

***Effective 3/17/2021***

***Superseded 3/23/2022***

**26-61a-606 Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.**

- (1) An individual may not serve as a medical cannabis courier agent unless:
  - (a) the individual is an employee of a licensed medical cannabis courier; and
  - (b) the department registers the individual as a 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 medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:
    - (i) provides to the department:
      - (A) the prospective agent's name and address;
      - (B) the name and address of the medical cannabis courier;
      - (C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and
      - (D) the submission required under Subsection (2)(b);
    - (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) 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 medical cannabis courier agent registration card the name of the medical cannabis pharmacy 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 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 medical cannabis shipment process; and
    - (iii) 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.
- (6) The department may revoke or refuse to issue or renew the 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.
- (7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:
  - (a) the agent is on the premises of the 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.
- (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (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 that the agent is engaging in illegal activity.
- (9)
  - (a) A medical cannabis courier agent who violates Subsection (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 (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 (9)(a).