

Effective 12/3/2018

Repealed 7/1/2023

Chapter 61a
Utah Medical Cannabis Act

Repealed 7/1/2023

Part 1
General Provisions

Repealed 7/1/2023

26-61a-108 Agreement with a tribe.

- (1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.
- (2)
 - (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a medical cannabis pharmacy on tribal land located within the state.
 - (b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.
 - (c) The governor shall ensure that an agreement described in Subsection (2)(a):
 - (i) is in writing;
 - (ii) is signed by:
 - (A) the governor; and
 - (B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;
 - (iii) states the effective date of the agreement;
 - (iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and
 - (v) includes any accommodation that the tribe makes:
 - (A) to which the tribe agrees; and
 - (B) that is reasonably related to the agreement.
 - (d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.
 - (e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:
 - (i) the chairs of the Native American Legislative Liaison Committee; and
 - (ii) the Office of Legislative Research and General Counsel.

Enacted by Chapter 1, 2018 Special Session 3

Renumbered 7/1/2023

26-61a-116 Advertising.

- (1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis.
- (2) Notwithstanding any authorization to advertise regarding medical cannabis under this chapter, the person advertising may not advertise:
 - (a) using promotional discounts or incentives;
 - (b) a particular medical cannabis product, medical cannabis device, or medicinal dosage form; or

- (c) an assurance regarding an outcome related to medical cannabis treatment.
- (3) Notwithstanding Subsection (1):
 - (a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and
 - (b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.
- (4) To ensure that the name and logo of a licensee under this chapter have a medical rather than a recreational disposition, the name and logo of the licensee:
 - (a) may include terms and images associated with:
 - (i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy," "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate," "relief," "treatment," and "patient;" or
 - (ii) the plant form of cannabis, including "leaf," "flower," and "bloom";
 - (b) may not include:
 - (i) any term, statement, design representation, picture, or illustration that is associated with a recreational disposition or that appeals to children;
 - (ii) an emphasis on a psychoactive ingredient;
 - (iii) a specific cannabis strain; or
 - (iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."
- (5) The department shall define standards for advertising authorized under this chapter, including names and logos in accordance with Subsection (4), to ensure a medical rather than recreational disposition.

Enacted by Chapter 452, 2022 General Session

Repealed 7/1/2023

Part 3 Medical Cannabis Pharmacy License

Renumbered 7/1/2023

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)
 - (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.
 - (ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not 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) for a publicly traded company, has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy;
 - (B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or
 - (C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;
 - (iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$100,000 for each application that the applicant submits to the department;
 - (iv) an operating plan that:
 - (A) complies with Section 26-61a-304;
 - (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; and
 - (C) the department approves;
 - (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and
 - (vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.
 - (c)
 - (i) A person may not locate a medical cannabis pharmacy:
 - (A) within 200 feet of a community location; or
 - (B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.
 - (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.
 - (iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.
 - (iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).
 - (d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).
 - (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 selects an applicant 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;
 - (b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and
 - (c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.
- (4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):
- (a) has been convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution;
 - (b) is younger than 21 years old; or
 - (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.
- (5)
- (a) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give preference to the applicant based on the applicant's status as a holder of the license.
 - (b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:
 - (i) shall consult with the Department of Agriculture and Food regarding the applicant; and
 - (ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:
 - (A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and
 - (B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.
- (6)
- (a) The department may revoke a license under this part:
 - (i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;
 - (ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;
 - (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:
 - (A) a felony; or
 - (B) after December 3, 2018, a misdemeanor for drug distribution;
 - (iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;
 - (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; or

- (vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.
 - (b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.
- (7)
- (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.
 - (b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.
- (8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Patient Enterprise Fund.
- (9) The department shall begin accepting applications under this part on or before March 1, 2020.
- (10)
- (a) The department's authority to issue a license under this section is plenary and is not subject to review.
 - (b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:
 - (i) Title 63G, Chapter 6a, Part 16, Protests; or
 - (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.
- (11)
- (a) A medical cannabis pharmacy license is not transferrable or assignable.
 - (b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.
 - (c) If the ownership of a medical cannabis pharmacy changes by 50% or more:
 - (i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);
 - (ii) within 30 days of the submission of the application, the department shall:
 - (A) conduct an application review; and
 - (B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and
 - (iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Amended by Chapter 290, 2022 General Session

Renumbered 7/1/2023

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

- (1) Each applicant to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, before the department may award the license, 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.
- (2) The Bureau of Criminal Identification shall:
 - (a) check the fingerprints the applicant submits under Subsection (1) 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) 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 individual who submits fingerprints under Subsection (1) 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.

Amended by Chapter 5, 2019 Special Session 1

Renumbered 7/1/2023

26-61a-303 Renewal.

- (1) The department shall renew a license under this part every year if, at the time of renewal:
 - (a) the licensee meets the requirements of Section 26-61a-301;
 - (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; and
 - (c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.
- (2)
 - (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

- (i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or
- (ii) on the Utah Public Notice Website established in Section 63A-16-601.
- (b) The department may establish criteria, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.
- (3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Amended by Chapter 290, 2022 General Session

Amended by Chapter 415, 2022 General Session

Renumbered 7/1/2023

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;
- (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.

Amended by Chapter 5, 2019 Special Session 1

Renumbered 7/1/2023

26-61a-305 Maximum number of licenses -- Home delivery medical cannabis pharmacies.

- (1)
 - (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.

- (b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.
 - (c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).
 - (i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.
 - (ii) If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), 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.
 - (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.
 - (d)
 - (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.
 - (ii) The department shall:
 - (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and
 - (B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).
- (2)
- (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:
 - (i) evaluate each applicant and award the license to the applicant that best demonstrates:
 - (A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;
 - (B) an operating plan that will best ensure the safety and security of patrons and the community;
 - (C) positive connections to the local community;
 - (D) the suitability of the proposed location and the location's accessibility for qualifying patients;
 - (E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

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

Amended by Chapter 290, 2022 General Session

Superseded 7/1/2023

**Part 4
Medical Cannabis Pharmacy Agents**

Effective 7/1/2023

**Part 4
Pharmacy Medical Providers**

Renumbered 7/1/2023

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) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.
- (3)
 - (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:
 - (i) provides to the department:
 - (A) the prospective agent's name and address;
 - (B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and
 - (C) the submission required under Subsection (3)(b); and
 - (ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
 - (b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:
 - (i) submit to the department:
 - (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
 - (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
 - (c) The Bureau of Criminal Identification shall:
 - (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
 - (ii) report the results of the background check to the department;
 - (iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

- (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
- (v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (d) The department shall:
 - (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
 - (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.
- (4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.
- (5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) The department shall ensure that the certification standard described in Subsection (5) includes training in:
 - (a) Utah medical cannabis law; and
 - (b) medical cannabis pharmacy best practices.
- (7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:
 - (a) violates the requirements of this chapter; or
 - (b) is convicted under state or federal law of:
 - (i) a felony within the preceding 10 years; 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.
- (9)
 - (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:
 - (i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or

- an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and
- (ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and the Board of Pharmacy.
- (b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (9).
- (c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

Amended by Chapter 290, 2022 General Session

Amended by Chapter 415, 2022 General Session

Renumbered 7/1/2023

26-61a-402 Medical cannabis pharmacy agent registration card -- Rebuttable presumption.

- (1) A medical cannabis pharmacy agent shall carry the individual's medical cannabis pharmacy agent registration card with the individual at all times when:
 - (a) the individual is on the premises of a medical cannabis pharmacy; and
 - (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.
- (2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
 - (a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and
 - (b) there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), that the individual is engaging in illegal activity.
- (3)
 - (a) A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy 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) is 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 medical cannabis pharmacy of each conviction under Subsection (3)(a).
 - (ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy 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 of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Renumbered and Amended by Chapter 1, 2018 Special Session 3

Repealed 7/1/2023

Part 5 Medical Cannabis Pharmacy Operation

Renumbered 7/1/2023

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

- (1)
 - (a) A medical cannabis pharmacy shall operate:
 - (i) at the physical address provided to the department under Section 26-61a-301; and
 - (ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, Section 26-61a-304.
 - (b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.
- (2) An individual may not enter a medical cannabis pharmacy unless the individual:
 - (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and
 - (b) except as provided in Subsection (4):
 - (i) possesses a valid:
 - (A) medical cannabis pharmacy agent registration card;
 - (B) pharmacy medical provider registration card; or
 - (C) medical cannabis card;
 - (ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section 26-61a-504; or
 - (iii) is another individual as the department provides.
- (3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.
- (4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.
- (5) A medical cannabis pharmacy shall operate in a facility that has:
 - (a) a single, secure public entrance;
 - (b) a security system with a backup power source that:
 - (i) detects and records entry into the medical cannabis pharmacy; and
 - (ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and
 - (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

- (6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).
- (7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.
- (8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.
- (9)
 - (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:
 - (i) the recommending medical provider's name, address, and telephone number;
 - (ii) the patient's name and address;
 - (iii) the date of issuance;
 - (iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and
 - (v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.
 - (b)
 - (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:
 - (A) the name, address, and telephone number of the medical cannabis pharmacy;
 - (B) the unique identification number that the medical cannabis pharmacy assigns;
 - (C) the date of the sale;
 - (D) the name of the patient;
 - (E) the name of the recommending medical provider who recommended the medical cannabis treatment;
 - (F) directions for use and cautionary statements, if any;
 - (G) the amount dispensed and the cannabinoid content;
 - (H) the suggested use date;
 - (I) for unprocessed cannabis flower, the legal use termination date; and
 - (J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.
 - (ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:
 - (A) a unique identification number;
 - (B) directions for use and cautionary statements;
 - (C) amount and cannabinoid content; and
 - (D) a suggested use date.
 - (iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:
 - (A) the cannabinoid content;

- (B) the suggested use date; and
- (C) any other requirements that the department determines.
- (iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).
- (10) A pharmacy medical provider or medical cannabis pharmacy agent shall:
 - (a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) through (d):
 - (i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and
 - (ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;
 - (b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;
 - (c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and
 - (d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.
- (11)
 - (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.
 - (b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.
 - (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:
 - (i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and
 - (ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:
 - (A) federal and state law, rules, and regulations related to hazardous waste;
 - (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
 - (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
 - (D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Amended by Chapter 290, 2022 General Session

Amended by Chapter 415, 2022 General Session

Renumbered 7/1/2023

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 another medical cannabis pharmacy or 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 another medical cannabis pharmacy or 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) a medical cannabis card;
 - (B) a department registration described in Section 26-61a-201(10); and
 - (ii) a corresponding valid form of photo identification.
 - (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.
 - (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).
- (2) A medical cannabis pharmacy:
- (a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:
 - (i) unprocessed cannabis that:
 - (A) is in a medicinal dosage form; and
 - (B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and
 - (ii) a cannabis product that is in a medicinal dosage form; and
 - (b) may not dispense:
 - (i) more medical cannabis than described in Subsection (2)(a); or
 - (ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.
- (3) An individual with a medical cannabis card:
- (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
 - (i) unprocessed cannabis in a medicinal dosage form; and

- (ii) a cannabis product in a medicinal dosage form;
- (b) may not purchase:
 - (i) more medical cannabis than described in Subsection (3)(a); or
 - (ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and
- (c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.
- (4) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:
 - (a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:
 - (i) information regarding the qualifying condition underlying the recommendation;
 - (ii) information regarding prior treatment attempts with medical cannabis; and
 - (iii) portions of the patient's current medication list; and
 - (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:
 - (i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (4)(a); and
 - (ii) unless the pertinent medical records show directions of use and dosing guidelines 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 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 recommending medical provider;
 - (B) indications for available treatments;
 - (C) directions of use and dosing guidelines; 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 directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.
- (6)
 - (a) A medical cannabis pharmacy shall:
 - (i)
 - (A) 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 medical cannabis described in Subsection (2); and

- (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;
 - (ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;
 - (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;
 - (iv) package any medical cannabis that is in a container that:
 - (A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;
 - (B) is tamper-resistant and tamper-evident; and
 - (C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; and
 - (v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.
 - (b) A medical cannabis cardholder transporting or possessing the container described in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.
- (7)
- (a) Except as provided in Subsection (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.
- (8)
- (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).
 - (b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.
- (9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
- (10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Amended by Chapter 290, 2022 General Session

Renumbered 7/1/2023

26-61a-504 Inspections.

- (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

- (2) The department or the Department of Agriculture and Food may inspect the records, facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4, Chapter 41a, Cannabis Production Establishments.
- (3) An inspection under this section may include:
 - (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;
 - (b) questioning of any relevant individual;
 - (c) inspection of equipment, an instrument, a tool, or machinery, including a container or label;
 - (d) random sampling of medical cannabis by the Department of Agriculture and Food in accordance with rules described in Section 4-41a-701; or
 - (e) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.
- (4) In making an inspection under this section, the department or the Department of Agriculture and Food may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.
- (5) Failure to provide the department, the Department of Agriculture and Food, or the authorized agents of the department or the Department of Agriculture and Food immediate access to records and facilities during business hours in accordance with this section may result in:
 - (a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (b) license or registration suspension or revocation; or
 - (c) an immediate cessation of operations under a cease and desist order that the department issues.
- (6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection (3)(e) until the department:
 - (a) determines that sufficient compliance justifies the return of the seized items; or
 - (b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

Amended by Chapter 350, 2021 General Session

Renumbered 7/1/2023

26-61a-505 Advertising.

- (1) Except as provided in this section, a person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.
- (2) Subject to Section 26-61a-116, a medical cannabis pharmacy may:
 - (a) advertise an employment opportunity at the medical cannabis pharmacy;
 - (b) notwithstanding any municipal or county ordinance prohibiting signage, use signage on the outside of the medical cannabis pharmacy that:
 - (i) includes only:
 - (A) in accordance with Subsection 26-61a-116(4), the medical cannabis pharmacy's name, logo, and hours of operation; and
 - (B) a green cross; and
 - (ii) complies with local ordinances regulating signage;
 - (c) advertise in any medium:

- (i) the pharmacy's name and logo;
 - (ii) the location and hours of operation of the medical cannabis pharmacy;
 - (iii) a service available at the medical cannabis pharmacy;
 - (iv) personnel affiliated with the medical cannabis pharmacy;
 - (v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;
 - (vi) best practices that the medical cannabis pharmacy upholds; and
 - (vii) educational material related to the medical use of cannabis, as defined by the department;
- (d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4); and
- (e) maintain on the medical cannabis pharmacy's website non-promotional information regarding the medical cannabis pharmacy's inventory.
- (3) A medical cannabis pharmacy may not include in an educational event described in Subsection (2)(d):
- (a) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;
 - (b) any gift items or merchandise other than educational materials, as those terms are defined by the department;
 - (c) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or
 - (d) a presenter other than the following:
 - (i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;
 - (v) a medical practitioner, similar to the practitioners described in this Subsection (3)(d)(v), who is licensed in another state or country;
 - (vi) a state employee; or
 - (vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.
- (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define:
- (a) the educational material described in Subsection (2)(c)(vii); and
 - (b) the elements of and restrictions on the educational event described in Subsection (3), including:
 - (i) a minimum age of 21 years old for attendees; and
 - (ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Amended by Chapter 290, 2022 General Session, (Coordination Clause)

Amended by Chapter 452, 2022 General Session

Repealed 7/1/2023

26-61a-506 Medical cannabis transportation.

- (1) Only the following individuals may transport medical cannabis under this chapter:
 - (a) a registered medical cannabis pharmacy agent;
 - (b) a registered medical cannabis courier agent;
 - (c) a registered pharmacy medical provider; or
 - (d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.
- (2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:
 - (a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;
 - (b) includes origin and destination information for the medical cannabis that the individual is transporting; and
 - (c) identifies the departure and arrival times and locations of the individual transporting the medical cannabis.
- (3)
 - (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis to ensure that the medical cannabis remains safe for human consumption.
 - (b) The transportation described in Subsection (1)(a) is limited to transportation between a medical cannabis pharmacy and:
 - (i) another medical cannabis pharmacy; or
 - (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.
- (4)
 - (a) It is unlawful for an individual described in Subsection (1) to make a transport described in this section with a manifest that does not meet the requirements of this section.
 - (b) Except as provided in Subsection (4)(d), an individual who violates Subsection (4)(a) is:
 - (i) guilty of an infraction; and
 - (ii) subject to a \$100 fine.
 - (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 medical cannabis 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.
- (5) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Amended by Chapter 415, 2022 General Session

Renumbered 7/1/2023

26-61a-507 Local control.

- (1) The operation of a medical cannabis pharmacy:
 - (a) shall be a permitted use:

- (i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and
 - (ii) on land that the municipality or county has not zoned; and
 - (b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.
- (2) A municipality or county may not:
- (a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis, deny or revoke:
 - (i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or
 - (ii) a business license to operate a medical cannabis pharmacy;
 - (b) require a certain distance between a medical cannabis pharmacy and:
 - (i) another medical cannabis pharmacy;
 - (ii) a cannabis production establishment;
 - (iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or
 - (iv) an outlet, as that term is defined in Section 32B-1-202; or
 - (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.
- (3)
- (a) A municipality or county may enact an ordinance that:
 - (i) is not in conflict with this chapter; and
 - (ii) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.
 - (b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not restrict the hours of operation from 7 a.m. to 10 p.m.
- (4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:
- (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and
 - (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Amended by Chapter 12, 2020 General Session

Repealed 7/1/2023

Part 6 State Central Patient Portal and Home Delivery

Renumbered 7/1/2023

26-61a-603 Payment provider for electronic medical cannabis transactions.

- (1) A cannabis production establishment, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy seeking to use a payment provider 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.

Amended by Chapter 12, 2020 General Session

Renumbered 7/1/2023

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 September 23, 2019, 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;
 - (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 September 23, 2019, a misdemeanor for drug distribution; or
 - (d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.
- (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.
- (15)
- (a) A medical cannabis courier license is not transferrable or assignable.
 - (b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.
 - (c) If the ownership of a medical cannabis courier changes by 50% or more:
 - (i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);
 - (ii) within 30 days of the submission of the application, the department shall:
 - (A) conduct an application review; and
 - (B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and
 - (iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.
- (16)

- (a) Except as provided in Subsection (15)(b), a person may not advertise regarding the transportation of medical cannabis.
- (b) Notwithstanding Subsection (15)(a) and subject to Section 26-61a-116, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:
 - (i) a green cross;
 - (ii) the pharmacy's or courier's name and logo; and
 - (iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Amended by Chapter 290, 2022 General Session

Amended by Chapter 452, 2022 General Session

Renumbered 7/1/2023

26-61a-605 Medical cannabis shipment transportation.

- (1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.
- (2)
 - (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.
 - (b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:
 - (i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and
 - (ii) provide regular oversight of the 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 medical cannabis shipment unless the individual is:
 - (a) a registered pharmacy medical provider;
 - (b) a registered medical cannabis pharmacy agent; or
 - (c) a registered agent of the medical cannabis courier described in Subsection (2).
- (4) An individual transporting a medical cannabis shipment under Subsection (3) shall possess a physical or electronic transportation manifest that:
 - (a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;
 - (b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and
 - (c) indicates the departure and estimated arrival times and locations of the individual transporting the 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 Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting 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 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.

Amended by Chapter 415, 2022 General Session

Renumbered 7/1/2023

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 Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (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 within the preceding 10 years; 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).

Amended by Chapter 290, 2022 General Session
Amended by Chapter 415, 2022 General Session

Renumbered 7/1/2023

26-61a-607 Home delivery of medical cannabis shipments.

- (1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:
 - (a) the individual receiving the shipment presents:
 - (i) a valid form of photo identification; and
 - (ii)
 - (A) a valid medical cannabis card under the same name that appears on the valid form of photo identification; or
 - (B) for a facility that a medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b), evidence of the facility caregiver designation; and
 - (b) the delivery occurs at:
 - (i) the medical cannabis cardholder's home address that is on file in the state electronic verification system; or
 - (ii) the facility that the medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b).
- (2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:
 - (a) verify the shipment information using the state electronic verification system;

- (b) ensure that the individual satisfies the identification requirements in Subsection (1);
 - (c) verify that payment is complete; and
 - (d) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.
- (3) The medical cannabis courier shall:
- (a)
 - (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and
 - (ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;
 - (b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and
 - (c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.
- (4)
- (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.
 - (b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:
 - (i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and
 - (ii) disposing of the 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.

Amended by Chapter 452, 2022 General Session

Repealed 7/1/2023

Part 7 Enforcement

Renumbered 7/1/2023

26-61a-702 Enforcement -- Fine -- Citation.

(1)

- (a) The department may, for a medical cannabis pharmacy's or a medical cannabis courier's violation of this chapter or an applicable administrative rule:
 - (i) revoke the medical cannabis pharmacy or medical cannabis courier license;
 - (ii) refuse to renew the medical cannabis pharmacy or medical cannabis courier license; or
 - (iii) assess the medical cannabis pharmacy or medical cannabis courier an administrative penalty.
- (b) The department may, for a medical cannabis pharmacy agent's or medical cannabis courier agent's violation of this chapter:
 - (i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent registration card;
 - (ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier agent registration card; or
 - (iii) assess the medical cannabis pharmacy agent or 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 the medical cannabis courier 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).

Amended by Chapter 452, 2022 General Session