

CANNABIS-BASED MEDICINE REGULATORY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

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

Highlighted Provisions:

This bill:

- ▶ directs the Department of Health to issue a medical cannabis card to a registered patient;
- ▶ directs the Division of Occupational and Professional Licensing to issue a license to operate a CBM dispensary to a person that meets certain qualifications;
- ▶ directs the Department of Agriculture and Food to issue a license to operate a cannabis producer to a person that meets certain qualifications;
- ▶ directs the Department of Financial Institutions to issue a license to a person to operate a cannabis payment processor;
- ▶ requires a CBM dispensary to report the distribution of cannabis-based medicine to an individual to the controlled substance database;
- ▶ permits a political subdivision to restrict the location of and operations of a CBM dispensary or medical cannabis-based medicine establishment through local zoning ordinances and business licenses;
- ▶ allows a licensed person to grow cannabis, to process cannabis, and to possess and sell cannabis-based medicine under certain circumstances;
- ▶ requires a physician who recommends cannabis-based medicine to a patient to:
 - receive training;
 - report adverse events to the Department of Health; and
 - limit the number of patients for whom the physician will recommend cannabis-based medicine;
- ▶ imposes a tax on the retail sale of cannabis-based medicine;
- ▶ amends provisions related to driving with a measurable metabolite of cannabis-based medicine;

- 33 ▶ creates the Medical Cannabis Restricted Account;
- 34 ▶ prohibits a court from discriminating against a parent in a child custody case based
- 35 on the parent's legal use of cannabis-based medicine; and
- 36 ▶ prohibits a peace officer or child welfare worker from removing a child from an
- 37 individual's home on the basis of the individual's lawful use of cannabis-based
- 38 medicine.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 AMENDS:

45 **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333

46 **62A-4a-202.1**, as last amended by Laws of Utah 2012, Chapters 221 and 293

47 **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

48 ENACTS:

49 **4-42-101**, Utah Code Annotated 1953

50 **4-42-102**, Utah Code Annotated 1953

51 **4-42-103**, Utah Code Annotated 1953

52 **4-42-104**, Utah Code Annotated 1953

53 **4-42-201**, Utah Code Annotated 1953

54 **4-42-202**, Utah Code Annotated 1953

55 **4-42-203**, Utah Code Annotated 1953

56 **4-42-204**, Utah Code Annotated 1953

57 **4-42-205**, Utah Code Annotated 1953

58 **4-42-301**, Utah Code Annotated 1953

59 **4-42-302**, Utah Code Annotated 1953

60 **4-42-401**, Utah Code Annotated 1953

61 **4-42-402**, Utah Code Annotated 1953

62 **4-42-403**, Utah Code Annotated 1953

63 **4-42-404**, Utah Code Annotated 1953

- 64 **4-42-501**, Utah Code Annotated 1953
- 65 **4-42-601**, Utah Code Annotated 1953
- 66 **4-42-602**, Utah Code Annotated 1953
- 67 **4-42-603**, Utah Code Annotated 1953
- 68 **4-42-701**, Utah Code Annotated 1953
- 69 **4-42-702**, Utah Code Annotated 1953
- 70 **4-42-801**, Utah Code Annotated 1953
- 71 **4-42-802**, Utah Code Annotated 1953
- 72 **4-42-803**, Utah Code Annotated 1953
- 73 **7-26-101**, Utah Code Annotated 1953
- 74 **7-26-102**, Utah Code Annotated 1953
- 75 **7-26-201**, Utah Code Annotated 1953
- 76 **7-26-202**, Utah Code Annotated 1953
- 77 **7-26-203**, Utah Code Annotated 1953
- 78 **7-26-204**, Utah Code Annotated 1953
- 79 **7-26-301**, Utah Code Annotated 1953
- 80 **7-26-401**, Utah Code Annotated 1953
- 81 **7-26-402**, Utah Code Annotated 1953
- 82 **26-59-101**, Utah Code Annotated 1953
- 83 **26-59-102**, Utah Code Annotated 1953
- 84 **26-59-103**, Utah Code Annotated 1953
- 85 **26-59-104**, Utah Code Annotated 1953
- 86 **26-59-105**, Utah Code Annotated 1953
- 87 **26-59-201**, Utah Code Annotated 1953
- 88 **26-59-202**, Utah Code Annotated 1953
- 89 **26-59-203**, Utah Code Annotated 1953
- 90 **26-59-204**, Utah Code Annotated 1953
- 91 **26-59-205**, Utah Code Annotated 1953
- 92 **26-59-206**, Utah Code Annotated 1953
- 93 **26-59-301**, Utah Code Annotated 1953

- 94 **53-1-106.5**, Utah Code Annotated 1953
- 95 **58-37f-204**, Utah Code Annotated 1953
- 96 **58-67-807**, Utah Code Annotated 1953
- 97 **58-68-807**, Utah Code Annotated 1953
- 98 **58-87-101**, Utah Code Annotated 1953
- 99 **58-87-102**, Utah Code Annotated 1953
- 100 **58-87-201**, Utah Code Annotated 1953
- 101 **58-87-202**, Utah Code Annotated 1953
- 102 **58-87-203**, Utah Code Annotated 1953
- 103 **58-87-204**, Utah Code Annotated 1953
- 104 **58-87-205**, Utah Code Annotated 1953
- 105 **58-87-301**, Utah Code Annotated 1953
- 106 **58-87-401**, Utah Code Annotated 1953
- 107 **58-87-402**, Utah Code Annotated 1953
- 108 **58-87-403**, Utah Code Annotated 1953
- 109 **58-87-404**, Utah Code Annotated 1953
- 110 **58-87-405**, Utah Code Annotated 1953
- 111 **58-87-406**, Utah Code Annotated 1953
- 112 **58-87-501**, Utah Code Annotated 1953
- 113 **58-87-502**, Utah Code Annotated 1953
- 114 **59-12-104.7**, Utah Code Annotated 1953
- 115 **59-28-101**, Utah Code Annotated 1953
- 116 **59-28-102**, Utah Code Annotated 1953
- 117 **59-28-103**, Utah Code Annotated 1953
- 118 **59-28-104**, Utah Code Annotated 1953
- 119 **59-28-105**, Utah Code Annotated 1953
- 120 **59-28-106**, Utah Code Annotated 1953
- 121 **59-28-107**, Utah Code Annotated 1953
- 122 **59-28-108**, Utah Code Annotated 1953

123

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

125 Section 1. Section **4-42-101** is enacted to read:

126 **CHAPTER 42. CANNABIS PRODUCER LICENSE**

127 **Part 1. General Provisions**

128 **4-42-101. Title.**

129 This chapter is known as "Cannabis Producer License."

130 Section 2. Section **4-42-102** is enacted to read:

131 **4-42-102. Definitions.**

132 As used in this chapter:

133 (1) "Agent" means an employee or independent contractor of an entity.

134 (2) "Cannabinoid profile" means the percentage of cannabis-based medicine, by dry
135 weight, that is composed of the cannabinoids:

136 (a) tetrahydrocannabinol or THC;

137 (b) tetrahyrdocannabinolic acid or THCa;

138 (c) cannabidiol or CBD;

139 (d) cannabinol or CBN; and

140 (e) cannabigerol or CBG.

141 (3) "Cannabis" means a plant that is:

142 (a) cannabis sativa, or any part of the plant cannabis sativa, whether growing or not;

143 and

144 (b) authorized to be grown under Utah law.

145 (4) "Cannabis-based medicine" means a substance that is:

146 (a) composed, in whole or in part, of cannabis;

147 (b) is intended for medical use; and

148 (c) is authorized for medical use under Utah law.

149 (5) "Cannabis-based medicine dispensary" or "CBM dispensary" means a person that:

150 (a) sells cannabis-based medicine; or

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

153 (6) "Cannabis cultivation facility" means a person that:

154 (a) grows cannabis; or

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

- 156 (7) "Cannabis laboratory" means a person that:
157 (a) conducts a chemical or other analysis of cannabis-based medicine; or
158 (b) possesses cannabis-based medicine with the intent to conduct a chemical or other
159 analysis of the cannabis-based medicine.
- 160 (8) "Cannabis payment processor" means the same as that term is defined in Section
161 7-26-102.
- 162 (9) "Cannabis processing facility" means a person that:
163 (a) manufactures cannabis-based medicine from cannabis;
164 (b) purchases or possesses cannabis with the intent to manufacture cannabis-based
165 medicine; or
166 (c) sells or intends to sell cannabis-based medicine to a CBM dispensary.
- 167 (10) "Cannabis producer" means:
168 (a) a cannabis cultivation facility;
169 (b) a cannabis processing facility; or
170 (c) a cannabis laboratory.
- 171 (11) "Electronic verification system" means the system described in Section 26-59-104.
172 (12) "Inventory control system" means the system described in Section 4-42-103.
173 (13) "Medical cannabis card" means the same as that term is defined in Section
174 26-59-102.
- 175 (14) "Medical Cannabis Restricted Account" means the account created in Section
176 26-59-105.
- 177 (15) "Physician" means the same as that term is defined in Section 26-59-102.
- 178 Section 3. Section **4-42-103** is enacted to read:
179 **4-42-103. Inventory control system.**
- 180 (1) The electronic verification system shall include, for each cannabis producer and
181 CBM dispensary, an inventory control system that meets the requirements of this section.
- 182 (2) An inventory control system shall track cannabis-based medicine and the cannabis
183 from which the cannabis-based medicine is derived, in real time, from the time that a cannabis
184 plant is first planted as a department-certified seed or department-certified clone until the
185 cannabis-based medicine derived from the cannabis is sold by a CBM dispensary.
- 186 (3) An inventory control system shall store, in real time, a record of the amount of

187 cannabis or cannabis-based medicine in a cannabis producer or CBM dispensary's possession.

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

189 (a) tracks all handling and processing of cannabis or a cannabis product in a cannabis
190 producer or CBM dispensary;

191 (b) is tamper proof; and

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

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

194 (a) the Department of Public Safety;

195 (b) the Department of Agriculture and Food;

196 (c) the Department of Health; and

197 (d) the Division of Occupational and Professional Licensing within the Department of
198 Commerce.

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

200 **4-42-104. Preemption.**

201 This chapter does not preempt an ordinance enacted by a political subdivision of the
202 state regarding a cannabis producer that is more restrictive than this chapter.

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

204 **4-42-201. Cannabis producer -- License -- Renewal.**

205 (1) A person may not act as a cannabis producer without a license issued by the
206 department under this chapter.

207 (2) Subject to Subsections (4) through (6), the department shall, within 60 days after
208 receiving a complete application, issue a license to operate a cannabis producer to a person that
209 submits to the department:

210 (a) a proposed name, address, and physical location where the person will operate the
211 cannabis producer;

212 (b) a bond, as required by Section 4-42-205, for each license for which the person
213 applies;

214 (c) for each location of a cannabis producer for which the person applies, evidence that
215 the person can obtain a business license and meet zoning requirements established by a
216 political subdivision;

217 (d) an application fee established by the department, in accordance with Section

218 63J-1-504, that is necessary to cover the department's cost to implement this chapter;

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

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

221 and

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

223 (3) If the department determines that a cannabis producer is eligible for a license under

224 this section, the department shall charge the cannabis-based medicine establishment an initial

225 license fee in an amount determined by the department in accordance with Section 63J-1-504.

226 (4) The department shall require a separate license and separate license fee for each

227 type of cannabis producer and each location of a cannabis producer.

228 (5) The department may issue a cannabis cultivation facility license and a cannabis

229 processing facility license to be operated by:

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

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

232 (6) The department may not issue a license to operate a cannabis laboratory to a

233 person:

234 (a) that holds a license for or has an ownership interest in a CBM dispensary, a

235 cannabis processing facility, or a cannabis cultivation facility in the state;

236 (b) that has an owner, officer, board member, volunteer, shareholder, agent, director, or

237 employee whose immediate family member holds a license for or has an ownership interest in a

238 CBM dispensary, a cannabis processing facility, or a cannabis cultivation facility; or

239 (c) that proposes to operate the cannabis laboratory at the same physical location as a

240 CBM dispensary, a cannabis processing facility, or a cannabis cultivation facility.

241 (7) The department may not issue a cannabis producer license to a person that holds a

242 license for, or has an ownership interest in, a CBM dispensary.

243 (8) The department may revoke a license under this chapter if the cannabis producer is

244 not operational within one year of the issuance of the initial license.

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

246 **4-42-202. Renewal.**

247 (1) Except as provided in Subsection (2), the department shall renew a person's

248 cannabis producer license each year if, at the time of renewal:

249 (a) the person meets the requirements of Section 4-42-201; and
250 (b) the person pays the department a license renewal fee in an amount determined by
251 the department in accordance with Section 63J-1-504.

252 (2) (a) The department may not renew a cannabis producer's license for a sixth
253 consecutive time unless the department publishes a notice, in a newspaper of general
254 circulation for the geographic area in which the cannabis producer is located, one year before
255 the day on which the cannabis producer's license expires, that includes:

256 (i) the name and location of the cannabis producer;
257 (ii) the day on which the license for the cannabis producer will expire; and
258 (iii) a solicitation for cannabis producer license applicants.

259 (b) If, after the department publishes the notice described in Subsection (2)(a), the
260 department receives an application for a cannabis producer from a new applicant and also
261 receives an application for renewal from the existing cannabis producer, the department shall
262 issue the license to the applicant that the department determines best meets the criteria
263 established in Section 4-42-204.

264 (3) (a) If a licensed cannabis producer abandons the cannabis producer's license, the
265 department shall publish notice of an available license in the same manner as described in
266 Subsection (2)(a).

267 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,
268 Utah Administrative Rulemaking Act, for what actions by a cannabis producer constitute
269 abandonment of a cannabis producer license.

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

271 **4-42-203. Operating plan.**

272 (1) A person applying for a license to act as a cannabis producer shall submit to the
273 department, with the person's application, a proposed operating plan that includes:

274 (a) a description of the physical characteristics of the proposed facility;
275 (b) a description of the credentials and experience of any proposed cannabis producer
276 agent;
277 (c) the cannabis producer's employee training standards;
278 (d) a security plan;
279 (e) a plan to process payments through a cannabis payment processor licensed under

280 Section 7-26-201;

281 (f) for a cannabis cultivation facility, the information described in Subsection (2);

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

283 (h) for a cannabis laboratory, the information described in Subsection (4).

284 (2) A cannabis cultivation facility's operating plan shall include the cannabis
285 cultivation facility's proposed cannabis cultivation practices, including the cannabis cultivation
286 facility's:

287 (a) pesticide and fertilizer use;

288 (b) proposed square footage under cultivation; and

289 (c) anticipated cannabis yield.

290 (3) A cannabis processing facility's operating plan shall include the cannabis
291 processing facility's proposed cannabis-based medicine processing practices, including the
292 cannabis processing facility's:

293 (a) proposed cannabinoid extraction method;

294 (b) processing equipment; and

295 (c) other processing techniques.

296 (4) A cannabis laboratory's operating plan shall include the cannabis laboratory's
297 proposed cannabis and cannabis-based medicine product testing capability.

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

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

301 **4-42-204. Department may accept or deny a license -- Maximum number of**
302 **licenses.**

303 (1) The department may issue up to:

304 (a) one cannabis cultivation facility license per 750,000 residents of Utah;

305 (b) one cannabis processing facility license per 500,000 residents of Utah; and

306 (c) one cannabis laboratory license per 500,000 residents of Utah.

307 (2) In addition to the licenses available under Subsection (1), if the department
308 determines that the demand for cannabis-based medicine exceeds the supply available from
309 existing licensees, the department may issue:

310 (a) two cannabis cultivation facility licenses;

- 311 (b) one cannabis processing facility license; and
312 (c) one cannabis laboratory license.
313 (3) Except as provided in Subsection (4), if the department receives more applications
314 for a license to operate a given type of cannabis producer than are available under Subsection
315 (1) or (2), the department shall award the license to the applicant that best demonstrates:
316 (a) experience with:
317 (i) establishing and running a business in a related field;
318 (ii) operating a secure inventory control system;
319 (iii) complying with a regulatory environment; and
320 (iv) training, evaluating, and monitoring employees;
321 (b) connections to the local community;
322 (c) that the applicant will keep the cost of the applicant's products or services low; and
323 (d) that the applicant's operating plan is effective and meets the department's standards.
324 (4) The department is not required to issue a license under this section if the
325 department determines that no qualified applicant has applied.
326 (5) A department decision to award or deny a license under this section is final and not
327 subject to judicial review.

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

329 **4-42-205. Bond for a cannabis producer license.**

- 330 (1) A cannabis producer licensed under Section 4-42-201 shall post a cash bond or
331 surety bond, payable to the department, in an amount equal to:
332 (a) for a cannabis cultivation facility, \$2,000,000;
333 (b) for a cannabis processing facility, \$1,000,000; and
334 (c) for a cannabis laboratory, \$75,000.
335 (2) A cannabis producer licensed under Section 4-42-201 shall maintain the bond
336 described in Subsection (1) for as long as the cannabis producer continues to operate.
337 (3) The department shall require a bond a cannabis producer posts under this section to
338 be:
339 (a) in a form approved by the attorney general; and
340 (b) conditioned upon the cannabis producer's compliance with this chapter.
341 (4) If a bond described in Subsection (1) is canceled due to a cannabis producer's

342 negligence, the department may assess the cannabis producer a \$300 reinstatement fee.

343 (5) A cannabis producer may not withdraw any part of a bond posted under Subsection

344 (1):

345 (a) during the period when the cannabis producer's license is in effect; or

346 (b) while a license revocation proceeding is pending against the cannabis producer.

347 (6) A cannabis producer forfeits a bond posted under Subsection (1) if the cannabis
348 producer's license is revoked.

349 (7) The department may, without revoking a license, make a claim against a bond
350 posted by a cannabis producer under Subsection (1) for money the cannabis producer owes the
351 department under this chapter.

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

353 **Part 3. Cannabis Producer Agents**

354 **4-42-301. Cannabis producer agents.**

355 (1) A cannabis producer licensed under Section 4-42-201 shall maintain a current list
356 of each agent of the cannabis producer.

357 (2) A cannabis producer shall submit the list described in Subsection (1) to the
358 department before:

359 (a) January 1 of each year; and

360 (b) July 1 of each year.

361 (3) In addition to the list described in Subsection (1), a cannabis producer licensed
362 under Subsection 4-42-201 shall require each agent to submit to a criminal background check
363 in accordance with Section 4-42-302.

364 (4) The department may audit the list described in Subsection (1) at any time, at
365 random, in order to determine:

366 (a) that the list is accurate; and

367 (b) that each agent has submitted to a criminal background check in accordance with
368 Section 4-42-302.

369 (5) A cannabis producer is guilty of an infraction if the cannabis producer:

370 (a) fails to maintain an accurate list of each agent of the cannabis producer in
371 accordance with this section; or

372 (b) has an agent who has not submitted to a background check in accordance with

373 Section 4-42-302.

374 Section 11. Section **4-42-302** is enacted to read:

375 **4-42-302. Cannabis producer agents -- Criminal background checks.**

376 (1) Each cannabis producer agent shall:

377 (a) submit to the department:

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

379 (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the

380 agent's fingerprints are being registered in the Federal Bureau of Investigation's Next

381 Generation Identification system's Rap Back Service; and

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

383 (i) the Bureau of Criminal Identification; and

384 (ii) the Federal Bureau of Investigation.

385 (2) The Bureau of Criminal Identification shall:

386 (a) check the fingerprints submitted under Subsection (1) against the applicable state,

387 regional, and national criminal records databases, including the Federal Bureau of

388 Investigation's Next Generation Identification system;

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

390 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by

391 future submissions to the local and regional criminal records databases, including latent prints;

392 (d) request that the fingerprints be retained in the Federal Bureau of Investigation's

393 Next Generation Identification system's Rap Back Service for search by future submissions to

394 national criminal records databases, including the Next Generation Identification system and

395 latent prints; and

396 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives

397 notifications for an individual with whom the entity maintains an authorizing relationship.

398 (3) The department shall:

399 (a) assess an individual who submits fingerprints, in accordance with this section, a fee

400 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of

401 Criminal Identification or other authorized agency provides under this section; and

402 (b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal

403 Identification.

404 Section 12. Section **4-42-401** is enacted to read:

405 **Part 4. General Cannabis Producer Operating Requirements**

406 **4-42-401. Cannabis producer -- General operating requirements.**

407 (1) (a) A cannabis producer shall operate in accordance with the operating plan the
408 cannabis producer provides to the department under Section 4-42-203.

409 (b) A cannabis producer shall notify the department within 30 days of any change in
410 the cannabis producer's operation plan.

411 (c) The department shall review a cannabis producer's operating plan for compliance
412 with state law and administrative rules.

413 (d) A cannabis producer may not operate under an operating plan until the operating
414 plan is reviewed and approved by the department under Subsection (1)(c).

415 (2) Except as provided in Subsection (3), a cannabis producer shall operate:

416 (a) in a facility that is accessible only by an agent of the cannabis producer; and

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

418 (3) A cannabis-based medicine production facility may allow the press, a visitor, or a
419 contractor access to the cannabis producer if:

420 (a) the cannabis-based medicine production facility tracks and monitors the individual
421 at all times while the individual is in the cannabis producer; and

422 (b) a record of the individual's access to the cannabis producer is maintained by the
423 cannabis producer.

424 (4) A cannabis producer shall have:

425 (a) a single, secure public entrance;

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

427 (i) detects and records entry into the cannabis producer when the cannabis producer is
428 closed; and

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

430 (c) a lock on any area where the cannabis producer stores cannabis or cannabis-based
431 medicine.

432 (5) Except when determined by the Department of Financial Institutions under Section
433 7-26-204, a cannabis producer may only transmit or accept payments for cannabis-based
434 medicine using a cannabis payment processor licensed under Section 7-26-201.

435 (6) The department shall establish physical facility standards for a cannabis producer
436 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

437 Section 13. Section **4-42-402** is enacted to read:

438 **4-42-402. Inspections.**

439 (1) Subject to Subsection (2), the department shall inspect the records and facility of a
440 cannabis producer in order to determine if the cannabis producer complies with the
441 requirements of this chapter.

442 (2) The department may inspect the records and facility of a cannabis producer:

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

444 (b) if the department has reason to believe that the cannabis producer has violated the
445 law, at any time, scheduled or unscheduled.

446 Section 14. Section **4-42-403** is enacted to read:

447 **4-42-403. Advertising.**

448 A cannabis producer may not advertise to the general public in any medium.

449 Section 15. Section **4-42-404** is enacted to read:

450 **4-42-404. Cannabis or cannabis-based medicine transportation.**

451 (1) An individual may not transport cannabis or cannabis-based medicine between two
452 cannabis producers, or between a cannabis producer and a CBM dispensary, unless the
453 individual is an agent of a licensed cannabis producer or licensed cannabis dispensary.

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

456 (a) a bar code or unique identifier that links the cannabis or cannabis-based medicine to
457 a related inventory control system;

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

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

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

466 (4) An agent of a cannabis producer is guilty of an infraction if the agent:
467 (a) transports cannabis or cannabis-based medicine; and
468 (b) does not possess, on the agent's person or in the transport vehicle, a transportation
469 record that complies with Subsection (2).

470 (5) An agent who is guilty of an infraction under Subsection (4) is subject to a \$100
471 fine.

472 (6) If the department or a cannabis producer or cannabis dispensary agent discovers a
473 defect in the transportation record, the department or agent shall notify law enforcement
474 immediately.

475 Section 16. Section **4-42-501** is enacted to read:

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

477 **4-42-501. Cannabis cultivation facility -- Operating requirements.**

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

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

482 (3) A cannabis cultivation facility shall ensure that any cannabis growing at the
483 cannabis cultivation facility is not visible from outside the cannabis cultivation facility.

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

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

486 (b) each unique harvest of cannabis plants.

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

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

493 (a) use of pesticides;

494 (b) use of fertilizers; and

495 (c) cultivation techniques.

496 Section 17. Section **4-42-601** is enacted to read:

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

498 **4-42-601. Cannabis processing facility -- Operating requirements.**

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

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

504 Section 18. Section **4-42-602** is enacted to read:

505 **4-42-602. Cannabis-based medicine -- Product requirements.**

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

508 (a) a tablet;

509 (b) a capsule;

510 (c) a concentrated oil;

511 (d) a trans-dermal preparation; or

512 (e) a sub-lingual preparation.

513 (2) The Controlled Substances Advisory Committee may recommend that the
514 Legislature approve the use of an additional medical dosage form.

515 Section 19. Section **4-42-603** is enacted to read:

516 **4-42-603. Cannabis-based medicine -- Labeling and packaging.**

517 (1) A cannabis processing facility shall ensure that all cannabis-based medicine that the
518 cannabis processing facility distributes:

519 (a) clearly and unambiguously states that the cannabis-based medicine contains
520 cannabis;

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

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

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

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

527 (2) A cannabis processing facility shall package cannabis-based medicine in a

528 container that:

529 (a) is tamper resistant and opaque; and

530 (b) complies with physical criteria required by the department in accordance with

531 Subsection (3).

532 (3) The department shall establish cannabis-based medicine labeling and packaging

533 standards by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

534 Rulemaking Act.

535 Section 20. Section **4-42-701** is enacted to read:

536 **Part 7. Cannabis Laboratory Operating Requirements**

537 **4-42-701. Cannabis and cannabis-based medicine testing.**

538 (1) A cannabis laboratory shall, before cannabis-based medicine is offered for sale at a

539 CBM dispensary, test the cannabis-based medicine as described in this section.

540 (2) A cannabis laboratory may not operate unless the cannabis laboratory is capable of

541 accurately testing cannabis-based medicine as described in this section.

542 (3) An independent testing laboratory shall determine the cannabinoid profile of

543 cannabis-based medicine.

544 (4) A cannabis laboratory shall determine if cannabis-based medicine contains, in an

545 amount that is harmful to human health:

546 (a) mold;

547 (b) fungus;

548 (c) pesticides; or

549 (d) other microbial contaminants.

550 (5) For cannabis-based medicine that is manufactured using a process that involves

551 extraction using hydrocarbons, a cannabis laboratory shall test the cannabis-based medicine for

552 residual solvents.

553 (6) A cannabis laboratory shall test any cannabis that the cannabis laboratory receives

554 from a cannabis cultivation facility using carbon stable isotope testing to determine:

555 (a) the origin of the cannabis;

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

557 (c) any other information required by the department under Subsection (7) about the

558 cannabis that can be determined using stable isotope testing.

559 (7) The department shall determine, by rule made in accordance with Title 63G,
560 Chapter 3, Utah Administrative Rulemaking Act:

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

563 (b) additional cannabis or cannabis-based medicine testing that a cannabis laboratory is
564 required to perform; and

565 (c) minimum standards for a cannabis laboratory's testing methods and procedures.

566 Section 21. Section **4-42-702** is enacted to read:

567 **4-42-702. Reporting -- Inspections.**

568 (1) A cannabis laboratory shall report the results of each cannabis or cannabis-based
569 medicine test to the department.

570 (2) A cannabis laboratory shall determine if the results of a lab test indicate that a
571 cannabis or cannabis-based medicine batch:

572 (a) is unsafe for human consumption; or

573 (b) using a carbon stable isotope test, was not cultivated in accordance with this
574 chapter.

575 (3) If a cannabis laboratory makes a determination described in Subsection (2), the
576 cannabis laboratory may not release the batch to a cannabis processing facility or a CBM
577 dispensary until the department has an opportunity to respond to the cannabis laboratory within
578 a period of time determined by the department.

579 (4) (a) If the department determines that a cannabis or cannabis-based medicine batch
580 is unsafe for human consumption, the department shall destroy the cannabis or cannabis-based
581 medicine batch.

582 (b) If the department determines that a cannabis or cannabis-based medicine batch was
583 not cultivated in accordance with this chapter, the department may seize, embargo, or destroy a
584 cannabis or cannabis-based medicine batch in accordance with Section 4-42-801.

585 (5) The department shall establish, by rule made in accordance with Title 63G, Chapter
586 3, Utah Administrative Rulemaking Act, the amount of time that a cannabis laboratory is
587 required to hold a batch under Subsection (3).

588 (6) The department may conduct a test to:

589 (a) determine the accuracy of a cannabis laboratory's:

- 590 (i) cannabis or cannabis-based medicine test results; or
591 (ii) analytical method; or
592 (b) validate a cannabis laboratory's testing methods.

593 Section 22. Section **4-42-801** is enacted to read:

594 **Part 8. Enforcement**

595 **4-42-801. Enforcement -- Fine -- Citation.**

596 (1) The department may, for a violation of this chapter by a cannabis producer:

- 597 (a) revoke the cannabis producer's license;
598 (b) refuse to renew the cannabis producer's license;
599 (c) assess the cannabis producer an administrative penalty; or
600 (d) take any other appropriate administrative action.

601 (2) The department shall deposit an administrative penalty imposed under this section
602 into the Medical Cannabis Restricted Account.

603 (3) (a) The department may take an action described in Subsection (3)(b) if the
604 department concludes, upon inspection or investigation, that, for a person that is a cannabis
605 producer:

606 (i) the person has violated the provisions of this chapter, a rule made under this
607 chapter, or an order issued under this chapter;

608 (ii) the person prepared a cannabis or cannabis-based medicine batch in a manner, or
609 such that the batch contains a substance, that poses a threat to human health; or

610 (iii) the person possessed or used a cannabis batch that was not cultivated in
611 accordance with this chapter.

612 (b) If the department makes the determination about a person described in Subsection

613 (3)(a)(i), the department shall:

614 (i) issue the person a citation in writing;

615 (ii) attempt to negotiate a stipulated settlement; or

616 (iii) direct the person to appear before an adjudicative proceeding conducted under
617 Title 63G, Chapter 4, Administrative Procedures Act.

618 (c) If the department makes the determination about a person described in Subsection

619 (3)(a)(ii), the department may:

620 (i) seize, embargo, or destroy a cannabis or cannabis-based medicine batch; and

621 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
 622 63G, Chapter 4, Administrative Procedures Act.

623 (4) The department may, for a person subject to an uncontested citation, a stipulated
 624 settlement, or a finding of a violation in an adjudicative proceeding under this section:

625 (a) assess the person a fine, established in accordance with Section 63J-1-504, of up to
 626 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
 627 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

628 (b) order the person to cease and desist from the action that creates a violation.

629 (5) The department may not revoke a cannabis producer's license via a citation.

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

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

635 (a) refuse to issue or renew the person's license; or

636 (b) suspend, revoke, or place on probation the person's license.

637 Section 23. Section **4-42-802** is enacted to read:

638 **4-42-802. Report to the Legislature.**

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

642 Section 24. Section **4-42-803** is enacted to read:

643 **4-42-803. Fees -- Deposit into Medical Cannabis Restricted Account.**

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

646 Section 25. Section **7-26-101** is enacted to read:

CHAPTER 26. CANNABIS PAYMENT PROCESSOR

Part 1. General Provisions

649 **7-26-101. Title.**

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

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

652 **7-26-102. Definitions.**

653 As used in this chapter:

654 (1) "Cannabis" means a plant that is:

655 (a) cannabis sativa, or any part of the plant cannabis sativa, whether growing or not;

656 and

657 (b) authorized to be grown under Utah law.

658 (2) "Cannabis-based medicine" means a substance that is:

659 (a) composed, in whole or in part, of cannabis;

660 (b) intended for medical use; and

661 (c) authorized for medical use under Utah law.

662 (3) "Cannabis cultivation facility" means the same as that term is defined in Section
663 4-42-102.

664 (4) "Cannabis payment processor" means a person that facilitates payment:

665 (a) without using cash;

666 (b) electronically, in connection with the electronic verification system; and

667 (c) (i) by a cannabis producer:

668 (A) for cannabis, from a cannabis processing facility to a cannabis cultivation facility;

669 (B) for cannabis or cannabis-based medicine testing, from a cannabis processing
670 facility to a cannabis laboratory; or

671 (C) for cannabis-based medicine, from a CBM dispensary to a cannabis processing
672 facility; or

673 (ii) by an individual with a medical cannabis card, for cannabis-based medicine, to a
674 CBM dispensary.

675 (5) "Cannabis processing facility" means the same as that term is defined in Section
676 4-42-102.

677 (6) "CBM dispensary" means the same as that term is defined in Section 26-59-102.

678 (7) "Electronic verification system" means the same as that term is defined in Section
679 26-59-102.

680 Section 27. Section **7-26-201** is enacted to read:

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

682 **7-26-201. Cannabis payment processor -- License.**

683 (1) Subject to this chapter, the department shall issue a license to a person to operate as
684 a cannabis payment processor.

685 (2) A person may not act as a cannabis payment processor without a license issued by
686 the department under this section.

687 (3) An applicant for a cannabis payment processor license shall:

688 (a) submit to the department:

689 (i) the applicant's name, business address, and place of incorporation;

690 (ii) the name of each owner, officer, director, board member, shareholder, agent,
691 employee, or volunteer of the applicant; and

692 (iii) a fee in accordance with Section 7-1-401; and

693 (b) present evidence to the department that:

694 (i) the applicant is capable of electronically receiving funds from, and distributing
695 funds to:

696 (A) a cannabis producer;

697 (B) a CBM dispensary; and

698 (C) an individual with a medical cannabis card;

699 (ii) the applicant has a partnership, service agreement, or service contract with a
700 federally insured depository institution that agrees to clear cannabis-based medicine
701 transactions;

702 (iii) the applicant is able to interface with the electronic verification system to enable
703 an individual with a medical cannabis card to:

704 (A) add funds, using a bank wire or a credit card, to an account with the applicant
705 associated with the medical cannabis card; and

706 (B) use the medical cannabis card to pay for cannabis-based medicine at a CBM
707 dispensary using the funds in the individual's account with the cannabis payment processor;

708 and

709 (iv) the applicant is, at minimum:

710 (A) a level one payment card industry data security standard-validated provider;

711 (B) certified by Europay, MasterCard, and Visa; and

712 (C) capable of integrating with 50 payment processors.

713 (4) A license issued under this section is valid for two years.

714 (5) The department may determine, by rule made in accordance with Title 63G,

715 Chapter 3, Utah Administrative Rulemaking Act:

716 (a) any additional information an applicant for a cannabis payment processor is
717 required to submit to the department; and

718 (b) procedural requirements for an applicant for a license under this chapter.

719 (6) An applicant for a cannabis payment processor license under this section may
720 request that the department treat information that the applicant submits to the department as
721 confidential under Section 7-1-802.

722 Section 28. Section **7-26-202** is enacted to read:

723 **7-26-202. Renewal -- Abandonment.**

724 (1) Except as provided in Subsection (2), the department shall renew a person's
725 cannabis payment processor license every two years if, at the time of renewal, the person:

726 (a) meets the requirements of Section 7-26-201;

727 (b) demonstrates the criteria described in Subsection 7-26-203(2); and

728 (c) pays the department a license renewal fee in an amount determined by the
729 department in accordance with Section 7-1-401.

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

734 (i) the name and location of the cannabis payment processor;

735 (ii) the day on which the license for the cannabis payment processor will expire; and

736 (iii) a solicitation for cannabis payment processor license applicants.

737 (b) If, after the department publishes the notice described in Subsection (2)(a), the
738 department receives an application for a cannabis payment processor license from a new
739 applicant and also receives an application for renewal from the existing cannabis producer, the
740 department may issue the license to the applicant that the department determines best meets the
741 criteria established in Section 7-26-203.

742 (3) (a) If a person who is a licensed cannabis payment processor abandons the person's
743 cannabis payment processor license, or has the person's license revoked, the department shall

744 publish notice of an available license in the same manner as described in Subsection (2)(a).

745 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,

746 Utah Administrative Rulemaking Act, for what actions by a cannabis payment processor

747 constitute abandonment of a cannabis payment processor license.

748 Section 29. Section **7-26-203** is enacted to read:

749 **7-26-203. Number of licenses -- Criteria for awarding a license.**

750 (1) The department may only issue one cannabis payment processor license under this

751 chapter.

752 (2) The department shall evaluate an applicant for a cannabis payment processor

753 license to determine to what extent the applicant has demonstrated:

754 (a) experience with:

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

756 (ii) operating a payment processing system;

757 (iii) complying with a regulatory environment; and

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

759 (b) connections to the local community;

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

761 (d) that the applicant will maximize convenience, efficiency, and security for

762 processing cannabis-based medicine payments.

763 (3) After a department official reviews an applicant's application under Section

764 7-26-201 and evaluates the application for the criteria described in Subsection (2), the official

765 shall submit the department's findings and recommendations to the commissioner.

766 (4) After reviewing the findings and recommendations described in Subsection (3), the

767 commissioner shall make a final determination that awards or denies a cannabis payment

768 processor license to an applicant.

769 (5) In making a recommendation of which applicant to award a cannabis payment

770 processor license under Subsection (1), the department shall consult, to the extent that the

771 consultation involves compatibility and coordination of a cannabis payment processor licensee

772 with other state cannabis-based medicine regulation, with:

773 (a) the executive director of the Department of Commerce or the executive director's

774 designee;

- 775 (b) the chair of the State Tax Commission or the chair's designee;
776 (c) the chief information officer of the Department of Technology Services or the chief
777 information officer's designee;
778 (d) the executive director of the Department of Health or the executive director's
779 designee;
780 (e) the commissioner of the Department of Agriculture and Food or the commissioner's
781 designee; and
782 (f) the commissioner of the Department of Public Safety or the commissioner's
783 designee.
784 (6) An applicant for which the department denies an application is entitled to judicial
785 review under Section 7-1-714.

786 Section 30. Section **7-26-204** is enacted to read:

787 **7-26-204. Cash system if no cannabis payment processor available.**

- 788 (1) The department shall determine if no qualified cannabis payment processor
789 submitted an application for a license under this chapter.
790 (2) If the department makes the determination described in Subsection (1), the
791 department shall issue a statement that a cannabis payment processor is not available and that a
792 cannabis producer, CBM dispensary, or individual with a medical cannabis card may use cash
793 to pay for cannabis, cannabis-based medicine, or services related to cannabis or cannabis-based
794 medicine.

795 Section 31. Section **7-26-301** is enacted to read:

796 **Part 3. Operating Requirements**

797 **7-26-301. Operating requirements.**

- 798 (1) A cannabis payment processor may not accept or disburse cash in a transaction
799 involving cannabis-based medicine.
800 (2) A cannabis payment processor may not act as a cannabis payment processor for a
801 person unless the person is:
802 (a) an individual with a medical cannabis card issued by the Department of Health
803 under Title 26, Chapter 59, Cannabis-Based Medicine Act; or
804 (b) a person who is licensed under:
805 (i) Title 4, Chapter 42, Cannabis Producer License; or

806 (ii) Title 58, Chapter 87, CBM Dispensary License.

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

809 Section 32. Section **7-26-401** is enacted to read:

810 **Part 4. Enforcement**

811 **7-26-401. Examination -- Administrative action.**

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

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

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

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

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

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

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

826 (c) revoke the person's license.

827 Section 33. Section **7-26-402** is enacted to read:

828 **7-26-402. Fees -- Deposit into Medical Cannabis Restricted Account.**

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

831 Section 34. Section **26-59-101** is enacted to read:

832 **CHAPTER 59. CANNABIS-BASED MEDICINE ACT**

833 **Part 1. General Provisions**

834 **26-59-101. Title.**

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

836 Section 35. Section **26-59-102** is enacted to read:

837 **26-59-102. Definitions.**

838 (1) "Agent" means an employee or independent contractor of an entity.

839 (2) "Cannabinoid profile" means the percentage of cannabis-based medicine, by dry
840 weight, that is composed of the cannabinoids:

841 (a) tetrahydrocannabinol or THC;

842 (b) tetrahyrdocannabinolic acid or THCa;

843 (c) cannabidiol or CBD;

844 (d) cannabinol or CBN; and

845 (e) cannabigerol or CBG.

846 (3) "Cannabis" means a plant that is:

847 (a) cannabis sativa, or any part of the plant cannabis sativa, whether growing or not;

848 and

849 (b) authorized to be grown under Utah law.

850 (4) "Cannabis-based medicine" means a substance that is:

851 (a) composed, in whole or in part, of cannabis;

852 (b) intended for medical use; and

853 (c) authorized for medical use under Utah law.

854 (5) "Cannabis-based medicine dispensary" or "CBM dispensary" means a person that:

855 (a) sells cannabis-based medicine; or

856 (b) purchases or possesses cannabis-based medicine with the intent to sell

857 cannabis-based medicine.

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

859 4-42-102.

860 (7) "Cannabis laboratory" means the same as that term is defined in Section 4-42-102.

861 (8) "Cannabis payment processor" means the same as that term is defined in Section

862 7-26-102.

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

864 4-42-102.

865 (10) "Cannabis producer" means:

866 (a) a cannabis cultivation facility;

867 (b) a cannabis processing facility; or

868 (c) a cannabis laboratory.

869 (11) "Designated caregiver" means an individual authorized by a registered patient
870 under Section 26-59-202 to retrieve the registered patient's cannabis-based medicine on the
871 registered patient's behalf.

872 (12) "Electronic verification system" means the system described in Section 26-59-104.

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

874 (14) "Medical cannabis card" means a card issued by the department under Section
875 26-59-201 to a patient who qualifies for treatment with cannabis-based medicine.

876 (15) "Medical Cannabis Restricted Account" means the account created in Section
877 26-59-105.

878 (16) "Physician" means an individual who:

879 (a) is licensed to practice:

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

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

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

884 (17) "Qualifying illness" means a condition for which treatment with cannabis-based
885 medicine is authorized under Utah law.

886 (18) "Registered patient" means an individual with a valid medical cannabis card
887 issued by the department under Section 26-59-201.

888 Section 36. Section **26-59-103** is enacted to read:

889 **26-59-103. Local ordinances.**

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

893 Section 37. Section **26-59-104** is enacted to read:

894 **26-59-104. Electronic verification system.**

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

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

898 and operation of a state-owned electronic verification system for tracking:
899 (i) cannabis grown and processed in the state;
900 (ii) the production and sale of cannabis-based medicine;
901 (iii) registered patients and the purchase of cannabis-based medicine by registered
902 patients; and
903 (iv) payments for cannabis and cannabis-based medicine;
904 (b) shall direct the Department of Technology Services to work with a third-party
905 provider to develop and maintain the electronic verification system;
906 (c) in accordance with procurement methods and procedures described in Title 63G,
907 Chapter 6a, Utah Procurement Code, shall coordinate with the Division of Purchasing and
908 General Services within the Department of Administrative Services to select and contract with
909 a third-party provider described in Subsection (1)(b); and
910 (d) may create, by rule made in accordance with Title 63G, Chapter 3, Utah
911 Administrative Rulemaking Act, transaction fee requirements to cover the cost of operating and
912 maintaining the electronic verification system, in amounts determined by the Department of
913 Health, the Department of Agriculture, and the Division of Occupational and Professional
914 Licensing under Section 63J-1-504.
915 (2) The electronic verification system described in Subsection (1) shall, at minimum:
916 (a) connect a registered patient's medical cannabis card to a system that tracks, in real
917 time, each purchase by the registered patient of cannabis-based medicine, including:
918 (i) the time and date of the purchase;
919 (ii) the quantity and type of cannabis-based medicine purchased; and
920 (iii) a cannabis producer or CBM dispensary associated with the cannabis-based
921 medicine;
922 (b) provide access to an entity described in Subsection (1) to the extent necessary for
923 the entity to carry out the functions and responsibilities given to the entity under this chapter;
924 (c) provide access to state or local law enforcement;
925 (d) have the capability of interfacing with a cannabis payment processor to facilitate
926 payment for cannabis-based medicine services; and
927 (e) incorporate the inventory control system described in Section 4-42-103.
928 (3) The Department of Health may release the data collected by the electronic

929 verification system for the purpose of conducting medical research, if the medical research is
930 approved by an institutional review board associated with a university medical school.

931 Section 38. Section **26-59-105** is enacted to read:

932 **26-59-105. Medical Cannabis Restricted Account -- Creation.**

933 (1) There is created in the General Fund a restricted account known as the "Medical
934 Cannabis Restricted Account."

935 (2) The account created in this section is funded from:

936 (a) money deposited by the State Tax Commission under Title 59, Chapter 28, Medical
937 Cannabis Tax Act;

938 (b) money deposited into the account by the Department of Agriculture and Food under
939 Title 4, Chapter 42, Cannabis Producer License;

940 (c) money deposited into the account by the Department of Financial Institutions under
941 Title 7, Chapter 26, Cannabis Payment Processor;

942 (d) money deposited into the account by the department under Title 26, Chapter 59,
943 Cannabis-Based Medicine Act;

944 (e) money deposited into the account by the Division of Occupational and Professional
945 Licensing under Title 58, Chapter 87, CBM Dispensary License;

946 (f) appropriations made to the account by the Legislature; and

947 (g) the interest described in Subsection (3).

948 (3) Interest earned on the account is deposited into the account.

949 (4) The money in the account may only be used to fund, upon appropriation:

950 (a) the cost of state regulation of cannabis-based medicine under:

951 (i) Title 4, Chapter 42, Cannabis Producer License;

952 (ii) Title 7, Chapter 26, Cannabis Payment Processor;

953 (iii) Title 26, Chapter 59, Cannabis-Based Medicine Act;

954 (iv) Title 58, Chapter 87, CBM Dispensary License; and

955 (v) Title 59, Chapter 28, Medical Cannabis Tax Act;

956 (b) the cost to the attorney general for investigation and enforcement related to medical
957 cannabis; and

958 (c) cannabis abuse prevention and cannabis education programs developed by the state.

959 (5) At the end of fiscal year 2019 and fiscal year 2020 the director of the Division of

960 Finance shall transfer into the General Fund from the Medical Cannabis Restricted Account an
961 amount equal to the General Fund appropriation in fiscal year 2017 and fiscal year 2018 to
962 implement the programs described in Subsection (4).

963 Section 39. Section **26-59-201** is enacted to read:

964 **Part 2. Medical Cannabis Card**

965 **26-59-201. Medical cannabis card -- Application -- Renewal.**

966 (1) The department shall, within 45 days after an individual submits an application in
967 compliance with this section, issue a medical cannabis card, via the electronic verification
968 system described in Section 26-59-104, to an individual if the individual:

969 (a) is at least 18 years old;

970 (b) is a Utah resident;

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

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

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

975 (ii) qualifies for a medical cannabis card under Section 26-59-205;

976 (d) pays the department a fee established by the department in accordance with Section
977 63J-1-504; and

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

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

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

982 (2) A medical cannabis card that the department issues under Subsection (1) is valid
983 for one year.

984 (3) The department may renew an individual's medical cannabis card if, at the time of
985 renewal, the individual meets the requirements of Subsection (1).

986 (4) The department may revoke an individual's medical cannabis card if the individual
987 violates this chapter.

988 Section 40. Section **26-59-202** is enacted to read:

989 **26-59-202. Medical cannabis card -- Designated caregiver -- Registration --**
990 **Renewal -- Revocation.**

991 (1) A registered patient who a physician determines is unable to obtain cannabis-based
992 medicine from a CBM dispensary may register with the department, via the electronic
993 verification system, one individual to serve as the registered patient's designated caregiver.

994 (2) An individual registered as a designated caregiver of a registered patient under this
995 section may:

996 (a) carry the registered patient's medical cannabis card; and

997 (b) purchase and possess cannabis-based medicine, in accordance with this chapter, on
998 behalf of the registered patient.

999 (3) An individual may serve as a designated caregiver under Subsection (1) if the
1000 individual:

1001 (a) is at least 18 years old; and

1002 (b) is a Utah resident.

1003 Section 41. Section **26-59-203** is enacted to read:

1004 **26-59-203. Medical cannabis card -- Patient and designated caregiver**

1005 **requirements.**

1006 (1) A registered patient or designated caregiver of the registered patient who possesses
1007 cannabis-based medicine outside of the registered patient's residence shall:

1008 (a) carry the registered patient's medical cannabis card on the registered patient's or
1009 designated caregiver's person at all times;

1010 (b) carry, with the cannabis-based medicine, the cannabis-based medicine label or
1011 packaging that includes a unique identifier that links the cannabis-based medicine to the
1012 electronic verification system; and

1013 (c) possess no more than a 30-day supply of cannabis-based medicine as established by
1014 the recommendation of a physician for the registered patient's treatment.

1015 (2) A registered patient or designated caregiver may only purchase cannabis-based
1016 medicine via a cannabis payment processor licensed under Section 7-26-201.

1017 (3) A registered patient or designated caregiver of a registered patient is guilty of an
1018 infraction if the registered patient or designated caregiver:

1019 (a) possesses cannabis-based medicine outside of the registered patient's residence; and

1020 (b) (i) does not possess, on the registered patient's or designated caregiver's person, the
1021 registered patient's medical cannabis card; or

1022 (ii) does not possess a label that complies with Subsection (1)(b).

1023 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a
1024 \$100 fine.

1025 Section 42. Section **26-59-204** is enacted to read:

1026 **26-59-204. Cannabis-based medicine specialist -- Expanded access for a patient**
1027 **with a terminal or intractable disease.**

1028 (1) As used in this section:

1029 (a) "Cannabis-based medicine specialist" means a physician with a cannabis-based
1030 medicine specialist certification issued by the division under Subsection (2).

1031 (b) "Division" means the Division of Occupational and Professional Licensing within
1032 the Department of Commerce.

1033 (2) The division may issue a cannabis-based medicine certification to a physician who:

1034 (a) demonstrates, to the satisfaction of the division, that the physician has expertise and
1035 experience in treating a patient with cannabis-based medicine; and

1036 (b) completes training in cannabis-based medicine developed by the division in
1037 coordination with the department and required by rule made in accordance with Title 63G,
1038 Chapter 3, Utah Administrative Rulemaking Act.

1039 (3) A cannabis-based medicine specialist may recommend treatment with
1040 cannabis-based medicine to a patient who is referred to the cannabis-based medicine specialist
1041 by the patient's primary care physician if:

1042 (a) the patient's primary care physician diagnosed the patient with an intractable or
1043 terminal condition; and

1044 (b) the patient will, in the opinion of the cannabis-based medicine specialist, benefit
1045 from treatment with cannabis-based medicine.

1046 (4) A cannabis-based medicine specialist may recommend treatment with cannabis
1047 based-medicine to a patient who is less than 18 years old and who is referred to the
1048 cannabis-based medicine specialist by the patient's primary care physician if:

1049 (a) the cannabis-based medicine specialist is board-certified in pediatrics;

1050 (b) the patient's primary care physician diagnosed the patient with an intractable or
1051 terminal condition; and

1052 (c) the patient will, in the opinion of the cannabis-based medicine specialist, benefit

1053 from treatment with cannabis-based medicine.

1054 (5) A patient to whom a physician recommends cannabis-based medicine under
1055 Subsection (3) or (4) is eligible for a medical cannabis card under this section.

1056 Section 43. Section **26-59-205** is enacted to read:

1057 **26-59-205. Insurance coverage.**

1058 An insurance carrier, third-party administrator, or employer is not required to provide
1059 reimbursement for treatment of an individual with cannabis-based medicine under this chapter.

1060 Section 44. Section **26-59-206** is enacted to read:

1061 **26-59-206. Report to the Legislature.**

1062 The department shall, before November 1 each year, report to the Health and Human
1063 Services Interim Committee on the department's administration and enforcement of this
1064 chapter.

1065 Section 45. Section **26-59-301** is enacted to read:

1066 **26-59-301. Fees -- Deposit into Medical Cannabis Restricted Account.**

1067 The department shall deposit fees the department collects under this chapter into the
1068 Medical Cannabis Restricted Account.

1069 Section 46. Section **41-6a-517** is amended to read:

1070 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
1071 **body -- Penalties -- Arrest without warrant.**

1072 (1) As used in this section:

1073 (a) "Controlled substance" [has] means the same [meaning] as that term is defined as in
1074 Section 58-37-2.

1075 (b) "Practitioner" [has] means the same [meaning] as that term is defined as in Section
1076 58-37-2.

1077 (c) "Prescribe" [has] means the same [meaning] as that term is defined as in Section
1078 58-37-2.

1079 (d) "Prescription" [has] means the same [meaning] as that term is defined as in Section
1080 58-37-2.

1081 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
1082 operate or be in actual physical control of a motor vehicle within this state if the person has any

1083 measurable controlled substance or metabolite of a controlled substance in the person's body.

1084 (3) It is an affirmative defense to prosecution under this section that the controlled

1085 substance was:

1086 (a) involuntarily ingested by the accused;

1087 (b) prescribed by a practitioner for use by the accused; [~~or~~]

1088 (c) cannabis-based medicine recommended by a physician and the person holds a valid

1089 medical cannabis card under Title 26, Chapter 59, Cannabis-Based Medicine Act; or

1090 [~~(d)~~] (d) otherwise legally ingested.

1091 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B

1092 misdemeanor.

1093 (b) A person who violates this section is subject to conviction and sentencing under

1094 both this section and any applicable offense under Section 58-37-8.

1095 (5) A peace officer may, without a warrant, arrest a person for a violation of this

1096 section when the officer has probable cause to believe the violation has occurred, although not

1097 in the officer's presence, and if the officer has probable cause to believe that the violation was

1098 committed by the person.

1099 (6) The Driver License Division shall, if the person is 21 years of age or older on the

1100 date of arrest:

1101 (a) suspend, for a period of 120 days, the driver license of a person convicted under

1102 Subsection (2) of an offense committed on or after July 1, 2009; or

1103 (b) revoke, for a period of two years, the driver license of a person if:

1104 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1105 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1106 and within a period of 10 years after the date of the prior violation.

1107 (7) The Driver License Division shall, if the person is 19 years of age or older but

1108 under 21 years of age on the date of arrest:

1109 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is

1110 longer, the driver license of a person convicted under Subsection (2) of an offense committed

1111 on or after July 1, 2011; or

1112 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is

1113 longer, the driver license of a person if:

1114 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1115 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1116 and within a period of 10 years after the date of the prior violation.

1117 (8) The Driver License Division shall, if the person is under 19 years of age on the date
1118 of arrest:

1119 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
1120 under Subsection (2) of an offense committed on or after July 1, 2009; or

1121 (b) revoke, until the person is 21 years of age, the driver license of a person if:

1122 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1123 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

1124 and within a period of 10 years after the date of the prior violation.

1125 (9) The Driver License Division shall subtract from any suspension or revocation
1126 period the number of days for which a license was previously suspended under Section
1127 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
1128 which the record of conviction is based.

1129 (10) The Driver License Division shall:

1130 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
1131 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
1132 committed prior to July 1, 2009; or

1133 (b) deny, suspend, or revoke the operator's license of a person for the denial,
1134 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

1135 (i) the person was 20 years of age or older but under 21 years of age at the time of
1136 arrest; and

1137 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
1138 July 1, 2009, and prior to July 1, 2011.

1139 (11) A court that reported a conviction of a violation of this section for a violation that
1140 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
1141 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
1142 if the person:

1143 (a) completes at least six months of the license suspension;

1144 (b) completes a screening;

1145 (c) completes an assessment, if it is found appropriate by a screening under Subsection
1146 (11)(b);

1147 (d) completes substance abuse treatment if it is found appropriate by the assessment
1148 under Subsection (11)(c);

1149 (e) completes an educational series if substance abuse treatment is not required by the
1150 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1151 (f) has not been convicted of a violation of any motor vehicle law in which the person
1152 was involved as the operator of the vehicle during the suspension period imposed under
1153 Subsection (7)(a) or (8)(a);

1154 (g) has complied with all the terms of the person's probation or all orders of the court if
1155 not ordered to probation; and

1156 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
1157 person has not consumed a controlled substance not prescribed by a practitioner for use by the
1158 person or unlawfully consumed alcohol during the suspension period imposed under
1159 Subsection (7)(a) or (8)(a); or

1160 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
1161 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
1162 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
1163 for use by the person or unlawfully consumed alcohol during the suspension period imposed
1164 under Subsection (7)(a) or (8)(a).

1165 (12) If the court shortens a person's license suspension period in accordance with the
1166 requirements of Subsection (11), the court shall forward the order shortening the person's
1167 license suspension period prior to the completion of the suspension period imposed under
1168 Subsection (7)(a) or (8)(a) to the Driver License Division.

1169 (13) (a) The court shall notify the Driver License Division if a person fails to:

1170 (i) complete all court ordered screening and assessment, educational series, and
1171 substance abuse treatment; or

1172 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1173 (b) Upon receiving the notification, the division shall suspend the person's driving
1174 privilege in accordance with Subsections 53-3-221(2) and (3).

1175 (14) The court shall order supervised probation in accordance with Section 41-6a-507

1176 for a person convicted under Subsection (2).

1177 Section 47. Section **53-1-106.5** is enacted to read:

1178 **53-1-106.5. Cannabis-based medicine -- Department duties.**

1179 In addition to the duties described in Section 53-1-106, the department shall provide
1180 standards for the training of peace officers and law enforcement agencies in the use of the
1181 electronic verification system described in Section 26-59-104.

1182 Section 48. Section **58-37f-204** is enacted to read:

1183 **58-37f-204. Controlled substance database and cannabis-based medicine.**

1184 (1) (a) The division shall establish a process for a CBM dispensary agent to submit, at
1185 a specified time during each 24-hour period, the information required by this section.

1186 (b) A CBM dispensary shall comply with the process established by the division under
1187 Subsection (1)(a).

1188 (2) A CBM dispensary shall, each time the CBM dispensary dispenses cannabis-based
1189 medicine to an individual with a medical cannabis card, submit to the division the following
1190 information:

1191 (a) the name of the physician who recommended the cannabis-based medicine and the
1192 unique number identifying the recommendation;

1193 (b) the date of the recommendation;

1194 (c) the date the cannabis-based medicine was dispensed;

1195 (d) the name of the individual with the medical cannabis card;

1196 (e) positive identification of the individual who receives the cannabis-based medicine,
1197 including the type of identification and any identifying numbers on the identification;

1198 (f) the amount of cannabis-based medicine dispensed;

1199 (g) the dosage, quantity, and frequency recommended by the physician;

1200 (h) the name of the CBM dispensary dispensing the cannabis-based medicine;

1201 (i) the name of the CBM dispensary agent who dispensed the cannabis-based medicine;

1202 and

1203 (j) any other information required by the division under Subsection (8).

1204 (3) If an individual's cannabis-based medicine record is in the controlled substance
1205 database:

1206 (a) the individual may obtain the record by requesting the record from the division in

1207 writing; and

1208 (b) the individual may request, in writing, with the individual's postal address included,
1209 that the division correct any incorrect information about the individual contained in the
1210 database.

1211 (4) For a request described in Subsection (3), the division shall:

1212 (a) grant or deny the request no later than 30 days after the day on which the division
1213 receives the request; and

1214 (b) notify the individual who submitted the request of the division's decision by mail
1215 postmarked no later than 35 days after the day on which the division received the request.

1216 (5) If the division denies a request described in Subsection (3), or does not respond to
1217 the request within the time period described in Subsection (4), the individual who submitted
1218 the request may, no later than 60 days after the day on which the individual's initial request is
1219 postmarked, submit an appeal to the Department of Commerce.

1220 (6) The division shall ensure that the database system records and maintains for
1221 reference:

1222 (a) the identity of and a form of identification for each individual who requests
1223 information from the database;

1224 (b) the information accessed by the individual described in Subsection (6)(a); and

1225 (c) the date and time the individual described in Subsection (6)(a) made the request.

1226 (7) A CBM dispensary agent may access the controlled substance database in the same
1227 manner and for the same purpose as a pharmacist may access the database under Subsection
1228 58-37f-301(2)(i).

1229 (8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3,
1230 Utah Administrative Rulemaking Act:

1231 (a) requirements for the form and manner of submission of information submitted to
1232 the database under this section; and

1233 (b) for the purpose of collecting health data on cannabis-based medicine, additional
1234 information that a CBM dispensary is required to submit to the controlled substance database.

1235 Section 49. Section **58-67-807** is enacted to read:

1236 **58-67-807. Recommendation of cannabis-based medicine -- Registration with**
1237 **division and Department of Health.**

- 1238 (1) A physician may recommend the use of cannabis-based medicine to a patient in
1239 accordance with Title 26, Chapter 59, Cannabis-Based Medicine Act, if the physician:
1240 (a) registers with the division and the Department of Health as a physician who
1241 recommends cannabis-based medicine;
1242 (b) completes the training required under Subsection (3); and
1243 (c) complies with Section 26-59-205.
1244 (2) A physician who recommends cannabis-based medicine shall:
1245 (a) recommend cannabis-based medicine to no more than an amount of patients
1246 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
1247 Utah Administrative Rulemaking Act;
1248 (b) consult the controlled substance database before recommending cannabis-based
1249 medicine to a patient to determine if the patient is abusing cannabis-based medicine;
1250 (c) report an adverse event experienced by a patient related to the patient's
1251 cannabis-based medicine use to the Department of Health; and
1252 (d) report other data on cannabis-based medicine required by Title 26, Chapter 59,
1253 Cannabis-Based Medicine Act.
1254 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1255 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1256 recommends cannabis-based medicine.
1257 (b) The division shall include, in the training requirements the division establishes
1258 under Subsection (3)(a), training on using caution when recommending cannabis-based
1259 medicine to avoid patient cannabis-based medicine abuse.
1260 (4) It is not a breach of the applicable standard of care for a physician to recommend
1261 treatment with cannabis-based medicine to an individual under this section and Title 26,
1262 Chapter 59, Cannabis-Based Medicine Act.
1263 (5) A physician who recommends treatment with cannabis-based medicine to an
1264 individual under this section and Title 26, Chapter 59, Cannabis-Based Medicine Act, may not,
1265 solely based on that recommendation, be subject to:
1266 (a) civil liability;
1267 (b) criminal liability; or
1268 (c) licensure sanctions under this chapter.

1269 Section 50. Section **58-68-807** is enacted to read:

1270 **58-68-807. Recommendation of cannabis-based medicine -- Registration with**
1271 **division and Department of Health.**

1272 (1) A physician may recommend the use of cannabis-based medicine to a patient in
1273 accordance with Title 26, Chapter 59, Cannabis-Based Medicine Act, if the physician:

1274 (a) registers with the division and the Department of Health as a physician who
1275 recommends cannabis-based medicine;

1276 (b) completes the training required under Subsection (3); and

1277 (c) complies with Section 26-59-205.

1278 (2) A physician who recommends cannabis-based medicine shall:

1279 (a) recommend cannabis-based medicine to no more than an amount of patients
1280 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
1281 Utah Administrative Rulemaking Act;

1282 (b) consult the controlled substance database before recommending cannabis-based
1283 medicine to a patient to determine if the patient is abusing cannabis-based medicine;

1284 (c) report an adverse event experienced by a patient related to the patient's
1285 cannabis-based medicine use to the Department of Health; and

1286 (d) report other data on cannabis-based medicine required by Title 26, Chapter 59,
1287 Cannabis-Based Medicine Act.

1288 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter
1289 3, Utah Administrative Rulemaking Act, training requirements for a physician that
1290 recommends cannabis-based medicine.

1291 (b) The division shall include, in the training requirements the division establishes
1292 under Subsection (3)(a), training on using caution when recommending cannabis-based
1293 medicine to avoid patient cannabis-based medicine abuse.

1294 (4) It is not a breach of the applicable standard of care for a physician to recommend
1295 treatment with cannabis-based medicine to an individual under this section and Title 26,
1296 Chapter 59, Cannabis-Based Medicine Act.

1297 (5) A physician who recommends treatment with cannabis-based medicine or a
1298 cannabis-based medicine product to an individual under this section and Title 26, Chapter 59,
1299 Cannabis-Based Medicine Act, may not, solely based on that recommendation, be subject to:

- 1331 (9) "Cannabis producer" means:
1332 (a) a cannabis cultivation facility;
1333 (b) a cannabis processing facility; or
1334 (c) a cannabis laboratory.
1335 (10) "Electronic verification system" means the system described in Section 26-59-104.
1336 (11) "Inventory control system" means the system described in Section 4-42-103.
1337 (12) "Medical cannabis card" means the same as that term is defined in Section
1338 26-59-102.
1339 (13) "Medical Cannabis Restricted Account" means the account created in Section
1340 26-59-105.
1341 (14) "Physician" means the same as that term is defined in Section 26-59-102.
1342 (15) "Registered patient" means an individual with a valid medical cannabis card
1343 issued by the department under Section 26-59-201.

1344 Section 53. Section **58-87-201** is enacted to read:

1345 **Part 2. License and Eligibility**

1346 **58-87-201. CBM dispensary -- License -- Eligibility.**

1347 (1) A person may not operate as a CBM dispensary without a license from the division
1348 issued under this part.

1349 (2) Subject to the requirements of this part, the division shall, within 60 business days
1350 after receiving a complete application, issue a license to operate a CBM dispensary to a person
1351 who submits to the division:

1352 (a) a proposed name, address, and physical location where the person will operate the
1353 CBM dispensary;

1354 (b) a bond, as required by Section 58-87-205, for each license for which the person
1355 applies;

1356 (c) evidence that the person:

1357 (i) can comply with the operating requirements for a CBM dispensary described in this
1358 chapter;

1359 (ii) will implement an inventory control system at the CBM dispensary; and

1360 (iii) can obtain a business license and meet zoning requirements established by a
1361 political subdivision;

1362 (d) an application fee, in an amount determined by the division in accordance with
1363 Section 63J-1-504, that is necessary to cover the division's cost to implement this part; and

1364 (e) an operating plan that complies with Section 58-87-203.

1365 (3) If the division determines that a CBM dispensary is eligible for a license under this
1366 section, the division shall charge the CBM dispensary an initial license fee in an amount
1367 determined by the division in accordance with Section 63J-1-504.

1368 (4) The division may revoke a license under this chapter if the CBM dispensary is not
1369 operational within one year of the issuance of the initial license.

1370 Section 54. Section **58-87-202** is enacted to read:

1371 **58-87-202. Renewal.**

1372 (1) Except as provided in Subsection (2), the division shall renew a person's license
1373 under this part each year if, at the time of renewal:

1374 (a) the person meets the requirements of Section 58-87-201; and

1375 (b) the person pays the division a license renewal fee in an amount determined by the
1376 division in accordance with Section 63J-1-504.

1377 (2) (a) The division may not renew a CBM dispensary's license for a sixth consecutive
1378 time unless the division publishes a notice, in a newspaper of general circulation for the
1379 geographic area in which the CBM dispensary is located, one year before the day on which the
1380 CBM dispensary's license expires, that includes:

1381 (i) the name and location of the CBM dispensary;

1382 (ii) the day on which the license for the CBM dispensary will expire; and

1383 (iii) a solicitation for CBM dispensary license applicants.

1384 (b) If, after the division publishes the notice described in Subsection (2)(a), the division
1385 receives an application for a CBM dispensary from a new applicant and also receives an
1386 application for renewal from the existing CBM dispensary, the division shall issue the license
1387 to the applicant that the division determines best meets the criteria established in Section
1388 58-87-204.

1389 (3) (a) If a licensed CBM dispensary abandons the CBM dispensary's license, the
1390 division shall publish notice of an available license in the same manner as described in
1391 Subsection (2)(a).

1392 (b) The division may establish criteria, in accordance with Title 63G, Chapter 3, Utah

1393 Administrative Rulemaking Act, for what actions by a CBM dispensary constitute
1394 abandonment of a CBM dispensary license.

1395 Section 55. Section **58-87-203** is enacted to read:

1396 **58-87-203. Operating plan.**

1397 (1) A person applying for a CBM dispensary license shall submit to the division a
1398 proposed operating plan for the CBM dispensary.

1399 (2) The operating plan described in Subsection (1) shall include:

1400 (a) a description of the CBM dispensary's employee training standards;

1401 (b) a security plan for the CBM dispensary;

1402 (c) a plan to process payments through a cannabis payment processor licensed under
1403 Section 7-26-201;

1404 (d) the time period in which the person estimates the CBM dispensary will become
1405 operational; and

1406 (e) the products, and anticipated sources of the products, that a CBM dispensary plans
1407 to sell.

1408 (3) The division shall develop minimum operating plan standards by rule made in
1409 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1410 Section 56. Section **58-87-204** is enacted to read:

1411 **58-87-204. Division may accept or deny a license -- Maximum number of licenses.**

1412 (1) The division may issue one CBM dispensary license per 600,000 residents of Utah
1413 at any given time.

1414 (2) Except as provided in Subsection (3), if the division receives more applications for
1415 a CBM dispensary license than are available under Subsection (1), the division shall award the
1416 license to the applicant that best demonstrates:

1417 (a) experience with:

1418 (i) establishing and running a business in a related field;

1419 (ii) operating a secure inventory control system;

1420 (iii) complying with a regulatory environment; and

1421 (iv) training, evaluating, and monitoring employees;

1422 (b) connections to the local community;

1423 (c) that the applicant will keep the cost of cannabis-based medicine low; and

1424 (d) that the applicant's operating plan is effective and meets the division's standards.

1425 (3) The division is not required to issue a license under this section if the division
1426 determines that no qualified applicant has applied.

1427 (4) A division decision to award or deny a license under this section is final and not
1428 subject to judicial review.

1429 Section 57. Section **58-87-205** is enacted to read:

1430 **58-87-205. Bond for a CBM dispensary license.**

1431 (1) A CBM dispensary licensed under Section 58-87-201 shall post a cash bond or
1432 surety bond, payable to the division, in an amount equal to \$750,000.

1433 (2) A CBM dispensary licensed under Section 4-42-201 shall maintain the bond
1434 described in Subsection (1) for as long as the CBM dispensary continues to operate.

1435 (3) The division shall require a bond a CBM dispensary posts under this section to be:

1436 (a) in a form approved by the attorney general; and

1437 (b) conditioned upon the CBM dispensary's compliance with this chapter.

1438 (4) If a bond described in Subsection (1) is canceled due to a CBM dispensary's
1439 negligence, the division may assess the CBM dispensary a \$300 reinstatement fee.

1440 (5) A CBM dispensary may not withdraw any part of a bond posted under Subsection

1441 (1):

1442 (a) during the period when the CBM dispensary's license is in effect; or

1443 (b) while a license revocation proceeding is pending against the CBM dispensary.

1444 (6) A CBM dispensary forfeits a bond posted under Subsection (1) if the CBM
1445 dispensary's license is revoked.

1446 (7) The division may, without revoking a license, make a claim against a bond posted
1447 by a CBM dispensary under Subsection (1) for money the CBM dispensary owes the division
1448 under this chapter.

1449 Section 58. Section **58-87-301** is enacted to read:

1450 **Part 3. CBM Dispensary Agents**

1451 **58-87-301. CBM dispensary agents.**

1452 (1) A CBM dispensary licensed under Section 58-87-201 shall maintain a current list
1453 of each agent of the CBM dispensary.

1454 (2) A CBM dispensary shall submit the list described in Subsection (1) to the division

1455 before:

1456 (a) January 1 of each year; and

1457 (b) July 1 of each year.

1458 (3) In addition to the list described in Subsection (1), a CBM dispensary licensed under

1459 Subsection 58-87-201 shall require each agent to submit to a criminal background check in

1460 accordance with Section 58-87-302.

1461 (4) The division may audit the list described in Subsection (1) at any time, at random,

1462 in order to determine:

1463 (a) that the list is accurate; and

1464 (b) that each agent has submitted to a criminal background check in accordance with

1465 Section 58-87-302.

1466 (5) A CBM dispensary is guilty of an infraction if the CBM dispensary:

1467 (a) fails to maintain an accurate list of each agent of the CBM dispensary in accordance

1468 with this section; or

1469 (b) has an agent who has not submitted to a background check in accordance with

1470 Section 58-87-302.

1471 Section 59. Section **58-87-401** is enacted to read:

1472 **Part 4. CBM Dispensary Operation Requirements**

1473 **58-87-401. Operating requirements -- General.**

1474 (1) (a) A CBM dispensary shall operate in accordance with the operating plan that the

1475 CBM dispensary provides to the department under Section 58-87-203.

1476 (b) A CBM dispensary shall notify the department within 30 days of any change in the

1477 CBM dispensary's operation plan.

1478 (c) The division shall review a CBM dispensary's operating plan for compliance with

1479 state law and administrative rules.

1480 (d) A CBM dispensary may not operate under an operating plan until the operating plan

1481 is reviewed and approved by the division under Subsection (1)(c).

1482 (2) Except as provided in Subsection (3), a CBM dispensary shall operate:

1483 (a) in a facility that is accessible only by an agent of a CBM dispensary or by an

1484 individual with a medical cannabis card; and

1485 (b) at the physical address provided to the department under Section 58-87-201.

- 1486 (3) A CBM dispensary may allow the press, a visitor, or a contractor access to the
1487 CBM dispensary if:
- 1488 (a) the CBM dispensary tracks and monitors the individual at all times while the
1489 individual is in the CBM dispensary; and
- 1490 (b) a record of the individual's access to the CBM dispensary is maintained by the
1491 CBM dispensary.
- 1492 (4) A CBM dispensary may not operate without:
- 1493 (a) a security system with a backup power source in the event of a power outage to:
- 1494 (i) detect and record entry at all times the CBM dispensary is closed; and
1495 (ii) provide notice of unauthorized entry to local law enforcement;
- 1496 (b) a lock on any entrance to the area of the CBM dispensary where cannabis-based
1497 medicine is stored; and
- 1498 (c) an inventory control system that complies with Section 4-42-104.
- 1499 (5) Except as provided in Subsection (6), a physician may not:
- 1500 (a) serve as a CBM dispensary agent; or
1501 (b) except online, advertise that the physician may or will recommend cannabis-based
1502 medicine.
- 1503 (6) (a) A CBM dispensary shall employ an individual licensed as a pharmacist under
1504 Title 58, Chapter 17b, Pharmacy Practice Act, to act as a consultant.
- 1505 (b) The individual described in Subsection (6)(a) shall:
- 1506 (i) review the records of each individual with a medical cannabis card who purchases
1507 cannabis-based medicine from the CBM dispensary; and
- 1508 (ii) answer questions for an individual with a medical cannabis card.
- 1509 (7) Except when determined by the Department of Financial Institutions under Section
1510 7-26-204, a CBM dispensary may only transmit or accept payment for cannabis-based medicine
1511 through a cannabis payment processor licensed under Section 7-26-201.
- 1512 (8) A CBM dispensary may not allow any individual to consume cannabis-based
1513 medicine on the property or premises of the establishment.
- 1514 (9) A CBM dispensary shall require any CBM dispensary agent to wear a white lab
1515 coat at all times while the CBM dispensary agent is in the view of a customer at the CBM
1516 dispensary.

1517 (10) The division shall establish requirements by rule made in accordance with Title
1518 63G, Chapter 3, Utah Administrative Rulemaking Act, related to:

- 1519 (a) CBM dispensary patient counseling;
1520 (b) cannabis-based medicine labeling; and
1521 (c) record keeping.

1522 Section 60. Section **58-87-402** is enacted to read:

1523 **58-87-402. Dispensing -- Amount a CBM dispensary may dispense -- Reporting --**
1524 **Form of cannabis or cannabis product.**

1525 (1) A CBM dispensary may only sell, subject to this chapter:

- 1526 (a) cannabis-based medicine; or
1527 (b) educational materials related to the medical use of cannabis-based medicine.

1528 (2) A CBM dispensary may only sell cannabis-based medicine to:

- 1529 (a) an individual with a medical cannabis card issued by the department;
1530 (b) an individual with a valid hemp extract registration card issued under Title 26,

1531 Chapter 56, Hemp Extract Registration Act; or

1532 (c) a person conducting an approved study under Section 26-59-208.

1533 (3) A CBM dispensary may not dispense on behalf of any one registered patient, in any
1534 one 30-day period, an amount of cannabis-based medicine that exceeds a 30-day supply of the
1535 dosage recommended by the registered patient's physician.

1536 (4) An individual with a medical cannabis card may not purchase more cannabis-based
1537 medicine than the amounts designated in Subsection (3).

1538 (5) A designated caregiver designated by a registered patient may not purchase, for the
1539 registered patient, an amount of cannabis-based medicine that exceeds the amounts designated
1540 in Subsection (3).

1541 (6) A CBM dispensary shall:

1542 (a) submit a record to the electronic verification system of each time the CBM
1543 dispensary dispenses cannabis-based medicine to a registered patient;

1544 (b) access the electronic verification system before dispensing cannabis-based
1545 medicine to a registered patient in order to determine if the registered patient has exceeded the
1546 amount of cannabis or cannabis products described in Subsection (3); and

1547 (c) comply with Section 58-37f-204.

1548 Section 61. Section **58-87-403** is enacted to read:

1549 **58-87-403. Product quality -- Labeling -- Packaging.**

1550 (1) A CBM dispensary may not sell or offer to sell cannabis-based medicine unless:

1551 (a) the cannabinoid profile of the cannabis-based medicine is clearly and accurately
1552 stated on the cannabis-based medicine packaging; and

1553 (b) the cannabis-based medicine is sealed in a tamper resistant, resealable container
1554 with a label that includes a bar code or unique identifier that links the cannabis-based medicine
1555 to the CBM dispensary's inventory control system.

1556 (2) A CBM dispensary may only sell cannabis-based medicine that has been inspected
1557 by a cannabis laboratory in accordance with Section 4-42-701.

1558 Section 62. Section **58-87-404** is enacted to read:

1559 **58-87-404. Advertising.**

1560 (1) Except as provided in Subsection (2), a CBM dispensary may not advertise in any
1561 medium.

1562 (2) A CBM dispensary may advertise using a:

1563 (a) sign on the outside of the CBM dispensary that includes only the CBM dispensary's
1564 name and hours of operation; and

1565 (b) website that includes information about the location of the dispensary, products and
1566 services available at the dispensary, and educational materials related to the use of
1567 cannabis-based medicine.

1568 Section 63. Section **58-87-405** is enacted to read:

1569 **58-87-405. Inspections.**

1570 (1) The division shall inspect, in accordance with Subsection (2), a CBM dispensary's
1571 facility and records in order to determine if the CBM dispensary complies with the
1572 requirements of this chapter.

1573 (2) The division may inspect the records and facility of a CBM dispensary:

1574 (a) as many as four times per year, scheduled or unscheduled; and

1575 (b) if the division has reason to believe that the CBM dispensary has violated the law,
1576 at any time, scheduled or unscheduled.

1577 Section 64. Section **58-87-406** is enacted to read:

1578 **58-87-406. Cannabis-based medicine transportation.**

1579 (1) An individual may not transport cannabis or cannabis-based medicine between two
1580 cannabis producers, or between a cannabis producer and a CBM dispensary, unless the
1581 individual is an agent of a licensed cannabis producer or licensed cannabis dispensary.

1582 (2) An individual transporting cannabis-based medicine shall keep a transportation
1583 record that includes:

1584 (a) a bar code or unique identifier that links the cannabis-based medicine to a relevant
1585 inventory control system;

1586 (b) origin and destination information for any cannabis-based medicine the individual
1587 is transporting; and

1588 (c) a record of the departure and arrival time of the individual transporting the
1589 cannabis-based medicine.

1590 (3) In addition to the requirements in Subsections (1) and (2), the Department of
1591 Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3,
1592 Utah Administrative Rulemaking Act, requirements for transporting cannabis-based medicine
1593 related to human consumption safety.

1594 (4) A CBM dispensary agent is guilty of an infraction if the CBM dispensary agent:

1595 (a) transports cannabis or cannabis-based medicine; and

1596 (b) does not possess, on the CBM dispensary agent's person or in the transport vehicle,
1597 a transportation record that complies with Subsection (2).

1598 (5) A CBM dispensary agent who is guilty of an infraction under Subsection (4) is
1599 subject to a \$100 fine.

1600 Section 65. Section **58-87-501** is enacted to read:

1601 **Part 5. Enforcement**

1602 **58-87-501. Enforcement -- Fine -- Citation.**

1603 (1) The division may, for a violation of this chapter by a person that is a CBM
1604 dispensary:

1605 (a) revoke the person's license;

1606 (b) refuse to renew the person's license;

1607 (c) assess the person an administrative penalty; or

1608 (d) take any other appropriate administrative action.

1609 (2) The division shall deposit an administrative penalty imposed under this section into
1610 the General Fund as a dedicated credit to be used by the division to administer and enforce this
1611 chapter.

1612 (3) The division may, for a person subject to an uncontested citation, a stipulated
1613 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1614 (a) assess the person a fine, established in accordance with Section 63J-1-504, of up to
1615 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
1616 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1617 (b) order the person to cease and desist from the action that creates a violation.

1618 (4) The division may not revoke a CBM dispensary's license via a citation.

1619 (5) If within 20 calendar days after the day on which the division serves a citation for a
1620 violation of this chapter, the person that is the subject of the citation fails to request a hearing
1621 to contest the citation, the citation becomes the basis of the division's final order.

1622 (6) The division may, for a person who fails to comply with a citation under this
1623 section:

1624 (a) refuse to issue or renew the person's license; or

1625 (b) suspend, revoke, or place on probation the person's license.

1626 Section 66. Section **58-87-502** is enacted to read:

1627 **58-87-502. Fees -- Deposit into Medical Cannabis Restricted Account.**

1628 The division shall deposit fees the division collects under this chapter into the Medical
1629 Cannabis Restricted Account.

1630 Section 67. Section **59-12-104.7** is enacted to read:

1631 **59-12-104.7. Exemption from sales tax for medical cannabis.**

1632 (1) As used in this section:

1633 (a) "Cannabis-based medicine" means a substance that is:

1634 (i) composed, in whole or in part, of cannabis;

1635 (ii) intended for medical use; and

1636 (iii) authorized for medical use under Utah law.

1637 (b) "CBM dispensary" means the same as that term is defined in Section 26-59-102.

1638 (2) In addition to the exemptions described in Section 59-12-104, the sale, by a
1639 licensed CBM dispensary, of cannabis-based medicine is not subject to the taxes imposed by

1640 this chapter.

1641 Section 68. Section **59-28-101** is enacted to read:

1642 **CHAPTER 28. MEDICAL CANNABIS TAX ACT**

1643 **59-28-101. Title.**

1644 This chapter is known as the "Medical Cannabis Tax Act."

1645 Section 69. Section **59-28-102** is enacted to read:

1646 **59-28-102. Definitions.**

1647 As used in this chapter:

1648 (1) "Cannabis-based medicine" means a substance that is:

1649 (a) composed, in whole or in part, of cannabis;

1650 (b) intended for medical use; and

1651 (c) authorized for medical use under Utah law.

1652 (2) "CBM dispensary" means the same as that term is defined in Section 26-59-102.

1653 (3) "Medical Cannabis Restricted Account" means the account created in Section

1654 26-59-105.

1655 Section 70. Section **59-28-103** is enacted to read:

1656 **59-28-103. Imposition of tax -- Rate.**

1657 There is imposed a tax on the retail purchaser of cannabis-based medicine at a CBM

1658 dispensary in the state in an amount equal to 5.77% of amounts paid or charged for the

1659 cannabis-based medicine.

1660 Section 71. Section **59-28-104** is enacted to read:

1661 **59-28-104. Collection of tax.**

1662 A CBM dispensary shall:

1663 (1) collect the tax imposed by Section 59-28-103 from a cannabis-based medicine

1664 purchaser; and

1665 (2) pay the tax collected under Subsection (1):

1666 (a) to the commission quarterly on or before the last day of the month immediately

1667 following the last day of the previous quarter; and

1668 (b) using a form prescribed by the commission.

1669 Section 72. Section **59-28-105** is enacted to read:

1670 **59-28-105. Deposit of tax revenue.**

1671 The commission shall deposit revenues generated by the tax imposed by this chapter
1672 into the Medical Cannabis Restricted Account.

1673 Section 73. Section **59-28-106** is enacted to read:

1674 **59-28-106. Records.**

1675 (1) A CBM dispensary shall maintain any record typically considered necessary to
1676 determine the amount of tax that the CBM dispensary is required to remit to the commission
1677 under this chapter.

1678 (2) The commission may require a CBM dispensary to keep any record the commission
1679 reasonably considers necessary to constitute sufficient evidence of the amount of tax the CBM
1680 dispensary is required to remit to the commission under this chapter:

1681 (a) by notice served upon the CBM dispensary; or

1682 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1683 Rulemaking Act.

1684 (3) Upon notice by the commission, a CBM dispensary shall open the CBM
1685 dispensary's records for examination by the commission.

1686 Section 74. Section **59-28-107** is enacted to read:

1687 **59-28-107. Rulemaking authority.**

1688 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
1689 Administrative Rulemaking Act, to:

1690 (1) implement the tax imposed by this chapter; and

1691 (2) enforce payment of the tax imposed by this chapter.

1692 Section 75. Section **59-28-108** is enacted to read:

1693 **59-28-108. Penalties and interest.**

1694 A CBM dispensary that fails to comply with any provision of this chapter is subject to
1695 penalties and interest as provided in Sections 59-1-401 and 59-1-402.

1696 Section 76. Section **62A-4a-202.1** is amended to read:

1697 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
1698 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
1699 **emergency placement.**

1700 (1) A peace officer or child welfare worker may not:

1701 (a) enter the home of a child who is not under the jurisdiction of the court, remove a
1702 child from the child's home or school, or take a child into protective custody unless authorized
1703 under Subsection 78A-6-106(2); or

1704 (b) remove a child from the child's home or take a child into custody under this section
1705 solely on the basis of:

1706 (i) educational neglect, truancy, or failure to comply with a court order to attend
1707 school[-]; or

1708 (ii) the possession or use of cannabis-based medicine in the home, if the use and
1709 possession of the cannabis-based medicine is in compliance with Title 26, Chapter 59,
1710 Cannabis-Based Medicine Act.

1711 (2) A child welfare worker within the division may take action under Subsection (1)
1712 accompanied by a peace officer, or without a peace officer when a peace officer is not
1713 reasonably available.

1714 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
1715 into protective custody, the child welfare worker shall also determine whether there are
1716 services available that, if provided to a parent or guardian of the child, would eliminate the
1717 need to remove the child from the custody of the child's parent or guardian.

1718 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
1719 utilized.

1720 (c) In determining whether the services described in Subsection (3)(a) are reasonably
1721 available, and in making reasonable efforts to provide those services, the child's health, safety,
1722 and welfare shall be the child welfare worker's paramount concern.

1723 (4) (a) A child removed or taken into custody under this section may not be placed or
1724 kept in a secure detention facility pending court proceedings unless the child is detainable
1725 based on guidelines promulgated by the Division of Juvenile Justice Services.

1726 (b) A child removed from the custody of the child's parent or guardian but who does
1727 not require physical restriction shall be given temporary care in:

1728 (i) a shelter facility; or

1729 (ii) an emergency placement in accordance with Section 62A-4a-209.

1730 (c) When making a placement under Subsection (4)(b), the Division of Child and
1731 Family Services shall give priority to a placement with a noncustodial parent, relative, or

1732 friend, in accordance with Section 62A-4a-209.

1733 (d) If the child is not placed with a noncustodial parent, a relative, or a designated
1734 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
1735 explaining why a different placement was in the child's best interest.

1736 (5) When a child is removed from the child's home or school or taken into protective
1737 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1738 (a) the parent's rights under this part, including the right to be present and participate in
1739 any court proceeding relating to the child's case;

1740 (b) that it may be in the parent's best interest to contact an attorney and that, if the
1741 parent cannot afford an attorney, the court will appoint one;

1742 (c) the name and contact information of a division employee the parent may contact
1743 with questions;

1744 (d) resources that are available to the parent, including:

1745 (i) mental health resources;

1746 (ii) substance abuse resources; and

1747 (iii) parenting classes; and

1748 (e) any other information considered relevant by the division.

1749 (6) The pamphlet or flier described in Subsection (5) shall be:

1750 (a) evaluated periodically for its effectiveness at conveying necessary information and
1751 revised accordingly;

1752 (b) written in simple, easy-to-understand language; and

1753 (c) available in English and other languages as the division determines to be
1754 appropriate and necessary.

1755 Section 77. Section **78A-6-508** is amended to read:

1756 **78A-6-508. Evidence of grounds for termination.**

1757 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
1758 evidence of abandonment that the parent or parents:

1759 (a) although having legal custody of the child, have surrendered physical custody of the
1760 child, and for a period of six months following the surrender have not manifested to the child
1761 or to the person having the physical custody of the child a firm intention to resume physical
1762 custody or to make arrangements for the care of the child;

1763 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
1764 months;

1765 (c) failed to have shown the normal interest of a natural parent, without just cause; or

1766 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

1767 (2) In determining whether a parent or parents are unfit or have neglected a child the
1768 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

1769 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
1770 parent unable to care for the immediate and continuing physical or emotional needs of the child
1771 for extended periods of time;

1772 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
1773 nature;

1774 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
1775 dangerous drugs that render the parent unable to care for the child;

1776 (d) repeated or continuous failure to provide the child with adequate food, clothing,
1777 shelter, education, or other care necessary for the child's physical, mental, and emotional health
1778 and development by a parent or parents who are capable of providing that care;

1779 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
1780 sentence is of such length that the child will be deprived of a normal home for more than one
1781 year;

1782 (f) a history of violent behavior; or

1783 (g) whether the parent has intentionally exposed the child to pornography or material
1784 harmful to a minor, as defined in Section 76-10-1201.

1785 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
1786 because of the parent's possession or consumption of cannabis-based medicine, in accordance
1787 with Title 26, Chapter 59, Cannabis-Based Medicine Act.

1788 [~~(3)~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not
1789 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
1790 parent.

1791 [~~(4)~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
1792 or unfit because of a health care decision made for a child by the child's parent unless the state
1793 or other party to the proceeding shows, by clear and convincing evidence, that the health care

1794 decision is not reasonable and informed.

1795 (b) Nothing in Subsection [~~(4)~~] (5)(a) may prohibit a parent from exercising the right to
1796 obtain a second health care opinion.

1797 [~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or
1798 parents fail to comply substantially with the terms and conditions of a plan within six months
1799 after the date on which the child was placed or the plan was commenced, whichever occurs
1800 later, that failure to comply is evidence of failure of parental adjustment.

1801 [~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1802 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
1803 child, due to known or substantiated abuse or neglect by the parent or parents;

1804 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
1805 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
1806 child's physical, mental, or emotional health and development;

1807 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
1808 of the child;

1809 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
1810 commit murder or manslaughter of a child or child abuse homicide; or

1811 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
1812 of the child, without legal justification.