MEDICAL CANNABIS AMENDMENTS

2019 FIRST SPECIAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- defines terms;
- repeals provisions related to the state central fill medical cannabis pharmacy and makes necessary resulting amendments;
- removes a procurement requirement for the licensing of cannabis processing facilities and independent testing laboratories;
- allows licensed cannabis cultivation facilities to cultivate both indoors and outdoors under Department of Agriculture and Food (UDAF) rules;
- exempts the following from a background check requirement:
  - certain agents re-applying for an agent registration card; and
  - certain guardians and designated caregivers re-applying for a medical cannabis card;
- clarifies that cannabis production establishments and medical cannabis pharmacies may use signage regardless of local ordinances;
- amends provisions regarding local government land use control, including ensuring that cannabis production establishments and medical cannabis pharmacies are treated the same as comparable businesses;
- allows UDAF to license research universities to conduct academic medical cannabis research;
- provides for electronic medical cannabis cards;
- amends the valid forms of identification accepted in relation to the distribution of medical cannabis;
- provides that use of medical cannabis may not be considered differently than lawful use of an opioid or opiate in certain circumstances;

- amends a Department of Health (DoH) privacy notification requirement regarding studies of cardholder data;
- requires an applicant for a medical cannabis pharmacy license to describe a strategic plan for opening, including the timing of the opening based on supply, in consultation with UDAF, and demand, in consultation with DoH;
- increases the number of licenses available for private medical cannabis pharmacies;
- allows DoH to issue medical cannabis pharmacy licenses in two phases using one procurement process;
- allows for certain medical practitioners to be registered as medical cannabis pharmacy agents as long as the provider is not registered as a qualified medical provider;
- amends allowable sale and possession amount to be uniform regardless of the distance between an individual's residence and a medical cannabis pharmacy;
- directs DoH to create a state central patient portal for patient safety, education, and electronic access to home deliveries of medical cannabis shipments from home delivery medical cannabis pharmacies;
- allows DoH to designate certain private medical cannabis pharmacies as home delivery medical cannabis pharmacies that fulfill electronic orders for medical cannabis shipments:
  - that medical cannabis cardholders access through the state central patient portal; and
  - for which a payment provider that the Division of Finance approves, in consultation with the state treasurer, or a financial institution facilitates a financial transaction;
- narrows an existing requirement that DoH register certain medical providers to consult with medical cannabis cardholders;
- provides for licensing of medical cannabis couriers and registration of medical cannabis courier agents to facilitate delivery of medical cannabis shipments from home delivery medical cannabis pharmacies;
- repeals a DoH rulemaking and reporting requirement regarding data on cannabinoid product recommendations;

- prohibits a judicial factfinder from considering lawful possession or use of medical cannabis differently from lawful possession or use of an opioid or opiate;
- enacts provisions regarding judicial consideration of an individual's use or possession of medical cannabis, including prohibitions on certain judicial findings and orders; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-103, as last amended by Laws of Utah 2019, Chapter 136

4-41a-201, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-204, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-301, as last amended by Laws of Utah 2019, Chapter 136

4-41a-302, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-403, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-404, as last amended by Laws of Utah 2019, Chapter 341

4-41a-406, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-501, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-701, as last amended by Laws of Utah 2019, Chapter 341

26-61a-102, as last amended by Laws of Utah 2019, Chapter 341
26-61a-103, as last amended by Laws of Utah 2019, Chapters 136 and 341
26-61a-106, as last amended by Laws of Utah 2019, Chapters 136 and 341
26-61a-107, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-109, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-201, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-202, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-203, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-204, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-301, Utah Code Annotated 1953
26-61a-304, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-305, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-401, as last amended by Laws of Utah 2019, Chapter 136
26-61a-403, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-502, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-503, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-505, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-506, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-507, as last amended by Laws of Utah 2019, Chapter 136
26-61a-605, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-606, as last amended by Laws of Utah 2019, Chapter 136
26-61a-607, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-702, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-703, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
30-3-10, as last amended by Laws of Utah 2019, Chapters 136, 188, and 341
58-17b-302, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-17b-310, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-17b-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-37-3.7, as last amended by Laws of Utah 2019, Chapter 341
58-37-3.8, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-37-3.9, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-67-304, as last amended by Laws of Utah 2019, Chapter 136
58-67-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
58-68-304, as last amended by Laws of Utah 2019, Chapter 136
58-68-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
59-12-104.10, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

ENACTS:

4-41a-901, Utah Code Annotated 1953
4-41a-902, Utah Code Annotated 1953
4-41a-903, Utah Code Annotated 1953
26-61a-115, Utah Code Annotated 1953
78A-2-231, Utah Code Annotated 1953

REPEALS AND REENACTS:

26-61a-601, as last amended by Laws of Utah 2019, Chapter 136
26-61a-602, as last amended by Laws of Utah 2019, Chapter 136
26-61a-603, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-604, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

REPEALS:

26-61a-110, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-205, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-608, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-609, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-610, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-611, as last amended by Laws of Utah 2019, Chapter 136

26-65-101, as enacted by Laws of Utah 2018, Chapter 452

26-65-102, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-65-103, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

26-65-201, as enacted by Laws of Utah 2018, Chapter 452

26-65-202, as enacted by Laws of Utah 2018, Chapter 452

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

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

4-41a-102. Definitions.

As used in this chapter:

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

(2) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility [~~or to~~], a cannabis processing facility, or a medical cannabis research licensee.

(3) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

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

(4) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed

cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or [~~the state central fill~~] a medical cannabis [~~pharmacy~~] research licensee.

(5) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

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

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

(7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(8) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(9) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

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

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

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

(11) "Department" means the Department of Agriculture and Food.

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

(13) "Independent cannabis testing laboratory" means a person that:

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

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

(14) "Independent cannabis testing laboratory agent" means an individual who:

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

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

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

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

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

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

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

(20) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

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

[~~(20)~~] (22) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

[~~(21)~~] (23) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

[~~(22)~~] (24) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(23)~~] (25) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(24) "State central fill agent" means the same as that term is defined in Section 26-61a-102.~~]

[~~(25) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.~~]

[~~(26) "State central fill shipment" means the same as that term is defined in Section 26-61a-102.~~]

(26) "Research university" means the same as that term is defined in Section 53B-7-702.

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

(28) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic

equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(29) "Total composite tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

Section 2. Section **4-41a-103** is amended to read:

4-41a-103. Inventory control system.

(1) Each cannabis production establishment[~~,~~] and each medical cannabis pharmacy[~~, and the state central fill medical cannabis pharmacy~~] shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment[~~,~~] and a medical cannabis pharmacy[~~, and the state central fill medical cannabis pharmacy~~] shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.

(3) A cannabis production establishment[~~,~~] and a medical cannabis pharmacy[~~, and the state central fill medical cannabis pharmacy~~] shall allow the department or the Department of Health access to the cannabis production establishment's[~~,~~] or the medical cannabis pharmacy's[~~, or state central fill medical cannabis pharmacy's~~] inventory control system at any time.

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

Section 3. Section **4-41a-201** is amended to read:

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

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

(2) (a) Subject to Subsections (6), (7), and (8), and to Section 4-41a-205, the department shall[~~, in accordance with Title 63G, Chapter 6a, Utah Procurement Code,~~]:

(i) except as provided in Subsection (2)(a)(ii), issue a license to operate a cannabis production establishment to an applicant who is eligible for a license under this section[~~.~~]; and

(ii) issue a license to operate a cannabis cultivation facility in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

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

(i) a proposed name and address, located in a zone described in Subsection 4-41a-406(1)(a) or (b), where the applicant will operate the cannabis production establishment that is not within 1,000 feet of a community location or within 600 feet of an area zoned primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit;

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

(A) a financial or voting interest of 2% or greater in the proposed cannabis production establishment; or

(B) the power to direct or cause the management or control of a proposed cannabis

production establishment;

(iii) an operating plan that:

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

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

(C) the department approves;

(iv) evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $250,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) if the municipality or county where the proposed cannabis production establishment would be located requires a local land use permit, a copy of the applicant's approved application for the local land use permit; and

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

(3) If the department approves an application for a license under this section:

(a) the applicant shall pay the department an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

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

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

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

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use

authority before approving any of the applications pertaining to that city or town.

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old.

(8) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:

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

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (8).

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

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

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

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

(i) a felony; or

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

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

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

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

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

4-41a-204. Operating plan.

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

(a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

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

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

(ii) any highly skilled or experienced prospective employee;

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

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

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

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

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

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

includes the facility's intended:

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

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection [~~(2)(c) or (d):(i)~~] (2)(c)(i) or (d)(ii), a cannabis cultivation facility [~~that cultivates cannabis indoors~~] may not:

(i) for a facility that cultivates cannabis only indoors:

(A) use more than 100,000 square feet for cultivation; or

(B) hang, suspend, stack or otherwise position plants above other plants to cultivate more plants through use of vertical space; [~~and~~]

(ii) [~~a cannabis cultivation~~] for a facility that cultivates cannabis only outdoors [~~may not~~], use more than four acres for cultivation[~~.~~]; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may annually apply to the department for authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.

(ii) The department may, after conducting a review as described in Subsection 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

(i) the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation; and

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

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

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

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

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

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

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

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

Section 5. Section **4-41a-301** is amended to read:

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

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent.

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

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

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

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

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

(3) An independent cannabis testing laboratory agent may not act as an agent for a

medical cannabis pharmacy, [~~the state central fill medical cannabis pharmacy~~] a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

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

(i) provides to the department:

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

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

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

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

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

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

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

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(d) The department shall:

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

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

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

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

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

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

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

(b) a third-party certification standard that the department designates by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

(a) in Utah medical cannabis law;

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

(c) for a cannabis processing facility agent, in cannabis processing, manufacturing

safety procedures for items for human consumption, and sanitation best practices; and

(d) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

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

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

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

(i) a felony; or

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

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

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

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

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

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

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

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

Section 6. Section **4-41a-302** is amended to read:

4-41a-302. Cannabis production establishment agent registration card -- Rebuttable presumption.

(1) A cannabis production establishment agent whom the department registers under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the agent at all times when:

(a) the agent is on the premises of a cannabis production establishment where the agent

is registered;

(b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:

(i) two cannabis production establishments; or

(ii) a cannabis production establishment and[~~:(A)~~] a medical cannabis pharmacy; [~~or~~] and

[~~(B) the state central fill medical cannabis pharmacy; and~~]

(c) if the cannabis production establishment agent is an agent of a cannabis [~~cultivating~~] cultivation facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.

(2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

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

(b) a law enforcement officer does not have probable cause, based solely on the agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) (a) A cannabis production establishment agent who fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) subject to a $100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a $750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to $5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

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

4-41a-403. Advertising.

(1) [~~A~~] Except as provided in Subsection (2) or (3), a cannabis production establishment may not advertise to the general public in any medium.

(2) [~~Notwithstanding Subsection (1), a~~] A cannabis production establishment may advertise an employment opportunity at the cannabis production [~~facility~~] establishment.

(3) Notwithstanding any municipal or county ordinance, a cannabis production establishment may use signage on the outside of the cannabis production establishment that includes only:

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

(b) a green cross.

Section 8. Section **4-41a-404** is amended to read:

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

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

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

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

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter

61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

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

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

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

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

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

(i) between a cannabis cultivation facility and:

(A) another cannabis cultivation facility; or

(B) a cannabis processing facility; and

(ii) between a cannabis processing facility and:

(A) another cannabis processing facility;

(B) an independent cannabis testing laboratory; or

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

[~~(D) the state central fill medical cannabis pharmacy.~~]

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

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

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

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

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

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

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

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

Section 9. Section **4-41a-406** is amended to read:

4-41a-406. Local control.

(1) (a) If a municipality's or county's zoning ordinances provide for an industrial zone[~~,~~]:

(i) the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone[~~.~~]; and

(ii) if the ordinances do not allow for cannabis production establishments in at least one type of industrial zone at the time a prospective cannabis production establishment licensee applies for a land use permit, the municipality or county may not prohibit a cannabis production establishment in any industrial zone.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone[~~,~~]:

(i) the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone[~~.~~]; and

(ii) if the ordinances do not allow for cannabis production establishments in at least one type of agricultural zone at the time a prospective cannabis production establishment licensee applies for a land use permit, the municipality or county may not prohibit a cannabis production establishment in any agricultural zone.

(2) [~~(a)~~] A municipality or county may not:

(a) deny or revoke a land use permit to operate a cannabis production [~~facility~~] establishment on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis[~~.~~];

(b) [~~A municipality or county may not~~] deny or revoke a business license to operate a

cannabis production [~~facility~~] establishment on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis[~~.~~];

(c) create a new zone or new type of zone to accommodate a cannabis production establishment or cannabis-related business;

(d) enforce a land use regulation or land use decision, as those terms are defined in Sections 10-9a-103 and 17-27a-103, against or impose a land use restriction on a cannabis production establishment if the county or municipality does not also enforce the land use regulation or land use decision against or impose the land use restriction on:

(i) for a cannabis cultivation facility, each other agricultural operation within the same zone; or

(ii) for a cannabis processing facility or an independent testing laboratory, other manufacturing operation within the same zone; or

(e) require a certain distance between a cannabis production establishment and another cannabis production establishment or cannabis-related business.

(3) The operation of a cannabis production establishment is a permitted use on land that the municipality or county has not zoned.

Section 10. Section **4-41a-501** is amended to read:

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

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

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

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

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, [~~the state central fill medical cannabis pharmacy,~~] a cannabis processing facility, or an independent cannabis testing laboratory; and

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

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

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

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

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

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

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

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

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

(3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

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

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

(4) The department may require testing for a toxin if:

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

(b) the department's inspector has reason to believe a toxin may be present based on the

inspection of a facility.

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

(6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 12. Section **4-41a-901** is enacted to read:

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

(1) A medical cannabis research licensee may, subject to department rules described in Subsection (4), obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research.

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

(a) the location where the research university intends to conduct the research;

(b) the research university's research plan; and

(c) the name of the employee of the research university who will:

(i) supervise the obtaining of cannabis;

(ii) be responsible to possess and secure the cannabis; and

(iii) oversee the academic research.

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

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

(a) establish requirements for a licensee to:

(i) participate in academic medical cannabis research;

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

(b) set sampling and testing procedures.

(5) A medical cannabis research licensee shall provide to the department written consent allowing a representative of the department and local law enforcement to enter all

premises where the licensee possesses or stores cannabis for the purpose of:

(a) conducting a physical inspection; or

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

(6) An individual who has been convicted of a drug related felony within the last 10 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis research licensee's license under this part.

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

Section 13. Section **4-41a-902** is enacted to read:

4-41a-902. Cannabis production establishment product for academic research.

A cannabis production establishment may sell cannabis and cannabis products to a medical cannabis research licensee for the purpose of academic research.

Section 14. Section **4-41a-903** is enacted to read:

4-41a-903. Unlawful acts.

(1) It is unlawful for a person who is not operating under the license of a medical cannabis research licensee to obtain or possess cannabis for academic medical cannabis research.

(2) It is unlawful for a cannabis production establishment to offer, sell, or otherwise provide cannabis or cannabis products for the purpose of academic research to an entity that is not a medical cannabis research licensee.

(3) The department may seize from a medical cannabis research licensee and destroy cannabis or cannabis products that do not comply with this chapter.

Section 15. Section **26-61a-102** is amended to read:

26-61a-102. Definitions.

As used in this chapter:

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

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

(3) "Cannabis" means marijuana.

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

4-41a-102.

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

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

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

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

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

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

[~~(9)~~] (10) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.

[~~(10)~~] (11) "Department" means the Department of Health.

[~~(11)~~] (12) "Designated caregiver" means an individual:

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

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

[~~(12)~~] (13) "Dosing parameters" means quantity, routes, and frequency of administration for a recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

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

[~~(13)~~] (16) "Independent cannabis testing laboratory" means the same as that term is defined in Section 4-41a-102.

[~~(14)~~] (17) "Inventory control system" means the system described in Section

4-41a-103.

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

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

[~~(17)~~] (18) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(18)~~] (19) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(19)~~] (20) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

[~~(20)~~] (21) "Medical cannabis cardholder" means a holder of a medical cannabis card.

[~~(21)~~] (22) "Medical cannabis caregiver card" means an [~~official~~] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

(23) "Medical cannabis courier" means a courier that:

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

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

[~~(22)~~] (24) (a) "Medical cannabis device" means a device that an individual uses to ingest cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

(i) facilitates cannabis combustion; or

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

[~~(23)~~] (25) "Medical cannabis guardian card" means an [~~official~~] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

[~~(24)~~] (26) "Medical cannabis patient card" means an [~~official~~] electronic document

that a cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

[~~(25)~~] (27) "Medical cannabis pharmacy" means a person that:

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

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

(B) a medical cannabis device; or

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

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

[~~(26)~~] (28) "Medical cannabis pharmacy agent" means an individual who:

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

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

[~~(27)~~] (29) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

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

[~~(28)~~] (31) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(29)~~] (32) (a) "Medicinal dosage form" means:

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

(A) a tablet;

(B) a capsule;

(C) a concentrated oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

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

(I) for use only after the individual's qualifying condition has failed to substantially respond to at least two other forms described in this Subsection [~~(29)~~] (32)(a)(i), a resin or wax;

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

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

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

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

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

(i) the medical cannabis cardholder has recently removed from the blister pack described in Subsection [~~(29)~~] (32)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(29)~~] (32)(a)(ii).

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

(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection [~~(29)~~] (32)(b); or

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

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

[~~(30)~~] (34) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[~~(31)~~] (35) "Provisional patient card" means a card that:

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

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

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

(b) is connected to the electronic verification system.

[~~(32)~~] (36) "Qualified medical provider" means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

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

[~~(34)~~] (37) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[~~(35)~~] (38) "Qualifying condition" means a condition described in Section 26-61a-104.

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

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

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

[~~(38)~~] (40) "State central [~~fill medical provider~~] patient portal pharmacist" means a [~~physician or~~] pharmacist that the [~~state central fill medical cannabis pharmacy~~] department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section [~~26-61a-601~~] 26-61a-602.

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

[~~(40)~~] (41) "State electronic verification system" means the system described in Section 26-61a-103.

(42) "Valid form of photo identification" means one of the following forms of photo identification that the Driver License Division of the Department of Public Safety issues:

(a) a current class D license, as that term is defined in Section 53-3-102;

(b) a current commercial driver license, as that term is defined in Section 53-3-102;

(c) a current driving privilege card, as that term is defined in Section 53-3-102; or

(d) a current identification card, as that term is defined in Section 53-3-102.

Section 16. Section **26-61a-103** is amended to read:

26-61a-103. Electronic verification system.

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

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

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

(c) select a third-party provider who:

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

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

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

(a) allows an individual, with the individual's qualified medical provider in the qualified medical provider's office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

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

(c) allows a qualified medical provider to:

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

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

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

(ii) electronically recommend, during a visit with a patient, treatment with cannabis in a

medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing parameters;

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

(A) for the qualified medical provider who originally recommended a medical cannabis treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

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

[~~(iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;~~]

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) connects with:

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

(A) the time and date of each purchase;

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

(C) any cannabis production establishment, any medical cannabis pharmacy, or [~~the state central fill~~] any medical cannabis [~~pharmacy~~] courier associated with the cannabis, cannabis product, or medical cannabis device; and

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

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

(e) provides access to:

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

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

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

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

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

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

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

(f) provides access to and interaction with the state central [~~fill medical cannabis pharmacy, state central fill agents, and local health department distribution agents, to facilitate the state central fill shipment process~~] patient portal;

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

(i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is in compliance with state medical cannabis law; or

(ii) after obtaining a warrant; and

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

(3) The department may release de-identified data that the system collects for the purpose of:

(a) conducting medical research; and

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

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

(a) the limitations on access to the data in the state electronic verification system as

described in this section; and

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

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

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

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

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

(7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (7) is:

(i) a third degree felony; and

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

(c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.

(e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

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

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

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

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

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

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

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

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

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

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

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

(A) has the authority to write a prescription;

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

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

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

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

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

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

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

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

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

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

(i) a pharmacy medical provider or a state central [~~fill~~] patient portal medical provider; or

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

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

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

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

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

(i) complete continuing education:

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

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

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

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

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

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

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

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

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

(i) the provisions of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a green cross;

(ii) a qualifying condition that the qualified medical provider treats; or

(iii) a scientific study regarding medical cannabis use.

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

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

(i) applies for renewal;

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

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

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

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

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

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

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

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

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

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

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

Section 18. Section **26-61a-107** is amended to read:

26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a

cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

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

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

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

(i) whom the department has registered as a pharmacy medical provider [~~or a state central fill medical provider~~]; and

(ii) who dispenses, in a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~], treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

Section 19. Section **26-61a-109** is amended to read:

26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

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

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under this chapter[~~, except for the responsibilities described in Subsection~~

~~26-61a-110(4)~~].

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 20. Section **26-61a-115** is enacted to read:

26-61a-115. Analogous to prescribed controlled substances.

When an employee, officer, or agent of the state or a political subdivision makes a finding, determination, or otherwise considers an individual's possession or use of cannabis, a cannabis product, or a medical cannabis device, the employee, officer, or agent may not consider the individual's possession or use any differently than the lawful possession or use of an opioid or opiate, if the individual's possession or use complies with:

(1) this chapter;

(2) Title 4, Chapter 41a, Cannabis Production Establishments; or

(3) Subsection 58-37-3.7(2) or (3).

Section 21. Section **26-61a-201** is amended to read:

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

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

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

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

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

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

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

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

(B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department

approval of the petition;

(ii) the individual is a Utah resident;

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

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

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

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

(A) is at least 18 years old;

(B) is a Utah resident;

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

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);

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

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

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

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

(A) the minor has a qualifying condition;

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

(C) the minor's parent or legal guardian petitions the compassionate use board under

Section 26-61a-105, and the compassionate use board recommends department approval of the petition; and

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

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

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

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

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

(iii) with information including:

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

(B) the number of the applicant's valid form of photo identification [~~that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~];

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

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

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

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection

(3)(c)(i):

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

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

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

(A) ingest or inhale medical cannabis;

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

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

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

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

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

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

(A) the state electronic verification system; and

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

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use; and

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

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

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

product in a medicinal dosage form.

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

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

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

(B) for a renewal, six months.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

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

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

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

(ii) the cardholder received the medical cannabis card through the recommendation of the compassionate use board under Section 26-61a-105.

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

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

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

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

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

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

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

(e) The department may revoke a medical cannabis guardian card if the cardholder

under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

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

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

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

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

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

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

(c) If [~~neither~~] a licensed medical cannabis pharmacy [~~nor the state central fill medical cannabis pharmacy~~] is not operating within the state after January 1, 2021, a cardholder under this section is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

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

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that

medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

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

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

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

(b) The department shall review a request described in Subsection (10)(a) to determine whether the medical research study is valid.

(c) [~~If the department makes a determination under Subsection (10)(b) that the medical research study is valid,~~] At the time an individual applies for a medical cannabis card, the department shall notify [~~each relevant~~] the individual:

(i) of how the individual's information will be used as a cardholder [~~asking for~~];

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (10)(d), the individual consents to the use of the individual's information as described in Subsection (10)(c)(i); and

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

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in the study described in this Subsection (10) at any time.

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

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

Section 22. Section **26-61a-202** is amended to read:

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

(1) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

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

(a) may carry a valid medical cannabis caregiver card;

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

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

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

(e) if [~~neither~~] a licensed medical cannabis pharmacy [~~nor the state central fill medical cannabis pharmacy~~] is not operating within the state after January 1, 2021, is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(3) (a) The department shall:

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

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

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

(C) complies with this section; and

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

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

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

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

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

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

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

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

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

(b) the amount of time remaining before the card of the cardholder described in Section

26-61a-201 expires.

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

(i) renews the cardholder's card; and

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

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

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

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

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

(a) violates this chapter; or

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

(i) a felony; or

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

Section 23. Section **26-61a-203** is amended to read:

26-61a-203. Designated caregiver -- Guardian -- Criminal background check.

(1) [~~Each~~] Except for an applicant reapplying for a medical cannabis card within less than one year after the expiration of the applicant's previous medical cannabis card, each applicant for a medical cannabis guardian card under Section 26-61a-201 or a medical cannabis caregiver card under Section 26-61a-202 shall:

(a) submit to the department, at the time of application:

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

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

(b) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(3) The department shall:

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

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 24. Section **26-61a-204** is amended to read:

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

(1) (a) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the cardholder purchased under this chapter shall:

(i) carry at all times the cardholder's medical cannabis card;

(ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a medicinal dosage form, a label that identifies that the cannabis or cannabis product:

(A) was sold from a licensed medical cannabis pharmacy [~~or the state central fill~~

~~medical cannabis pharmacy~~]; and

(B) includes an identification number that links the cannabis or cannabis product to the inventory control system; and

(iii) possess not more than:

(A) 113 grams of unprocessed cannabis; or

(B) an amount of cannabis product that contains 20 grams of total composite tetrahydrocannabinol.

(b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) A medical cannabis cardholder who possesses between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a fine of $1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder or a provisional patient cardholder may not use, in public view, cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

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

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

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

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

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

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

Section 25. Section **26-61a-301** is amended to read:

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

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

(2) (a) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a medical cannabis pharmacy to an applicant who is eligible for a license under this section.

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

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

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

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least $125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

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

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

(v) if the municipality or county where the proposed medical cannabis pharmacy would be located requires a local land use permit, a copy of the person's approved application for the local land use permit; and

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

(c) (i) A person may not locate a medical cannabis pharmacy in or within 600 feet of an area that the relevant municipality or county has zoned as primarily residential.

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

(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a permitted use in all zoning districts within a municipality or county.

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

(3) If the department [~~determines that~~] selects an applicant [~~is eligible~~] for a medical cannabis pharmacy license under this section, the department shall:

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

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

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5).

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

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

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

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

(i) a felony; or

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

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

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

(9) The department's authority to issue a license under this section is plenary and is not

subject to review.

Section 26. Section **26-61a-304** is amended to read:

26-61a-304. Operating plan.

A person applying for a medical cannabis pharmacy license shall submit to the department a proposed operation plan for the medical cannabis pharmacy that complies with this section and that includes:

(1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(2) a description of the credentials and experience of:

(a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

(b) any highly skilled or experienced prospective employee;

(3) the medical cannabis pharmacy's employee training standards;

(4) a security plan;

(5) a description of the medical cannabis pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system; [~~and~~]

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis[~~.~~]; and

(7) a description of the proposed medical cannabis pharmacy's strategic plan for opening the medical cannabis pharmacy, including gauging appropriate timing based on:

(a) the supply of medical cannabis and medical cannabis products, in consultation with the Department of Agriculture and Food; and

(b) the quantity and condition of the population of medical cannabis cardholders, in consultation with the department.

Section 27. Section **26-61a-305** is amended to read:

26-61a-305. Maximum number of licenses.

(1) (a) [~~Except as provided in Subsection (1)(b)~~] If a sufficient number of applicants apply, the department [~~may not~~] shall issue [~~more than seven~~] 12 medical cannabis pharmacy licenses in accordance with this section.

[~~(b) (i) In addition to the licenses described in Subsection (1)(a), the department shall issue an eighth license if the state central fill medical cannabis pharmacy.~~]

[~~(A) is not operational by January 1, 2021; or~~]

[~~(B) ceases operations after January 1, 2021.~~]

[~~(ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the department shall issue a ninth license if the state central fill medical cannabis pharmacy:~~]

[~~(A) is not operational by July 1, 2021; or~~]

[~~(B) ceases operations after July 1, 2021.~~]

[~~(iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii), the department shall issue a tenth license if the state central fill medical cannabis pharmacy:~~]

[~~(A) is not operational by January 1, 2022; or~~]

[~~(B) ceases operations after January 1, 2022.~~]

[~~(iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and (iii), if a final order of a court enjoins or invalidates the operation of the state central fill medical cannabis pharmacy:~~]

(b) If fewer than 12 qualified applicants apply for a medical cannabis pharmacy license, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue licenses in two phases in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue seven licenses to an initial group of medical cannabis pharmacies and five licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with this Subsection (1)(c), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

[~~(a)~~] (i) evaluate each applicant and award the license to the applicant that best

demonstrates:

[~~(i)~~] (A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

[~~(ii)~~] (B) an operating plan that will best ensure the safety and security of patrons and the community;

[~~(iii)~~] (C) positive connections to the local community;

[~~(iv)~~] (D) the suitability of the proposed location and the location's accessibility for qualifying patients; [~~and~~]

[~~(v)~~] (E) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

[~~(b)~~] (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

Section 28. Section **26-61a-401** is amended to read:

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

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

(2) Except as provided in Section 26-61a-403, [~~the following individuals, regardless of the individual's status as~~] a qualified medical provider[~~;~~] may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy[~~:~~].

[~~(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;~~]

[~~(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or~~]

[~~(c) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.~~]

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

(i) provides to the department:

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

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

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

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

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

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against

the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

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

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

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

(d) The department shall:

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

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

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

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

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

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

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

(a) violates the requirements of this chapter; or

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

(i) a felony; or

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

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

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

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

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

Section 29. Section **26-61a-403** is amended to read:

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

(1) (a) A medical cannabis pharmacy:

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

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

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

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

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

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

(i) provides to the department:

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

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

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

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

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

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

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

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

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

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

(i) complete continuing education:

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

(B) offered by the department under Subsection (3)(c) or an accredited or approved

continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

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

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

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

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

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

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

(i) the provisions of this chapter;

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

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

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

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

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

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

(i) is eligible for a pharmacy medical provider registration card under this section;

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

(iii) submits a report detailing the completion of the continuing education requirement

described in Subsection (3); and

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

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

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

Section 30. Section **26-61a-502** is amended to read:

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

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

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

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

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

(i) a medical cannabis card; and

(ii) a corresponding valid form of photo identification [~~that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~].

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

(2) A medical cannabis pharmacy may not dispense:

(a) to a medical cannabis cardholder in any one [~~12~~] 28-day period, more than the lesser of:

[~~(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or~~]

[~~(ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form~~

~~and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or~~]

[~~(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;~~]

[~~(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:~~]

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

[~~(c)~~] (b) to an individual whose qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(3) An individual with a medical cannabis card may not purchase:

(a) more cannabis or cannabis products than the amounts designated in Subsection (2) in any one [~~12-day~~] 28-day period; or

(b) if the relevant qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with cannabis and cannabis products; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider

shall:

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

(ii) unless the pertinent medical records show dosing parameters from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

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

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the dosing parameters determined under Subsection (5)(a) in the pertinent medical records.

[~~(5)~~] (6) A medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis products described in Subsection (2); and

(ii) if the verification in Subsection [~~(5)~~] (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the qualified medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

(c) package any cannabis or cannabis product that is in a blister pack in a container

that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

[~~(6)~~] (7) (a) Except as provided in Subsection [~~(6)~~] (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

[~~(7)~~] (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

[~~(8)~~] (9) The department may impose a uniform fee on each medical cannabis cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 31. Section **26-61a-503** is amended to read:

26-61a-503. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4) or (5); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 32. Section **26-61a-505** is amended to read:

26-61a-505. Advertising.

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

(2) [~~A~~] Notwithstanding any municipal or county ordinance, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that includes only:

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

(b) a green cross.

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

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

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

(c) personnel affiliated with the medical cannabis pharmacy;

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

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

Section 33. Section **26-61a-506** is amended to read:

26-61a-506. Cannabis, cannabis product, or medical cannabis device transportation.

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

chapter:

(a) a registered medical cannabis pharmacy agent;

[~~(b) a registered state central fill agent;~~]

[~~(c)~~] (b) a registered medical cannabis courier [~~for a state central fill shipment described in Section 26-61a-605~~] agent; or

[~~(d)~~] (c) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

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

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

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

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection [~~(3)(a)~~] (1)(a) is limited to transportation[~~: (i)~~] between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; [~~and~~] or

(ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

[~~(ii) between the state central fill medical cannabis pharmacy and:~~]

[~~(A) another state central fill medical cannabis pharmacy location; or~~]

[~~(B) a local health department.~~]

(4) (a) It is unlawful for a registered medical cannabis pharmacy agent[~~,~~] or a registered [~~state central fill~~] medical cannabis courier agent[~~, or a courier described in Section~~

~~26-61a-605~~] to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent [~~or courier~~] who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

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

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

(i) this chapter does not apply; and

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

Section 34. Section **26-61a-507** is amended to read:

26-61a-507. Local control.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or maintain a license under Section 26-61a-301, a person shall demonstrate that the intended medical cannabis pharmacy location is located at least:

(A) 600 feet from a community location's property boundary following the shortest route of ordinary pedestrian travel;

(B) 200 feet from the patron entrance to the community location's property boundary; and

(C) 600 feet from an area zoned primarily residential.

(ii) A municipal or county land use authority may recommend in writing that the department waive the community location proximity requirement described in Subsection (1)(a)(i).

(b) [~~(i)~~] A municipality or county may not:

(i) deny or revoke a land use permit to operate a medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the

legal status of cannabis[~~.~~];

(ii) [~~A municipality or county may not~~] deny or revoke a business license to operate a medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis[~~.~~];

(iii) prohibit the operation of a medical cannabis pharmacy in any zone or type of zone in which the municipality or county allows the operation of a traditional pharmacy;

(iv) create a new zone or new type of zone to accommodate a medical cannabis pharmacy or cannabis-related business;

(v) enforce a land use regulation or land use decision, as those terms are defined in Sections 10-9a-103 and 17-27a-103, against or impose a land use restriction on a medical cannabis pharmacy that the county or municipality does not enforce against or impose on any other pharmacy within the same zone; or

(vi) require a certain distance between a medical cannabis pharmacy and another medical cannabis pharmacy or cannabis-related business.

(2) The operation of a medical cannabis pharmacy is a permitted use on land that the municipality or county has not zoned.

[~~(2)~~] (3) A municipality or county may enact an ordinance that:

(a) is not in conflict with this chapter; and

(b) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

Section 35. Section **26-61a-601** is repealed and reenacted to read:

26-61a-601. State central patient portal -- Department duties.

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201(10);

(c) if the cardholder's qualified medical provider recommended the use of medical cannabis without providing dosing parameters and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal pharmacist and each pharmacy medical provider;

(d) except as provided in Subsection (2)(f), facilitate an electronic medical cannabis order to a home delivery medical cannabis pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection 26-61a-501(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section 36. Section **26-61a-602** is repealed and reenacted to read:

26-61a-602. State central patient portal pharmacist.

(1) (a) In relation to the state central patient portal, the department shall:

(i) employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a state central patient portal pharmacist; and

(ii) ensure that the state central patient portal pharmacist described in Subsection (1)(a)(i) is available during all business hours.

(b) The department may not employ a qualified medical provider or a pharmacy medical provider as a state central patient portal pharmacist.

(2) A state central patient portal pharmacist may:

(a) provide consultations to medical cannabis cardholders; and

(b) determine dosing parameters in accordance with Subsection 26-61a-502(5).

Section 37. Section **26-61a-603** is repealed and reenacted to read:

26-61a-603. Payment provider for electronic medical cannabis transactions.

(1) A cannabis production establishment seeking to use a payment provider, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and

(c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production

establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Section 38. Section **26-61a-604** is repealed and reenacted to read:

26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

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

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

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

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

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

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

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

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

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

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

(b) the medical cannabis courier makes the same violation of this chapter three times; or

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

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

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

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

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

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

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

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

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

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

Section 39. Section **26-61a-605** is amended to read:

26-61a-605. Medical cannabis shipment transportation.

(1) The [~~state central fill medical cannabis pharmacy~~] department shall ensure that [~~the state central fill~~] each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner[~~, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and a medical cannabis device to each local health department in the state within two business days after the day on which the state central fill medical cannabis pharmacy receives a request for a state central fill shipment resulting from a recommendation of a qualified medical provider under Section 26-61a-603~~].

(2) (a) [~~The department~~] A home delivery medical cannabis pharmacy may contract with a [~~private entity for the entity to serve as a courier for the state central fill medical cannabis pharmacy, delivering state central fill~~] licensed medical cannabis courier to deliver medical cannabis shipments to [~~local health departments for distribution to medical cannabis cardholders~~] fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If [~~the department~~] a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the [~~department~~] pharmacy shall:

[~~(i) issue the contract described in Subsection (2)(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code;~~]

[~~(ii)~~] (i) impose security and personnel requirements on the [~~contracted private entity~~] medical cannabis courier sufficient to ensure the security and safety of [~~state central fill~~]

medical cannabis shipments; and

[~~(iii)~~] (ii) provide regular oversight of the [~~contracted private entity~~] medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a [~~state central fill~~] medical cannabis shipment unless the individual is:

(a) a registered [~~state central fill~~] medical cannabis pharmacy agent; or

(b) [~~an~~] a registered agent of the [~~private~~] medical cannabis courier described in Subsection (2).

(4) An individual transporting a [~~state central fill~~] medical cannabis shipment under Subsection (3) shall possess a transportation manifest that:

(a) includes a unique identifier that links the [~~state central fill~~] medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for [~~a state central fill~~] the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the [~~state central fill~~] medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting [~~state central fill~~] medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a [~~state central fill~~] medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

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

Section 40. Section **26-61a-606** is amended to read:

26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a [~~local health department distribution~~] medical cannabis courier agent unless:

(a) the individual is an employee of a [~~local health department~~] licensed medical cannabis courier; and

(b) the department registers the individual as a [~~local health department distribution~~] medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a [~~local health department~~] medical cannabis courier on behalf of a [~~prospective local health department distribution~~] medical cannabis courier agent, register and issue a [~~local health department distribution~~] medical cannabis courier agent registration card to the prospective agent if the [~~local health department~~] medical cannabis courier:

(i) provides to the department:

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

(B) the name and [~~location~~] address of the [~~local health department where the prospective agent seeks to act as a local health department distribution agent~~] medical cannabis courier; [~~and~~]

(iii) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

[~~(C)~~] (D) the submission required under Subsection (2)(b); [~~and~~]

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution[.]; and

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

(b) [~~Each~~] Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's [~~local health department distribution~~] medical cannabis courier agent registration card the name of the [~~local health department~~] medical cannabis courier where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

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

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the [~~state central fill~~] medical cannabis [~~pharmacy~~] shipment process; and

(iii) [~~local health department distribution~~] medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

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

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

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

[~~(5)~~] (6) The department may revoke or refuse to issue or renew the [~~local health department distribution~~] medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

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

(i) a felony; or

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

[~~(6)~~] (7) A [~~local health department distribution~~] medical cannabis courier agent who the department has registered under this section shall carry the agent's [~~local health department distribution~~] medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the [~~local health department~~] medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment [~~of cannabis or cannabis product from the state central fill medical cannabis pharmacy~~].

[~~(7)~~] (8) If a [~~local health department distribution~~] medical cannabis courier agent handling a medical cannabis shipment [~~of cannabis or cannabis product from the state central fill medical cannabis pharmacy~~] possesses the shipment in compliance with Subsection [~~(6)~~] (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment [~~containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device,~~] that the agent is engaging in illegal activity.

[~~(8)~~] (9) (a) A [~~local health department distribution~~] medical cannabis courier agent who violates Subsection [~~(6)~~] (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection [~~(8)(a)~~] (9)(a) is

not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection [~~(8)(a)~~] (9)(a).

Section 41. Section **26-61a-607** is amended to read:

26-61a-607. Home delivery of medical cannabis shipments.

[~~(1) Each local health department shall designate:~~]

[~~(a) one or more of the local health department's locations as a state central fill shipment distribution location; and~~]

[~~(b) a sufficient number of personnel to ensure that at least one individual is available at all times during business hours.~~]

[~~(i) whom the department has registered as a local health department distribution agent; and~~]

[~~(ii) to distribute state central fill shipments to medical cannabis cardholders in accordance with this section.~~]

[~~(2)~~] (1) An individual may not [~~retrieve a~~] receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from [~~the state central fill~~] a home delivery medical cannabis pharmacy [~~at a local health department~~] unless:

(a) the individual receiving the shipment presents:

[~~(a)~~] (i) a valid form of photo identification [~~that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~]; and

[~~(b)~~] (ii) a valid medical cannabis card under the same name that appears on the valid form of photo identification [~~described in Subsection (2)(a).~~]; and

(b) the delivery occurs at the medical cannabis cardholder's home address that is on file in the state electronic verification system.

[~~(3)~~] (2) Before a [~~local health department distribution~~] medical cannabis pharmacy agent or a medical cannabis courier agent distributes a [~~state central fill~~] medical cannabis shipment to a medical cannabis cardholder, the [~~local health department distribution~~] agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection

[~~(2)~~] (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in the electronic verification system.

[~~(4)~~] (3) The [~~local health department~~] medical cannabis courier shall:

(a) (i) store each [~~state central fill~~] medical cannabis shipment [~~that the local health department receives,~~] in a secure manner until the recipient medical cannabis cardholder [~~retrieves~~] receives the shipment or the [~~local health department~~] medical cannabis courier returns the shipment to the [~~state central fill~~] home delivery medical cannabis pharmacy in accordance with Subsection [~~(5), in a single, secure, locked area that is equipped with a security system that detects and records entry into the area~~] (4); and

(ii) ensure that only a [~~local health department distribution~~] medical cannabis courier agent is able to access the [~~area~~] medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any [~~unclaimed state central fill~~] undelivered medical cannabis shipment to the [~~state central fill~~] home delivery medical cannabis pharmacy, in accordance with Subsection [~~(5)(a)~~] (4), after the [~~local health department~~] medical cannabis courier has possessed the [~~state central fill~~] shipment for 10 business days; and

(c) return any [~~state central fill~~] medical cannabis shipment to the [~~state central fill~~] home delivery medical cannabis pharmacy, in accordance with Subsection [~~(5)(b)~~] (4), if a medical cannabis cardholder [~~returns~~] refuses to accept the shipment [~~to the local health department after retrieving the shipment~~].

[~~(5)~~] (4) (a) If a [~~local health department~~] medical cannabis courier or home delivery medical cannabis pharmacy agent returns an [~~unclaimed state central fill~~] undelivered medical cannabis shipment [~~under Subsection (4)(b)~~] that remains unopened, the [~~state central fill~~] home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment [~~for another state central fill shipment~~].

(b) If a [~~local health department~~] medical cannabis courier or home delivery medical cannabis pharmacy agent returns [~~a returned state central fill~~] an undelivered or refused medical cannabis shipment under Subsection [~~(4)(c)~~] (3) that appears to be opened in any way, the [~~state central fill~~] home delivery medical cannabis pharmacy shall dispose of the [~~returned~~]

shipment by:

(i) rendering the [~~state central fill~~] shipment unusable and unrecognizable before transporting the shipment from the [~~state central fill~~] home delivery medical cannabis pharmacy; and

(ii) disposing of the [~~state central fill~~] shipment in accordance with:

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

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

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

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

Section 42. Section **26-61a-702** is amended to read:

26-61a-702. Enforcement -- Fine -- Citation.

(1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter or an applicable administrative rule:

(i) revoke the medical cannabis pharmacy license;

(ii) refuse to renew the medical cannabis pharmacy license; or

(iii) assess the medical cannabis pharmacy an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or [~~state central fill~~] medical cannabis courier agent's violation of this chapter:

(i) revoke the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis courier agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis courier agent registration card; or

(iii) assess the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis courier agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule

in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or a medical cannabis courier's license to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

(a) refuse to issue or renew the person's license or agent registration card; or

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

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

Section 43. Section **26-61a-703** is amended to read:

26-61a-703. Report.

(1) By the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity [~~and timeliness of state central fill~~] of medical cannabis shipments[~~, including the amount of time between recommendation to~~] that the state central [~~fill medical cannabis pharmacy and arrival of a state central fill shipment at a local health department~~] patient portal facilitates;

[~~(k) the market share of state central fill shipments;~~]

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

[~~(m) the expenses incurred and revenues generated from the state central fill medical cannabis pharmacy, including a profit and loss statement; and~~]

[~~(n)~~] (m) an analysis of product availability[~~, including the price differential between comparable products,~~] in medical cannabis pharmacies [~~and the state central fill medical cannabis pharmacy~~].

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

Section 44. Section **30-3-10** is amended to read:

30-3-10. Custody of a child -- Custody factors.

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet

the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and

well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4) (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5) (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b) (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(c) (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

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

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

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

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

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

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

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

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

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

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the

court would consider or treat the lawful possession or use of an opioid or opiate; or

(b) discriminate against a parent because of the parent's status as a:

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

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

(iii) [~~state central fill~~] medical cannabis courier agent, as that term is defined in Section 26-61a-102; or

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

Section 45. Section **58-17b-302** is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307; and

(b) for the operation of a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~] under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy[~~, including the state central fill medical cannabis pharmacy,~~] shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 46. Section **58-17b-310** is amended to read:

58-17b-310. Continuing education.

(1) The division in collaboration with the board may establish by rule continuing education requirements for each classification of licensure under this chapter.

(2) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (1) continuing education that a pharmacist completes in accordance with [~~Sections~~] Section 26-61a-403 [~~and 26-61a-601~~].

Section 47. Section **58-17b-502** is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the

activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order; and

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when [~~registered~~] acting as a state central [~~fill~~] patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central [~~fill~~] patient portal medical provider services [~~in the state central fill medical cannabis pharmacy~~].

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 48. Section **58-37-3.7** is amended to read:

58-37-3.7. Medical cannabis decriminalization.

(1) As used in this section:

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

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

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

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

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

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

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

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

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or

possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

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

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

(ii) for possession, was:

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

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

(iii) (A) for possession, was a medical cannabis cardholder; or

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

(b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in one of the following amounts:

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

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

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

(a) at the time of the arrest or citation, the individual:

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

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

(iii) had been diagnosed with a qualifying condition as described in Section 26-61a-104; and

(b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in [~~a quantity~~

~~described in Subsection 26-61a-502(2).~~] one of the following amounts:

(i) no more than 113 grams by weight of unprocessed cannabis; or

(ii) an amount of cannabis products that contains, in total, no more than 20 grams of total composite tetrahydrocannabinol.

Section 49. Section **58-37-3.8** is amended to read:

58-37-3.8. Enforcement.

(1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section 26-61a-102, the state central [~~fill medical cannabis pharmacy~~] patient portal, as that term is defined in Section 26-61a-102, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Section 50. Section **58-37-3.9** is amended to read:

58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

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

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

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

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

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

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder who smokes cannabis or engages in any other

conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is subject to charges under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b).

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

Section 51. Section **58-67-304** is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and [~~26-61a-601~~] 26-61a-602.

Section 52. Section **58-67-502** is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical

Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central [~~fill~~] patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central [~~fill~~] patient portal medical provider services [~~in the state central fill medical cannabis pharmacy~~].

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a [~~pharmacist~~] physician described in Subsection (2)(b).

Section 53. Section **58-68-304** is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical

records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and [~~26-61a-601~~] 26-61a-602.

Section 54. Section **58-68-502** is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central [~~fill~~] patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central [~~fill~~] patient portal medical provider services [~~in the state central fill medical cannabis pharmacy~~].

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a [~~pharmacist~~] physician described in Subsection (2)(b).

Section 55. Section **59-12-104.10** is amended to read:

59-12-104.10. Exemption from sales tax for cannabis.

(1) As used in this section:

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

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

(c) "Medical cannabis device" means the same as that term is defined in Section

26-61a-102.

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

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

[~~(f) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.~~]

(2) In addition to the exemptions described in Section 59-12-104, the sale by a licensed medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~] of the following is not subject to the taxes this chapter imposes:

(a) cannabis in a medicinal dosage form; or

(b) a cannabis product in a medicinal dosage form.

(3) The sale of a medical cannabis device by a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~] is subject to the taxes this chapter imposes.

Section 56. Section **78A-2-231** is enacted to read:

78A-2-231. Consideration of lawful use or possession of medical cannabis.

(1) In any judicial proceeding in which a factfinder makes a finding, determination, or otherwise considers an individual's possession or use of cannabis, a cannabis product, or a medical cannabis device, the factfinder may not consider or treat the individual's possession or use any differently than the lawful possession or use of an opioid or opiate if the individual's possession or use complies with:

(a) Title 4, Chapter 41a, Cannabis Production Establishments;

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(c) Section 58-37-3.7 or 58-37-3.9.

(2) A judge may not order, notwithstanding Section 77-18-1, as a condition of probation or release, and a prosecutor may not require as part of a plea in abeyance agreement or a diversion agreement, that an individual abstain from the use or possession of cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law without an exception related to medical cannabis use, if:

(a) (i) the individual possesses a current medical cannabis card; and

(ii) the individual's use or possession complies with Title 26, Chapter 61a, Utah

Medical Cannabis Act; or

(b) if the individual's use or possession complies with Subsection 58-37-3.7(2) or (3).

(3) A judge may not find that a parent's or guardian's possession or use of cannabis is not in a child's best interest or constitutes abuse or harm of a child if:

(a) (i) (A) the parent or guardian possesses a current medical cannabis card; and

(B) the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(ii) the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3); and

(b) there is no evidence that the child ingested cannabis.

Section 57. **Repealer.**

This bill repeals:

Section **26-61a-110, Qualified Distribution Enterprise Fund -- Creation.**

Section **26-61a-205, Lost or stolen medical cannabis card.**

Section **26-61a-608, Department to set state central fill medical cannabis pharmacy prices.**

Section **26-61a-609, Partial filling.**

Section **26-61a-610, Records -- Inspections.**

Section **26-61a-611, Advertising.**

Section **26-65-101, Title.**

Section **26-65-102, Definitions.**

Section **26-65-103, Medicinal dosage form.**

Section **26-65-201, Insurance coverage.**

Section **26-65-202, Rules -- Report to the Legislature.**

Section 58. **Effective date.**

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