risk management, potential addiction, and palliative care; or
1799 (v) best practices for recommending the form and dosage of a medical cannabis
1800 product based on the qualifying condition underlying a medical cannabis recommendation.

1801 (4) (a) A pharmacy medical provider registration card expires two years after the day
1802 on which the department issues or renews the card.

1803 (b) A pharmacy medical provider may renew the provider's registration card if the
1804 provider:

1805 (i) is eligible for a pharmacy medical provider registration card under this section;
1806 (ii) certifies to the department in a renewal application that the information in
1807 Subsection (2)(a) is accurate or updates the information;
1808 (iii) submits a report detailing the completion of the continuing education requirement
1809 described in Subsection (3); and
1810 (iv) pays to the department a renewal fee in an amount that:

1811 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1812 Section 63J-1-504; and
1813 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1814 comparison to the original application process.

1815 (5) (a) Except as provided in Subsection (5)(b), a person may not advertise that the
1816 person or another person dispenses medical cannabis.

1817 (b) Notwithstanding Subsection (5)(a) and subject to Section 26-61a-116, a registered
1818 pharmacy medical provider may advertise the following:

1819 (i) a green cross;
1820 (ii) that the person is registered as a pharmacy medical provider and dispenses medical
1821 cannabis; or
1822 (iii) a scientific study regarding medical cannabis use.

1823 Section 17. Section 26-61a-501 is amended to read:

1824 **26-61a-501. Operating requirements -- General.**

1825 (1) (a) A medical cannabis pharmacy shall operate:

1826 (i) at the physical address provided to the department under Section 26-61a-301; and

1827 (ii) in accordance with the operating plan provided to the department under Section

1828 26-61a-301 and, if applicable, Section 26-61a-304.

1829 (b) A medical cannabis pharmacy shall notify the department before a change in the

1830 medical cannabis pharmacy's physical address or operating plan.

1831 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

1832 (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

1833 (b) except as provided in Subsection (4):

1834 (i) possesses a valid:

1835 (A) medical cannabis pharmacy agent registration card;

1836 (B) pharmacy medical provider registration card; or

1837 (C) medical cannabis card;

1838 (ii) is an employee of the department or the Department of Agriculture and Food

1839 performing an inspection under Section 26-61a-504; or

1840 (iii) is another individual as the department provides.

1841 (3) A medical cannabis pharmacy may not employ an individual who is younger than

1842 21 years old.

1843 (4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an

1844 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to

1845 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors

1846 the individual at all times while the individual is at the medical cannabis pharmacy and

1847 maintains a record of the individual's access.

1848 (5) A medical cannabis pharmacy shall operate in a facility that has:

1849 (a) a single, secure public entrance;

1850 (b) a security system with a backup power source that:

1851 (i) detects and records entry into the medical cannabis pharmacy; and

1852 (ii) provides notice of an unauthorized entry to law enforcement when the medical

1853 cannabis pharmacy is closed; and

1854 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a

1855 cannabis product.

1856 (6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
1857 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
1858 26-61a-502(2).

1859 (7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a
1860 medical cannabis pharmacy may not allow any individual to consume cannabis on the property
1861 or premises of the medical cannabis pharmacy.

1862 (8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
1863 first indicating on the cannabis or cannabis product label the name of the medical cannabis
1864 pharmacy.

1865 (9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
1866 following information regarding each recommendation underlying a transaction:

1867 (i) the recommending medical provider's name, address, and telephone number;

1868 (ii) the patient's name and address;

1869 (iii) the date of issuance;

1870 (iv) directions of use and dosing guidelines or an indication that the recommending
1871 medical provider did not recommend specific directions of use or dosing guidelines; and

1872 (v) if the patient did not complete the transaction, the name of the medical cannabis
1873 cardholder who completed the transaction.

1874 (b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may
1875 not sell medical cannabis unless the medical cannabis has a label securely affixed to the
1876 container indicating the following minimum information:

1877 (A) the name, address, and telephone number of the medical cannabis pharmacy;

1878 (B) the unique identification number that the medical cannabis pharmacy assigns;

1879 (C) the date of the sale;

1880 (D) the name of the patient;

1881 (E) the name of the recommending medical provider who recommended the medical
1882 cannabis treatment;

1883 (F) directions for use and cautionary statements, if any;

1884 (G) the amount dispensed and the cannabinoid content;

1885 (H) the suggested use date;

1886 (I) for unprocessed cannabis flower, the legal use termination date; and
1887 (J) any other requirements that the department determines, in consultation with the
1888 Division of Professional Licensing and the Board of Pharmacy.

1889 (ii) A medical cannabis pharmacy is exempt from the requirement to provide the
1890 following information under Subsection (9)(b)(i) if the information is already provided on the
1891 product label that a cannabis production establishment affixes:

1892 (A) a unique identification number;
1893 (B) directions for use and cautionary statements;
1894 (C) amount and cannabinoid content; and
1895 (D) a suggested use date.

1896 (iii) If the size of a medical cannabis container does not allow sufficient space to
1897 include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis
1898 pharmacy may provide the following information described in Subsection (9)(b)(i) on a
1899 supplemental label attached to the container or an informational enclosure that accompanies the
1900 container:

1901 (A) the cannabinoid content;
1902 (B) the suggested use date; and
1903 (C) any other requirements that the department determines.

1904 (iv) A medical cannabis pharmacy may sell medical cannabis to another medical
1905 cannabis pharmacy without a label described in Subsection (9)(b)(i).

1906 (10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

1907 (a) upon receipt of an order from a limited medical provider in accordance with
1908 Subsections 26-61a-106(1)(b) through (d):

1909 (i) for a written order or an electronic order under circumstances that the department
1910 determines, contact the limited medical provider or the limited medical provider's office to
1911 verify the validity of the recommendation; and

1912 (ii) for an order that the pharmacy medical provider or medical cannabis pharmacy
1913 agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to
1914 verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation
1915 or renewal, including any associated directions of use, dosing guidelines, or caregiver
1916 indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), ~~or (5),~~ verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) The department shall establish by rule, in accordance with Title 63G, Chapter 3,

1948 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
1949 by a medical cannabis pharmacy.

1950 Section 18. Section **26-61a-502** is amended to read:

1951 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
1952 **Reporting -- Form of cannabis or cannabis product.**

1953 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
1954 chapter:

1955 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
1956 from another medical cannabis pharmacy or a cannabis processing facility that is licensed
1957 under Section [4-41a-201](#);

1958 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
1959 acquired from another medical cannabis pharmacy or a cannabis processing facility that is
1960 licensed under Section [4-41a-201](#);

1961 (iii) a medical cannabis device; or

1962 (iv) educational material related to the medical use of cannabis.

1963 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
1964 an individual with:

1965 (i) (A) a medical cannabis card;

1966 (B) a department registration described in Section [26-61a-201](#)(10); and

1967 (ii) a corresponding ~~[valid form of]~~ government issued photo identification.

1968 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
1969 cannabis-based drug that the United States Food and Drug Administration has approved.

1970 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
1971 medical cannabis device or medical cannabis product to an individual described in Subsection
1972 [26-61a-201](#)(2)(a)(i)(B) or to a minor described in Subsection [26-61a-201](#)(2)(c) unless the
1973 individual or minor has the approval of the Compassionate Use Board in accordance with
1974 Subsection [26-61a-105](#)(5)(b).

1975 (2) A medical cannabis pharmacy:

1976 (a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the
1977 legal dosage limit of:

1978 (i) unprocessed cannabis that:

1979 (A) is in a medicinal dosage form; and
1980 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
1981 cannabidiol in the cannabis; and
1982 (ii) a cannabis product that is in a medicinal dosage form; and
1983 (b) may not dispense:
1984 (i) more medical cannabis than described in Subsection (2)(a); or
1985 (ii) to an individual whose recommending medical provider did not recommend
1986 directions of use and dosing guidelines, until the individual consults with the pharmacy
1987 medical provider in accordance with Subsection (4), any medical cannabis.
1988 (3) An individual with a medical cannabis card:
1989 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
1990 (i) unprocessed cannabis in a medicinal dosage form; and
1991 (ii) a cannabis product in a medicinal dosage form;
1992 (b) may not purchase:
1993 (i) more medical cannabis than described in Subsection (3)(a); or
1994 (ii) if the relevant recommending medical provider did not recommend directions of
1995 use and dosing guidelines, until the individual consults with the pharmacy medical provider in
1996 accordance with Subsection (4), any medical cannabis; and
1997 (c) may not use a route of administration that the relevant recommending medical
1998 provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not
1999 recommended.
2000 (4) If a recommending medical provider recommends treatment with medical cannabis
2001 but wishes for the pharmacy medical provider to determine directions of use and dosing
2002 guidelines:
2003 (a) the recommending medical provider shall provide to the pharmacy medical
2004 provider, either through the state electronic verification system or through a medical cannabis
2005 pharmacy's recording of a recommendation under the order of a limited medical provider, any
2006 of the following information that the recommending medical provider feels would be needed to
2007 provide appropriate directions of use and dosing guidelines:
2008 (i) information regarding the qualifying condition underlying the recommendation;
2009 (ii) information regarding prior treatment attempts with medical cannabis; and

2010 (iii) portions of the patient's current medication list; and
2011 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the
2012 pharmacy medical provider shall:

2013 (i) review pertinent medical records, including the recommending medical provider
2014 documentation described in Subsection (4)(a); and

2015 (ii) ~~[unless the pertinent medical records show directions of use and dosing guidelines~~
2016 ~~from a state central patient portal medical provider in accordance with Subsection (5),]~~ after
2017 completing the review described in Subsection (4)(b)(i) and consulting with the recommending
2018 medical provider as needed, determine the best course of treatment through consultation with
2019 the cardholder regarding:

2020 (A) the patient's qualifying condition underlying the recommendation from the
2021 recommending medical provider;

2022 (B) indications for available treatments;

2023 (C) directions of use and dosing guidelines; and

2024 (D) potential adverse reactions.

2025 ~~[(5)(a) A state central patient portal medical provider may provide the consultation~~
2026 ~~and make the determination described in Subsection (4)(b) for a medical cannabis patient~~
2027 ~~cardholder regarding an electronic order that the state central patient portal facilitates.]~~

2028 ~~[(b) The state central patient portal medical provider described in Subsection (5)(a)~~
2029 ~~shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)~~
2030 ~~in the pertinent medical records.]~~

2031 ~~[(6)]~~ (5) (a) A medical cannabis pharmacy shall:

2032 (i) (A) access the state electronic verification system before dispensing cannabis or a
2033 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
2034 where applicable, the associated patient has met the maximum amount of medical cannabis
2035 described in Subsection (2); and

2036 (B) if the verification in Subsection ~~[(6)(a)(i)]~~ (5)(a)(i) indicates that the individual has
2037 met the maximum amount described in Subsection (2), decline the sale, and notify the
2038 recommending medical provider who made the underlying recommendation;

2039 (ii) submit a record to the state electronic verification system each time the medical
2040 cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; ~~and~~

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption~~[-]; and~~

(vi) beginning January 1, 2024, for a cannabis product that is cannabis flower, vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under Subsection 4-41a-602(4) at or before the point of sale.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection ~~[(6)(a)(iv)]~~ (5)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

~~[(7)]~~ (6) (a) Except as provided in Subsection ~~[(7)(b)]~~ (6)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

~~[(8)]~~ (7) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

~~[(9)]~~ (8) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection

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

~~[(10)]~~ (9) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section 19. Section 26-61a-503 is amended to read:

26-61a-503. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing ~~[parameters]~~ guidelines.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing ~~[parameters]~~ guidelines, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing ~~[parameters]~~ guidelines for the partial fill under Subsection 26-61a-502(4) ~~[or (5)]~~; and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 20. Section 26-61a-505 is amended to read:

26-61a-505. Advertising.

(1) Except as provided in this section, a person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.

- 2103 (2) ~~[Subject to Section 26-61a-116, a]~~ A medical cannabis pharmacy may:
- 2104 (a) advertise an employment opportunity at the medical cannabis pharmacy;
- 2105 (b) notwithstanding any municipal or county ordinance prohibiting signage, use
- 2106 signage on the outside of the medical cannabis pharmacy that:
- 2107 (i) includes only:
- 2108 (A) in accordance with Subsection ~~[26-61a-116(4)]~~ 26-61a-116(3), the medical
- 2109 cannabis pharmacy's name, logo, and hours of operation; and
- 2110 (B) a green cross; and
- 2111 (ii) complies with local ordinances regulating signage;
- 2112 (c) advertise in any medium:
- 2113 (i) the pharmacy's name and logo;
- 2114 (ii) the location and hours of operation of the medical cannabis pharmacy;
- 2115 (iii) a service available at the medical cannabis pharmacy;
- 2116 (iv) personnel affiliated with the medical cannabis pharmacy;
- 2117 (v) whether the medical cannabis pharmacy is licensed as a home delivery medical
- 2118 cannabis pharmacy;
- 2119 (vi) best practices that the medical cannabis pharmacy upholds; and
- 2120 (vii) educational material related to the medical use of cannabis, as defined by the
- 2121 department;
- 2122 (d) hold an educational event for the public or medical providers in accordance with
- 2123 Subsection (3) and the rules described in Subsection (4); ~~and~~
- 2124 (e) maintain on the medical cannabis pharmacy's website non-promotional information
- 2125 regarding the medical cannabis pharmacy's inventory[:]; or
- 2126 (f) engage in targeted marketing, as determined by the department through rule, for
- 2127 advertising a particular medical cannabis product, medical cannabis device, or medical
- 2128 cannabis brand.
- 2129 (3) A medical cannabis pharmacy may not include in an educational event described in
- 2130 Subsection (2)(d):
- 2131 (a) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis
- 2132 Production Establishments;
- 2133 (b) any gift items or merchandise other than educational materials, as those terms are

2134 defined by the department;

2135 (c) any marketing for a specific product from the medical cannabis pharmacy or any

2136 other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic

2137 Act, 21 U.S.C. Sec. 301, et seq.; or

2138 (d) a presenter other than the following:

2139 (i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

2140 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

2141 Practice Act;

2142 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

2143 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2144 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

2145 Assistant Act;

2146 (v) a medical practitioner, similar to the practitioners described in this Subsection

2147 (3)(d)(v), who is licensed in another state or country;

2148 (vi) a state employee; or

2149 (vii) if the presentation relates to a cannabis topic other than medical treatment or

2150 medical conditions, an individual whom the department approves based on the individual's

2151 background and credentials in the presented topic.

2152 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

2153 Administrative Rulemaking Act, to define:

2154 (a) the educational material described in Subsection (2)(c)(vii); and

2155 (b) the elements of and restrictions on the educational event described in Subsection

2156 (3), including:

2157 (i) a minimum age of 21 years old for attendees; and

2158 (ii) an exception to the minimum age for a medical cannabis patient cardholder who is

2159 at least 18 years old.

2160 Section 21. Section **26-61a-506** is amended to read:

2161 **26-61a-506. Medical cannabis transportation.**

2162 (1) Only the following individuals may transport medical cannabis under this chapter:

2163 (a) a registered medical cannabis pharmacy agent;

2164 (b) a registered medical cannabis courier agent;

(c) a registered pharmacy medical provider; or
(d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall:

(a) be currently employed by the medical cannabis pharmacy or the medical cannabis courier that is authorizing the individual to transport the medical cannabis; and

(b) possess a transportation manifest that:

[(a)] (i) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

[(b)] (ii) includes origin and destination information for the medical cannabis that the individual is transporting; and

[(c)] (iii) identifies the departure and arrival times and locations of the individual transporting the medical cannabis.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis to ensure that the medical cannabis remains safe for human consumption.

(b) The transportation described in Subsection (1)(a) is limited to transportation between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; or

(ii) for a medical cannabis shipment, a ~~[medical cannabis cardholder's home]~~ delivery address.

(4) (a) It is unlawful for an individual described in Subsection (1) to make a transport described in this section with a manifest that does not meet the requirements of this section.

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

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

2196 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
2197 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2198 underlying the violation described in Subsection (4)(b).

2199 (d) If the individual described in Subsection (4)(a) is transporting more medical
2200 cannabis than the manifest identifies, except for a de minimis administrative error:

2201 (i) this chapter does not apply; and

2202 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2203 Substances Act.

2204 (5) An individual other than an individual described in Subsection (1) may transport a
2205 medical cannabis device within the state if the transport does not also contain medical
2206 cannabis.

2207 Section 22. Section **26-61a-601** is amended to read:

2208 **26-61a-601. State central patient portal -- Department duties.**

2209 (1) On or before July 1, 2020, the department shall establish or contract to establish, in
2210 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as
2211 described in this section.

2212 (2) The state central patient portal shall:

2213 (a) authenticate each user to ensure the user is a valid medical cannabis patient
2214 cardholder;

2215 (b) allow a medical cannabis patient cardholder to:

2216 (i) obtain and download the cardholder's medical cannabis card;

2217 (ii) review the cardholder's medical cannabis purchase history; and

2218 (iii) manage the cardholder's personal information, including withdrawing consent for
2219 the use of the cardholder's information for a study described in Subsection **26-61a-201**(12);

2220 (c) if the cardholder's recommending medical provider recommended the use of
2221 medical cannabis without providing directions of use and dosing guidelines and the cardholder
2222 has not yet received the counseling or consultation required in Subsection **26-61a-502**(4):

2223 (i) alert the cardholder of the outstanding need for consultation; and

2224 (ii) provide the cardholder with access to the contact information for ~~[each state central~~
2225 ~~patient portal medical provider and]~~ each pharmacy medical provider;

2226 (d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis

2227 order:

2228 (i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

2229 (ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in
2230 person from the pharmacy;

2231 (e) prohibit a patient from completing an electronic medical cannabis order described
2232 in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection
2233 26-61a-502(2)(a) or (b);

2234 (f) provide educational information to medical cannabis patient cardholders regarding
2235 the state's medical cannabis laws and regulatory programs and other relevant information
2236 regarding medical cannabis; and

2237 (g) allow the patient to designate up to two caregivers who may receive a medical
2238 cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in
2239 accordance with this chapter.

2240 (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah
2241 Administrative Rulemaking Act, to implement the state central patient portal.

2242 Section 23. Section 26-61a-604 is amended to read:

2243 **26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis**
2244 **couriers -- License.**

2245 (1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2246 Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home
2247 delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the
2248 state central patient portal facilitates, including rules regarding the safe and controlled delivery
2249 of medical cannabis shipments.

2250 (2) A person may not operate as a medical cannabis courier without a license that the
2251 department issues under this section.

2252 (3) (a) Subject to Subsections (5) and (6), the department shall issue a license to
2253 operate as a medical cannabis courier to an applicant who is eligible for a license under this
2254 section.

2255 (b) An applicant is eligible for a license under this section if the applicant submits to
2256 the department:

2257 (i) the name and address of an individual who:

2258 (A) has a financial or voting interest of [2] 10% or greater in the proposed medical
2259 cannabis [~~pharmacy~~] courier; or

2260 (B) has the power to direct or cause the management or control of a proposed cannabis
2261 production establishment;

2262 (ii) an operating plan that includes operating procedures to comply with the operating
2263 requirements for a medical cannabis courier described in this chapter; and

2264 (iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
2265 department sets in accordance with Section 63J-1-504.

2266 (4) If the department determines that an applicant is eligible for a license under this
2267 section, the department shall:

2268 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2269 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

2270 (b) notify the Department of Public Safety of the license approval and the names of
2271 each individual described in Subsection (3)(b)(ii).

2272 (5) The department may not issue a license to operate as a medical cannabis courier to
2273 an applicant if an individual described in Subsection (3)(b)(ii):

2274 (a) has been convicted under state or federal law of:

2275 (i) a felony; or

2276 (ii) after September 23, 2019, a misdemeanor for drug distribution; or

2277 (b) is younger than 21 years old.

2278 (6) The department may revoke a license under this part if:

2279 (a) the medical cannabis courier does not begin operations within one year after the day
2280 on which the department issues the initial license;

2281 (b) the medical cannabis courier makes the same violation of this chapter three times;

2282 (c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is
2283 active, under state or federal law of:

2284 (i) a felony; or

2285 (ii) after September 23, 2019, a misdemeanor for drug distribution; or

2286 (d) after a change of ownership described in Subsection (15)(c), the department
2287 determines that the medical cannabis courier no longer meets the minimum standards for
2288 licensure and operation of the medical cannabis courier described in this chapter.

2289 (7) The department shall deposit the proceeds of a fee imposed by this section in the
2290 Qualified Patient Enterprise Fund.

2291 (8) The department shall begin accepting applications under this section on or before
2292 July 1, 2020.

2293 (9) The department's authority to issue a license under this section is plenary and is not
2294 subject to review.

2295 (10) Each applicant for a license as a medical cannabis courier shall submit, at the time
2296 of application, from each individual who has a financial or voting interest of [2] 10% or greater
2297 in the applicant or who has the power to direct or cause the management or control of the
2298 applicant:

2299 (a) a fingerprint card in a form acceptable to the Department of Public Safety;

2300 (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
2301 registration of the individual's fingerprints in the Federal Bureau of Investigation Next
2302 Generation Identification System's Rap Back Service; and

2303 (c) consent to a fingerprint background check by:

2304 (i) the Bureau of Criminal Identification; and

2305 (ii) the Federal Bureau of Investigation.

2306 (11) The Bureau of Criminal Identification shall:

2307 (a) check the fingerprints the applicant submits under Subsection (10) against the
2308 applicable state, regional, and national criminal records databases, including the Federal
2309 Bureau of Investigation Next Generation Identification System;

2310 (b) report the results of the background check to the department;

2311 (c) maintain a separate file of fingerprints that applicants submit under Subsection (10)
2312 for search by future submissions to the local and regional criminal records databases, including
2313 latent prints;

2314 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2315 Generation Identification System's Rap Back Service for search by future submissions to
2316 national criminal records databases, including the Next Generation Identification System and
2317 latent prints; and

2318 (e) establish a privacy risk mitigation strategy to ensure that the department only
2319 receives notifications for an individual with whom the department maintains an authorizing

2320 relationship.

2321 (12) The department shall:

2322 (a) assess an individual who submits fingerprints under Subsection (10) a fee in an
2323 amount that the department sets in accordance with Section 63J-1-504 for the services that the
2324 Bureau of Criminal Identification or another authorized agency provides under this section; and

2325 (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal
2326 Identification.

2327 (13) The department shall renew a license under this section every year if, at the time
2328 of renewal:

2329 (a) the licensee meets the requirements of this section; and

2330 (b) the licensee pays the department a license renewal fee in an amount that, subject to
2331 Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

2332 (14) A person applying for a medical cannabis courier license shall submit to the
2333 department a proposed operating plan that complies with this section and that includes:

2334 (a) a description of the physical characteristics of any proposed facilities, including a
2335 floor plan and an architectural elevation, and delivery vehicles;

2336 (b) a description of the credentials and experience of each officer, director, or owner of
2337 the proposed medical cannabis courier;

2338 (c) the medical cannabis courier's employee training standards;

2339 (d) a security plan; and

2340 (e) storage and delivery protocols, both short and long term, to ensure that medical
2341 cannabis shipments are stored and delivered in a manner that is sanitary and preserves the
2342 integrity of the cannabis.

2343 (15) (a) A medical cannabis courier license is not transferrable or assignable.

2344 (b) A medical cannabis courier shall report in writing to the department no later than
2345 10 business days before the date of any change of ownership of the medical cannabis courier.

2346 (c) If the ownership of a medical cannabis courier changes by 50% or more:

2347 (i) concurrent with the report described in Subsection (15)(b), the medical cannabis
2348 courier shall submit a new application described in Subsection (3)(b);

2349 (ii) within 30 days of the submission of the application, the department shall:

2350 (A) conduct an application review; and

2351 (B) award a license to the medical cannabis courier for the remainder of the term of the
2352 medical cannabis courier's license before the ownership change if the medical cannabis courier
2353 meets the minimum standards for licensure and operation of the medical cannabis courier
2354 described in this chapter; and

2355 (iii) if the department approves the license application, notwithstanding Subsection (4),
2356 the medical cannabis courier shall pay a license fee that the department sets in accordance with
2357 Section 63J-1-504 in an amount that covers the board's cost of conducting the application
2358 review.

2359 (16) (a) Except as provided in Subsection ~~[(15)(b)]~~ (16)(b), a person may not advertise
2360 regarding the transportation of medical cannabis.

2361 (b) Notwithstanding Subsection (15)(a) and subject to Section 26-61a-116, a licensed
2362 home delivery medical cannabis pharmacy or a licensed medical cannabis courier may
2363 advertise:

2364 (i) a green cross;

2365 (ii) the pharmacy's or courier's name and logo; and

2366 (iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

2367 Section 24. Section 26-61a-606 is amended to read:

2368 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
2369 **card -- Rebuttable presumption.**

2370 (1) An individual may not serve as a medical cannabis courier agent unless[;]

2371 ~~[(a) the individual is an employee of a licensed medical cannabis courier; and]~~

2372 ~~[(b)]~~ the department registers the individual as a medical cannabis courier agent.

2373 (2) (a) The department shall, within 15 days after the day on which the department
2374 receives a complete application from a medical cannabis courier on behalf of a medical
2375 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
2376 the prospective agent if the medical cannabis courier:

2377 (i) provides to the department:

2378 (A) the prospective agent's name and address;

2379 (B) the name and address of the medical cannabis courier;

2380 (C) the name and address of each home delivery medical cannabis pharmacy with

2381 which the medical cannabis courier contracts to deliver medical cannabis shipments; and

2382 (D) the submission required under Subsection (2)(b);
2383 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
2384 law of:

2385 (A) a felony; or

2386 (B) after December 3, 2018, a misdemeanor for drug distribution; and

2387 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),
2388 the department sets in accordance with Section 63J-1-504.

2389 (b) ~~[Except for an applicant reapplying for a medical cannabis courier agent~~
2390 ~~registration card within less than one year after the expiration of the applicant's previous~~
2391 ~~medical cannabis courier agent registration card, each]~~ Each prospective agent described in
2392 Subsection (2)(a) shall:

2393 (i) submit to the department:

2394 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

2395 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
2396 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
2397 Generation Identification System's Rap Back Service; and

2398 (ii) consent to a fingerprint background check by:

2399 (A) the Bureau of Criminal Identification; and

2400 (B) the Federal Bureau of Investigation.

2401 (c) The Bureau of Criminal Identification shall:

2402 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
2403 the applicable state, regional, and national criminal records databases, including the Federal
2404 Bureau of Investigation Next Generation Identification System;

2405 (ii) report the results of the background check to the department;

2406 (iii) maintain a separate file of fingerprints that prospective agents submit under
2407 Subsection (2)(b) for search by future submissions to the local and regional criminal records
2408 databases, including latent prints;

2409 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2410 Generation Identification System's Rap Back Service for search by future submissions to
2411 national criminal records databases, including the Next Generation Identification System and
2412 latent prints; and

2413 (v) establish a privacy risk mitigation strategy to ensure that the department only
2414 receives notifications for an individual with whom the department maintains an authorizing
2415 relationship.

2416 (d) The department shall:

2417 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
2418 amount that the department sets in accordance with Section 63J-1-504 for the services that the
2419 Bureau of Criminal Identification or another authorized agency provides under this section; and

2420 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
2421 Identification.

2422 (3) The department shall designate on an individual's medical cannabis courier agent
2423 registration card the name of the medical cannabis pharmacy where the individual is registered
2424 as an agent and each home delivery medical cannabis courier for which the medical cannabis
2425 courier delivers medical cannabis shipments.

2426 (4) (a) A medical cannabis courier agent shall comply with a certification standard that
2427 the department develops, in collaboration with the Division of Professional Licensing and the
2428 Board of Pharmacy, or a third-party certification standard that the department designates by
2429 rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy
2430 and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2431 (b) The department shall ensure that the certification standard described in Subsection
2432 (4)(a) includes training in:

2433 (i) Utah medical cannabis law;
2434 (ii) the medical cannabis shipment process; and
2435 (iii) medical cannabis courier agent best practices.

2436 (5) (a) A medical cannabis courier agent registration card expires two years after the
2437 day on which the department issues or renews the card.

2438 (b) A medical cannabis courier agent may renew the agent's registration card if the
2439 agent:

2440 (i) is eligible for a medical cannabis courier agent registration card under this section;
2441 (ii) certifies to the department in a renewal application that the information in
2442 Subsection (2)(a) is accurate or updates the information; and
2443 (iii) pays to the department a renewal fee in an amount that:

2444 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2445 Section 63J-1-504; and

2446 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2447 comparison to the original application process.

2448 (6) The department may revoke or refuse to issue or renew the medical cannabis
2449 courier agent registration card of an individual who:

2450 (a) violates the requirements of this chapter; or

2451 (b) is convicted under state or federal law of:

2452 (i) a felony within the preceding 10 years; or

2453 (ii) after December 3, 2018, a misdemeanor for drug distribution.

2454 (7) A medical cannabis courier agent whom the department has registered under this
2455 section shall carry the agent's medical cannabis courier agent registration card with the agent at
2456 all times when:

2457 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
2458 pharmacy, or a ~~[medical cannabis cardholder's home]~~ delivery address; and

2459 (b) the agent is handling a medical cannabis shipment.

2460 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
2461 the shipment in compliance with Subsection (7):

2462 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and

2463 (b) there is no probable cause, based solely on the agent's possession of the medical
2464 cannabis shipment that the agent is engaging in illegal activity.

2465 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:

2466 (i) guilty of an infraction; and

2467 (ii) subject to a \$100 fine.

2468 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
2469 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2470 underlying the violation described in Subsection (9)(a).

2471 (10) A medical cannabis courier shall:

2472 (a) maintain a list of employees who have a medical cannabis courier agent card; and

2473 (b) provide the list to the department upon request.

2474 Section 25. Section 26-61a-607 is amended to read:

2475 **26-61a-607. Home delivery of medical cannabis shipments.**

2476 (1) An individual may not receive and a medical cannabis pharmacy agent or a medical
2477 cannabis courier agent may not deliver a medical cannabis shipment from a home delivery
2478 medical cannabis pharmacy unless:

2479 (a) the individual receiving the shipment presents:

2480 (i) a ~~[valid form of photo identification]~~ government issued photo identification; and

2481 (ii) (A) a valid medical cannabis card under the same name that appears on the ~~[valid~~
2482 ~~form of photo identification]~~ government issued photo identification; or

2483 (B) for a facility that a medical cannabis cardholder has designated as a caregiver under
2484 Subsection 26-61a-202(1)(b), evidence of the facility caregiver designation; and

2485 (b) the delivery occurs at:

2486 (i) the ~~[medical cannabis cardholder's home]~~ delivery address that is on file in the state
2487 electronic verification system; or

2488 (ii) the facility that the medical cannabis cardholder has designated as a caregiver under
2489 Subsection 26-61a-202(1)(b).

2490 (2) (a) A medical cannabis pharmacy agent may not deliver a medical cannabis
2491 shipment on behalf of a home delivery medical cannabis pharmacy unless the medical cannabis
2492 pharmacy agent is currently employed by the home delivery medical cannabis pharmacy.

2493 (b) A medical cannabis courier agent may not deliver a medical cannabis shipment on
2494 behalf of a medical cannabis courier unless the medical cannabis courier agent is currently
2495 employed by the medical cannabis courier.

2496 (c) Before a medical cannabis pharmacy agent or a medical cannabis courier agent
2497 distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

2498 ~~[(a)]~~ (i) verify the shipment information using the state electronic verification system;

2499 ~~[(b)]~~ (ii) ensure that the individual satisfies the identification requirements in

2500 Subsection (1);

2501 ~~[(c)]~~ (iii) verify that payment is complete; and

2502 ~~[(d)]~~ (iv) record the completion of the shipment transaction in a manner such that the
2503 delivery of the shipment will later be recorded within a reasonable period in the electronic
2504 verification system.

2505 (3) The medical cannabis courier shall:

2506 (a) (i) store each medical cannabis shipment in a secure manner until the recipient
2507 medical cannabis cardholder receives the shipment or the medical cannabis courier returns the
2508 shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4);
2509 and

2510 (ii) ensure that only a medical cannabis courier agent is able to access the medical
2511 cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

2512 (b) return any undelivered medical cannabis shipment to the home delivery medical
2513 cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has
2514 possessed the shipment for 10 business days; and

2515 (c) return any medical cannabis shipment to the home delivery medical cannabis
2516 pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to
2517 accept the shipment.

2518 (4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy
2519 agent returns an undelivered medical cannabis shipment that remains unopened, the home
2520 delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

2521 (b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent
2522 returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears
2523 to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the
2524 shipment by:

2525 (i) rendering the shipment unusable and unrecognizable before transporting the
2526 shipment from the home delivery medical cannabis pharmacy; and

2527 (ii) disposing of the shipment in accordance with:

2528 (A) federal and state laws, rules, and regulations related to hazardous waste;

2529 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

2530 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

2531 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2532 3, Utah Administrative Rulemaking Act.

2533 Section 26. Section **58-17b-502** is amended to read:

2534 **58-17b-502. Unprofessional conduct.**

2535 (1) "Unprofessional conduct" includes:

2536 (a) willfully deceiving or attempting to deceive the division, the board, or their agents

2537 as to any relevant matter regarding compliance under this chapter;

2538 (b) except as provided in Subsection (2):

2539 (i) paying or offering rebates to practitioners or any other health care providers, or

2540 receiving or soliciting rebates from practitioners or any other health care provider; or

2541 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission,

2542 bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care

2543 provider, for the purpose of obtaining referrals;

2544 (c) misbranding or adulteration of any drug or device or the sale, distribution, or

2545 dispensing of any outdated, misbranded, or adulterated drug or device;

2546 (d) engaging in the sale or purchase of drugs or devices that are samples or packages

2547 bearing the inscription "sample" or "not for resale" or similar words or phrases;

2548 (e) except as provided in Section 58-17b-503, accepting back and redistributing any

2549 unused drug, or a part of it, after it has left the premises of a pharmacy;

2550 (f) an act in violation of this chapter committed by a person for any form of

2551 compensation if the act is incidental to the person's professional activities, including the

2552 activities of a pharmacist, pharmacy intern, or pharmacy technician;

2553 (g) violating:

2554 (i) the federal Controlled Substances Act, Title II, P.L. 91-513;

2555 (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

2556 (iii) rules or regulations adopted under either act;

2557 (h) requiring or permitting pharmacy interns or technicians to engage in activities

2558 outside the scope of practice for their respective license classifications, as defined in this

2559 chapter and division rules made in collaboration with the board, or beyond their scope of

2560 training and ability;

2561 (i) administering:

2562 (i) without appropriate training, as defined by rule;

2563 (ii) without a physician's order, when one is required by law; and

2564 (iii) in conflict with a practitioner's written guidelines or written protocol for

2565 administering;

2566 (j) disclosing confidential patient information in violation of the provisions of the

2567 Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.

2568 1936, as amended, or other applicable law;

2569 (k) engaging in the practice of pharmacy without a licensed pharmacist designated as
2570 the pharmacist-in-charge;

2571 (l) failing to report to the division any adverse action taken by another licensing
2572 jurisdiction, government agency, law enforcement agency, or court for conduct that in
2573 substance would be considered unprofessional conduct under this section;

2574 (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage
2575 form which is regularly and commonly available from a manufacturer in quantities and
2576 strengths prescribed by a practitioner;

2577 (n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act,
2578 when dispensing a self-administered hormonal contraceptive under a standing order;

2579 (o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

2580 (p) falsely making an entry in, or altering, a medical record with the intent to conceal:

2581 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2582 or an individual under the direction or control of an individual licensed under this chapter; or

2583 (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

2584 (2) Subsection (1)(b) does not apply to:

2585 (a) giving or receiving a price discount based on purchase volume;

2586 (b) passing along a pharmaceutical manufacturer's rebate; or

2587 (c) providing compensation for services to a veterinarian.

2588 (3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
2589 61a, Utah Medical Cannabis Act[?],

2590 [(a)] when registered as a pharmacy medical provider, as that term is defined in Section
2591 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy[;
2592 or].

2593 [~~(b) when acting as a state central patient portal medical provider, as that term is~~
2594 ~~defined in Section 26-61a-102, providing state central patient portal medical provider services.]~~

2595 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in
2596 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2597 unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

2598 Section 27. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section

58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device;

or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy[;]
[~~or~~].

~~[(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.]~~

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

2630 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2631 unprofessional conduct for a physician described in Subsection (2)(b).

2632 Section 28. Section **58-68-502** is amended to read:

2633 **58-68-502. Unprofessional conduct.**

2634 (1) "Unprofessional conduct" includes, in addition to the definition in Section
2635 **58-1-501**:

2636 (a) using or employing the services of any individual to assist a licensee in any manner
2637 not in accordance with the generally recognized practices, standards, or ethics of the
2638 profession, state law, or division rule;

2639 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
2640 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

2641 (c) making a material misrepresentation regarding the qualifications for licensure under
2642 Section **58-68-302.5**;

2643 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

2644 (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

2645 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2646 or an individual under the direction or control of an individual licensed under this chapter; or

2647 (ii) conduct described in Subsections (1)(a) through (d) or Subsection **58-1-501**(1).

2648 (2) "Unprofessional conduct" does not include:

2649 (a) in compliance with Section **58-85-103**:

2650 (i) obtaining an investigational drug or investigational device;

2651 (ii) administering the investigational drug to an eligible patient; or

2652 (iii) treating an eligible patient with the investigational drug or investigational device;

2653 or

2654 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

2655 (i) when registered as a qualified medical provider or acting as a limited medical
2656 provider, as those terms are defined in Section **26-61a-102**, recommending the use of medical
2657 cannabis; or

2658 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
2659 **26-61a-102**, providing pharmacy medical provider services in a medical cannabis pharmacy[;
2660 ~~or~~].

2661 ~~[(iii) when registered as a state central patient portal medical provider, as that term is~~
2662 ~~defined in Section 26-61a-102, providing state central patient portal medical provider services.]~~

2663 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
2664 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2665 unprofessional conduct for a physician described in Subsection (2)(b).

2666 Section 29. Section **78A-2-231** is amended to read:

2667 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

2668 (1) As used in this section:

2669 (a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

2670 (b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

2671 (c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

2672 (d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

2673 (e) "Medical cannabis card" means the same as that term is defined in Section
2674 26-61a-102.

2675 (f) "Medical cannabis device" means the same as that term is defined in Section
2676 26-61a-102.

2677 (g) "Recommending medical provider" means the same as that term is defined in
2678 Section 26-61a-102.

2679 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner
2680 makes a finding, determination, or otherwise considers an individual's medical cannabis card,
2681 medical cannabis recommendation from a recommending medical provider, or possession or
2682 use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel,
2683 jury, or court commissioner may not consider or treat the individual's card, recommendation,
2684 possession, or use any differently than the lawful possession or use of any prescribed controlled
2685 substance if:

2686 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production
2687 Establishments;

2688 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

2689 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah
2690 Medical Cannabis Act; and

2691 (ii) the individual reasonably complies with the directions of use and dosing guidelines

determined by the individual's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) [~~or~~(5)].

(3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 30. Section 80-3-110 is amended to read:

80-3-110. Consideration of cannabis during proceedings -- Drug testing.

(1) As used in this section:

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

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

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis

2723 Production Establishments;

2724 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

2725 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah

2726 Medical Cannabis Act; and

2727 (ii) the individual reasonably complies with the directions of use and dosing guidelines

2728 determined by the individual's recommending medical provider or through a consultation

2729 described in Subsection 26-61a-502(4) [~~or (5)~~].

2730 (3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or

2731 a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

2732 (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or

2733 because of cannabis being introduced to the child's body in another manner; or

2734 (b) the child is at an unreasonable risk of harm because of chronic inhalation or

2735 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

2736 (4) Unless there is harm or an unreasonable risk of harm to the child as described in

2737 Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's

2738 use of medical cannabis or a cannabis product is not contrary to the best interests of the child

2739 if:

2740 (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's

2741 possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there

2742 is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates

2743 from the directions of use and dosing guidelines determined by the parent's or guardian's

2744 recommending medical provider or through a consultation described in Subsection

2745 26-61a-502(4) or (5); or

2746 (b) before January 1, 2021, the parent's or guardian's possession or use complies with

2747 Subsection 58-37-3.7(2) or (3).

2748 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and

2749 Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis

2750 or a cannabis product is contrary to the best interests of a child, if there is evidence showing a

2751 nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior

2752 that would separately constitute abuse or neglect of the child.

2753 (6) If an individual, who is party to a proceeding under this chapter, is ordered by the

juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for drug testing, the individual may not be ordered or referred for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 31. Section **80-4-109** is amended to read:

80-4-109. Consideration of cannabis during proceedings.

(1) As used in this section:

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

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

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

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

(2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) [~~or (5)~~].

(3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a

2785 cannabis product is not abuse or neglect of a child unless there is evidence showing that:

2786 (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or
2787 because of cannabis being introduced to the child's body in another manner; or

2788 (b) the child is at an unreasonable risk of harm because of chronic inhalation or
2789 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

2790 (4) Unless there is harm or an unreasonable risk of harm to the child as described in
2791 Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not
2792 contrary to the best interests of a child if:

2793 (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's
2794 possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there
2795 is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates
2796 from the directions of use and dosing guidelines determined by the parent's or guardian's
2797 qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or
2798 (5); or

2799 (b) before January 1, 2021, the parent's or guardian's possession or use complies with
2800 Subsection 58-37-3.7(2) or (3).

2801 (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and
2802 Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis
2803 or a cannabis product is contrary to the best interests of a child, if there is evidence showing a
2804 nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior
2805 that would separately constitute abuse or neglect of the child.

2806 Section 32. **Repealer.**

2807 This bill repeals:

2808 Section 26-61a-602, **State central patient portal medical provider.**