

Summary: Medical Cannabis Amendments

Draft Legislation for 2019 1st Special Session | September 9, 2019

Financial

Problem: The state treasurer cannot process electronic payments for the state central fill program.

Solution: Repeals the state central fill medical cannabis pharmacy and directs the Utah Department of Health (DoH) to establish a state central patient portal, an online tool to provide information and authenticate patients to facilitate electronic orders of medical cannabis shipments to patients' homes from home delivery medical cannabis pharmacies. The state will not be involved in any financial transactions for medical cannabis. Home delivery medical cannabis pharmacies may use an electronic payment provider that the Division of Finance authorizes, in consultation with the state treasurer, or traditional banking (if congressionally authorized) to complete electronic orders.

Local Health Department Distribution

Problem: Counties raised concerns in the spring over distributing medical cannabis from the state central fill medical cannabis pharmacy.

Solution: After repealing the state central fill concept, local health departments will not be involved. Increases the number of available licenses for private medical cannabis pharmacies from 7 to 12 to compensate. Authorizes DoH to license medical cannabis couriers for home delivery.

Patient Protections

Problem: Well-meaning patients seeking the protections of 2018 HB 3001 are facing challenges for use or possession of medical cannabis or being ordered to abstain from medical use.

Solution: Provides that lawful use of medical cannabis may not be considered differently than lawful use of an opioid or opiate in certain circumstances. Prohibits a judge from ordering as a condition of probation or release, and a prosecutor from requiring as a condition for a plea, a patient to abstain from use or possession of medical cannabis. Prohibits a judge from determining that a parent's use of medical cannabis is abuse or harm of a child or otherwise not in the child's best interest.

Cultivation issues

Problem: Cultivators are required to cultivate indoors or outdoors, but are not allowed to do both, creating inefficiencies.

Solution: Allows for a combination of indoor and outdoor cultivations and requires Utah Department of Agriculture and Food (UDAF) to develop a formula to ensure that combination cultivation falls below the existing statutory limits on indoor and outdoor cultivation.

Academic Research

Problem: Research universities within the state need a path to research medical cannabis that does not violate state law.

Solution: Authorizes UDAF to license research universities to conduct medical cannabis research, like previously authorized industrial hemp research.

Background Checks

Problem: If a cannabis production establishment agent registration card, a medical cannabis pharmacy agent registration card, a medical cannabis guardian card, or a medical cannabis caregiver card expires, the cardholder must re-apply and go through a new background check.

Solution: Allows UDAF and DoH to bypass the background check requirement for a cardholder whose card expired less than one year before re-applying.

Local Government Regulation

Problem: Industry and UDAF have stated concerns over local government regulation and the timeline to have medical cannabis and cannabis products available.

Solution: Discussions are ongoing involving the Utah League of Cities and Towns in order to ensure product availability in a safe and efficient manner. Currently, the draft allows cannabis production establishments to use signage regardless of local prohibitions. Prohibits municipalities and counties from creating zoning unique to cannabis production establishments and medical cannabis pharmacies, requiring a certain distance between them, prohibiting their operation in certain circumstances, or regulating them differently from similar businesses.

Licensing Modifications

Problem: DoH and UDAF have proposed changes to make licensing more efficient and practical.

Solution: Requires applicants' operating plan submission to include a strategic plan for opening business, including timing based on supply and demand, determined in consultation with UDAF and DoH. Allows DoH to issue medical cannabis pharmacy licenses in two phases.

Patient Program Implementation

Problem: DoH has raised concerns about implementation of the patient program.

Solution: Allows DoH to issue electronic medical cannabis cards. Limits valid forms of accepted identification in relation to medical cannabis distribution to photo identification issued by the Driver License Division. Amends privacy notification for cardholder data studies so that DoH must seek consent at time of application and the patient can retract consent at any time. Allows for certain medical practitioners to be registered as medical cannabis pharmacy agents if the provider is not registered as a qualified medical provider.

Quantity Limits

Problem: Whether a patient could purchase and possess a 14-day supply or a 30-day supply of medical cannabis or cannabis products depends on the distance between the patient's primary residence and a medical cannabis pharmacy.

Solution: Standardizes sale and possession limits, regardless of distance, to the 30-day limitations.