

**Effective 12/3/2018**

**Chapter 61a  
Utah Medical Cannabis Act**

**Part 1  
General Provisions**

**26-61a-101 Title.**

This chapter is known as "Utah Medical Cannabis Act."

Renumbered and Amended by Chapter 1, 2018 Special Session 3

**26-61a-102 Definitions.**

As used in this chapter:

- (1) "Cannabis" means marijuana.
- (2) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.
- (3) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.
- (4) "Cannabis product" means a product that:
  - (a) is intended for human use; and
  - (b) contains cannabis or tetrahydrocannabinol.
- (5) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.
- (6) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.
- (7) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.
- (8) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.
- (9) "Department" means the Department of Health.
- (10) "Designated caregiver" means:
  - (a) an individual:
    - (i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and
    - (ii) who registers with the department under Section 26-61a-202; or
  - (b)
    - (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or
    - (ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).
- (11) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.
- (12) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.
- (13) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.
- (14) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis

- shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.
- (15) "Inventory control system" means the system described in Section 4-41a-103.
- (16) "Legal dosage limit" means an amount that:
- (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant qualified medical provider or the pharmacy medical provider, in accordance with Subsection 26-61a-201(4) or (5), recommends; and
  - (b) may not exceed:
    - (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and
    - (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.
- (17) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:
- (a) that is 60 days after the date of purchase of the cannabis; and
  - (b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.
- (18) "Marijuana" means the same as that term is defined in Section 58-37-2.
- (19) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
- (20) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.
- (21) "Medical cannabis cardholder" means:
- (a) a holder of a medical cannabis card; or
  - (b) a facility or assigned employee, described in Subsection (10)(b), only:
    - (i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and
    - (ii) while in possession of documentation that establishes:
      - (A) a caregiver designation described in Subsection 26-61a-202(1)(b);
      - (B) the identity of the individual presenting the documentation; and
      - (C) the relation of the individual presenting the documentation to the caregiver designation.
- (22) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:
- (a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and
  - (b) is connected to the electronic verification system.
- (23) "Medical cannabis courier" means a courier that:
- (a) the department licenses in accordance with Section 26-61a-604; and
  - (b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.
- (24)
- (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
  - (b) "Medical cannabis device" does not include a device that:
    - (i) facilitates cannabis combustion; or
    - (ii) an individual uses to ingest substances other than cannabis.
- (25) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

- (a) the department issues to the parent or legal guardian of a minor with a qualifying condition;  
and
  - (b) is connected to the electronic verification system.
- (26) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:
- (a) the department issues to an individual with a qualifying condition; and
  - (b) is connected to the electronic verification system.
- (27) "Medical cannabis pharmacy" means a person that:
- (a)
    - (i) acquires or intends to acquire:
      - (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or
      - (B) a medical cannabis device; or
    - (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and
  - (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.
- (28) "Medical cannabis pharmacy agent" means an individual who:
- (a) is an employee of a medical cannabis pharmacy; and
  - (b) who holds a valid medical cannabis pharmacy agent registration card.
- (29) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.
- (30) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.
- (31) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.
- (32)
- (a) "Medicinal dosage form" means:
    - (i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:
      - (A) a tablet;
      - (B) a capsule;
      - (C) a concentrated liquid or viscous oil;
      - (D) a liquid suspension;
      - (E) a topical preparation;
      - (F) a transdermal preparation;
      - (G) a sublingual preparation;
      - (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or
      - (I) a resin or wax;
    - (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:
      - (A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;
      - (B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque, child-resistant bag that the medical cannabis pharmacy provides; and

- (C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and
- (iii) a form measured in grams, milligrams, or milliliters.
- (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
  - (i) the medical cannabis cardholder has recently removed from the container described in Subsection (32)(a)(ii) for use; and
  - (ii) does not exceed the quantity described in Subsection (32)(a)(ii).
- (c) "Medicinal dosage form" does not include:
  - (i) any unprocessed cannabis flower outside of the container described in Subsection (32)(a)(ii), except as provided in Subsection (32)(b);
  - (ii) any unprocessed cannabis flower in a container described in Subsection (32)(a)(ii) after the legal use termination date; or
  - (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.
- (33) "Nonresident patient" means an individual who:
  - (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;
  - (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and
  - (c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.
- (34) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.
- (35) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.
- (36) "Provisional patient card" means a card that:
  - (a) the department issues to a minor with a qualifying condition for whom:
    - (i) a qualified medical provider has recommended a medical cannabis treatment; and
    - (ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and
  - (b) is connected to the electronic verification system.
- (37) "Qualified medical provider" means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.
- (38) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.
- (39) "Qualifying condition" means a condition described in Section 26-61a-104.
- (40) "Recommend" or "recommendation" means, for a qualified medical provider, the act of suggesting the use of medical cannabis treatment, which:
  - (a) certifies the patient's eligibility for a medical cannabis card; and
  - (b) may include, at the qualified medical provider's discretion, directions of use, with or without dosing guidelines.
- (41) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.
- (42) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.
- (43) "State electronic verification system" means the system described in Section 26-61a-103.

- (44) "Valid form of photo identification" means a valid United States federal- or state-issued photo identification, including:
- (a) a driver license;
  - (b) a United States passport;
  - (c) a United States passport card; or
  - (d) a United States military identification card.

Amended by Chapter 12, 2020 General Session

Amended by Chapter 148, 2020 General Session

Amended by Chapter 148, 2020 General Session, (Coordination Clause)

**26-61a-103 Electronic verification system.**

- (1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:
- (a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);
  - (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and
  - (c) select a third-party provider who:
    - (i) meets the requirements contained in the request for proposals issued under Subsection (1) (b); and
    - (ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.
- (2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):
- (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until the relevant qualified medical provider completes the associated medical cannabis recommendation;
  - (b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;
  - (c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:
    - (i) access dispensing and card status information regarding a patient:
      - (A) with whom the qualified medical provider has a provider-patient relationship; and
      - (B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;
    - (ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;
    - (iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:
      - (A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or
      - (B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

- (iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;
  - (d) connects with:
    - (i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:
      - (A) the time and date of each purchase;
      - (B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;
      - (C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and
      - (D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and
    - (ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;
  - (e) provides access to:
    - (i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;
    - (ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and
    - (iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:
      - (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
      - (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
      - (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
      - (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;
  - (f) provides access to and interaction with the state central patient portal;
  - (g) provides access to state or local law enforcement:
    - (i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or
    - (ii) after obtaining a warrant; and
  - (h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.
- (3)
- (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

- (i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;
  - (ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and
  - (iii) the department grants to the employee access to the electronic verification system.
- (b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:
- (i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;
  - (ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and
  - (iii) the department grants to the employee access to the electronic verification system.
- (4)
- (a) As used in this Subsection (4), "prescribing provider" means:
- (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
  - (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
  - (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.
- (b) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.
- (5) The department may release limited data that the system collects for the purpose of:
- (a) conducting medical and other department approved research;
  - (b) providing the report required by Section 26-61a-703; and
  - (c) other official department purposes.
- (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:
- (a) the limitations on access to the data in the state electronic verification system as described in this section; and
  - (b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.
- (7)
- (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.
  - (b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.
- (8)
- (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
  - (b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.
- (9)

- (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.
- (b) Each separate violation of this Subsection (9) is:
  - (i) a third degree felony; and
  - (ii) subject to a civil penalty not to exceed \$5,000.
- (c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.
- (e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:
  - (i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;
  - (ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or
  - (iii) discussing or sharing that information about the patient with the patient.

Amended by Chapter 12, 2020 General Session

**26-61a-104 Qualifying condition.**

- (1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:
  - (a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or
  - (b) a medical cannabis treatment will treat, cure, or positively affect the condition.
- (2) For the purposes of this chapter, each of the following conditions is a qualifying condition:
  - (a) HIV or acquired immune deficiency syndrome;
  - (b) Alzheimer's disease;
  - (c) amyotrophic lateral sclerosis;
  - (d) cancer;
  - (e) cachexia;
  - (f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:
    - (i) pregnancy;
    - (ii) cannabis-induced cyclical vomiting syndrome; or
    - (iii) cannabinoid hyperemesis syndrome;
  - (g) Crohn's disease or ulcerative colitis;
  - (h) epilepsy or debilitating seizures;
  - (i) multiple sclerosis or persistent and debilitating muscle spasms;
  - (j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:
    - (i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation;or

- (ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:
  - (A) a licensed board-eligible or board-certified psychiatrist;
  - (B) a licensed psychologist with a master's-level degree;
  - (C) a licensed clinical social worker with a master's-level degree; or
  - (D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing speciality and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);
- (k) autism;
- (l) a terminal illness when the patient's remaining life expectancy is less than six months;
- (m) a condition resulting in the individual receiving hospice care;
- (n) a rare condition or disease that:
  - (i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and
  - (ii) is not adequately managed despite treatment attempts using:
    - (A) conventional medications other than opioids or opiates; or
    - (B) physical interventions;
- (o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:
  - (i) conventional medications other than opioids or opiates; or
  - (ii) physical interventions; and
- (p) a condition that the Compassionate Use Board approves under Section 26-61a-105, on an individual, case-by-case basis.

Amended by Chapter 12, 2020 General Session

**26-61a-105 Compassionate Use Board.**

- (1)
  - (a) The department shall establish a Compassionate Use Board consisting of:
    - (i) seven qualified medical providers that the executive director appoints and the Senate confirms:
      - (A) who are knowledgeable about the medicinal use of cannabis;
      - (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
      - (C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and
    - (ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.
  - (b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.
- (2)
  - (a) Of the members of the Compassionate Use Board that the executive director first appoints:
    - (i) three shall serve an initial term of two years; and
    - (ii) the remaining members shall serve an initial term of four years.
  - (b) After an initial term described in Subsection (2)(a) expires:
    - (i) each term is four years; and

- (ii) each board member is eligible for reappointment.
- (c) A member of the Compassionate Use Board may serve until a successor is appointed.
- (3) Four members constitute a quorum of the Compassionate Use Board.
- (4) A member of the Compassionate Use Board may receive:
  - (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and
  - (b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.
- (5) The Compassionate Use Board shall:
  - (a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:
    - (i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:
      - (A) substantially impairs the individual's quality of life; and
      - (B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;
    - (ii) the qualified medical provider:
      - (A) recommends that the individual or minor be allowed to use medical cannabis; and
      - (B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and
    - (iii) the Compassionate Use Board determines that:
      - (A) the recommendation of the individual's qualified medical provider is justified; and
      - (B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;
  - (b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;
  - (c) unless no petitions are pending:
    - (i) meet to receive or review compassionate use petitions at least quarterly; and
    - (ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;
  - (d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;
  - (e) consult with the department regarding the criteria described in Subsection (6); and
  - (f) report, before November 1 of each year, to the Health and Human Services Interim Committee:
    - (i) the number of compassionate use recommendations the board issued during the past year; and
    - (ii) the types of conditions for which the board recommended compassionate use.
- (6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final

review and approval or denial by the department in cases where, in the determination of the department and the board:

- (a) time is of the essence;
  - (b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and
  - (c) sufficient factors are present regarding the petitioner's safety.
- (7)
- (a)
    - (i) The department shall review:
      - (A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and
      - (B) any expedited petitions the department receives under the process described in Subsection (6).
    - (ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:
      - (A) issue the relevant medical cannabis card; and
      - (B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).
  - (b)
    - (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.
    - (ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:
      - (A) the department shall notify the Compassionate Use Board of the department's determination; and
      - (B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.
  - (c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.
- (8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- (9) The Compassionate Use Board shall annually report the board's activity to the Cannabinoid Product Board created in Section 26-61-201.

Amended by Chapter 12, 2020 General Session

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

(1)

- (a) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.
  - (b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii) and (iv) may recommend a medical cannabis treatment without registering under Subsection (1)(a) until January 1, 2021.
- (2)
- (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:
    - (i) provides to the department the individual's name and address;
    - (ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);
    - (iii) provides to the department evidence that the individual:
      - (A) has the authority to write a prescription;
      - (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and
      - (C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;
    - (iv) provides to the department evidence that the individual is:
      - (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
      - (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
      - (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and
    - (v) pays the department a fee in an amount that:
      - (A) the department sets, in accordance with Section 63J-1-504; and
      - (B) does not exceed \$300 for an initial registration.
  - (b) The department may not register an individual as a qualified medical provider if the individual is:
    - (i) a pharmacy medical provider; or
    - (ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.
- (3)
- (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:
    - (i) for an individual as a condition precedent to registration, four hours; and
    - (ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.
  - (b) In accordance with Subsection (3)(a), a qualified medical provider shall:
    - (i) complete continuing education:
      - (A) regarding the topics described in Subsection (3)(d); and
      - (B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

- (ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:
  - (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;
  - (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;
  - (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and
  - (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.
- (c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).
- (d) The continuing education described in this Subsection (3) may discuss:
  - (i) the provisions of this chapter;
  - (ii) general information about medical cannabis under federal and state law;
  - (iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;
  - (iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and
  - (v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.
- (4)
  - (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.
  - (b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:
    - (i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or
    - (ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.
- (5) A qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a qualified medical provider-patient relationship after the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.
- (6)
  - (a) Except as provided in Subsection (6)(b), an individual may not advertise that the individual recommends medical cannabis treatment in accordance with this chapter.
  - (b) For purposes of Subsection (6)(a), the communication of the following, through a website, by an individual described in Subsection (6)(c), does not constitute advertising:

- (i) a green cross;
  - (ii) a qualifying condition that the qualified medical provider treats; or
  - (iii) a scientific study regarding medical cannabis use.
- (c) The following are subject to Subsection (6)(b):
- (i) before the department begins registering qualified medical providers:
    - (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);
    - (B) a physician described in Subsection (2)(a)(iv)(B); or
    - (C) a physician assistant described in Subsection (2)(a)(iv)(C); and
  - (ii) after the department begins registering qualified medical providers, a qualified medical provider.
- (7)
- (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.
  - (b) The department shall renew a qualified medical provider's registration card if the provider:
    - (i) applies for renewal;
    - (ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);
    - (iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;
    - (iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and
    - (v) pays the department a fee in an amount that:
      - (A) the department sets, in accordance with Section 63J-1-504; and
      - (B) does not exceed \$50 for a registration renewal.
  - (8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.
  - (9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:
    - (a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;
    - (b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or
    - (c) a qualified medical provider or pharmacy medical provider.

Amended by Chapter 12, 2020 General Session

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

- (1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:
  - (a) civil or criminal liability; or
  - (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.
- (2) The limitations of liability described in Subsection (1) apply to:

- (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:
  - (i)
    - (A) whom the department has registered as a qualified medical provider; and
    - (B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or
  - (ii) before January 1, 2021, who:
    - (A) has the authority to write a prescription; and
    - (B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and
- (b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:
  - (i) whom the department has registered as a pharmacy medical provider; and
  - (ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.
- (3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:
  - (a) who may have a qualifying condition; and
  - (b)
    - (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or
    - (ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.
- (4)
  - (a) As used in this Subsection (4), "healthcare facility" means the same as that term is defined in Section 26-21-2.
  - (b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.
  - (c) An employee or agent of a healthcare facility described in this Subsection (4) is not subject to civil or criminal liability for carrying out employment duties, including:
    - (i) providing or supervising care to a medical cannabis cardholder; or
    - (ii) in accordance with a caregiver designation under Section 26-61a-201 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing medical cannabis for the relevant patient and in accordance with the designation.
  - (d) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4) (b).

Amended by Chapter 12, 2020 General Session

Amended by Chapter 148, 2020 General Session

Amended by Chapter 148, 2020 General Session, (Coordination Clause)

**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

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

- (1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."
- (2) The fund created in this section is funded from:
  - (a) money the department deposits into the fund under this chapter;
  - (b) appropriations the Legislature makes to the fund; and
  - (c) the interest described in Subsection (3).
- (3) Interest earned on the fund shall be deposited into the fund.
- (4) The department may only use money in the fund to fund the department's responsibilities under this chapter.
- (5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Amended by Chapter 5, 2019 Special Session 1

**26-61a-111 Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.**

- (1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:
  - (a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

- (b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.
- (2)
- (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance.
  - (b) A state or political subdivision employee who has a valid medical cannabis card is not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.
  - (c) Subsections (2)(a) and (b) do not apply where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position, or if the employee's position is dependent on a license that is subject to federal regulations.
- (3)
- (a)
- (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:
    - (A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or
    - (B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.
  - (ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:
    - (A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and
    - (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (b) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).
- (c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:
- (i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or
  - (ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.
- (d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).
- (4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Amended by Chapter 12, 2020 General Session

**26-61a-112 No insurance requirement.**

Nothing in this chapter requires an insurer, a third-party administrator, or an employer to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device.

Enacted by Chapter 1, 2018 Special Session 3

**26-61a-113 No effect on use of hemp extract -- Cannabidiol -- Approved drugs.**

- (1) Nothing in this chapter prohibits an individual from purchasing, selling, possessing, or using a cannabinoid product in accordance with Section 4-41-402.
- (2) Nothing in this chapter restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

Amended by Chapter 12, 2020 General Session  
Amended by Chapter 354, 2020 General Session

**26-61a-114 Severability clause.**

- (1) If any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 or the application of any provision of this title or Laws of Utah 2018, Third Special Session, Chapter 1 to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 remain effective without the invalidated provision or application.
- (2) The provisions of this title and Laws of Utah 2018, Third Special Session, Chapter 1 are severable.

Enacted by Chapter 1, 2018 Special Session 3

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

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

- (1) this chapter;
- (2) Title 4, Chapter 41a, Cannabis Production Establishments; or
- (3) Subsection 58-37-3.7(2) or (3).

Enacted by Chapter 5, 2019 Special Session 1

**Part 2**  
**Medical Cannabis Card Registration**

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

- (1) On or before March 1, 2020, the department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:
  - (a) issue a medical cannabis patient card to an individual described in Subsection (2)(a);
  - (b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);
  - (c) issue a provisional patient card to a minor described in Subsection (2)(c); and
  - (d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).
- (2)
  - (a) An individual is eligible for a medical cannabis patient card if:
    - (i)
      - (A) the individual is at least 21 years old; or
      - (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;
    - (ii) the individual is a Utah resident;
    - (iii) the individual's qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4);
    - (iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and
    - (v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
  - (b)
    - (i) An individual is eligible for a medical cannabis guardian card if the individual:
      - (A) is at least 18 years old;
      - (B) is a Utah resident;
      - (C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;
      - (D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);
      - (E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and
      - (F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.
    - (ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.
  - (c)
    - (i) A minor is eligible for a provisional patient card if:
      - (A) the minor has a qualifying condition;
      - (B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

- (C) the minor's parent or legal guardian petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and
- (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.
- (ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.
- (d) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.
- (3)
  - (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:
    - (i) through an electronic application connected to the state electronic verification system;
    - (ii) with the recommending qualified medical provider; and
    - (iii) with information including:
      - (A) the applicant's name, gender, age, and address;
      - (B) the number of the applicant's valid form of photo identification;
      - (C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and
      - (D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.
  - (b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).
  - (c)
    - (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.
    - (ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):
      - (A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and
      - (B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and
      - (C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.
    - (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:
      - (A) ingest or inhale medical cannabis;

- (B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or
  - (C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.
- (4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:
- (a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:
    - (i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);
    - (ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:
      - (A) the state electronic verification system; and
      - (B) the controlled substance database created in Section 58-37f-201; and
    - (iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and
  - (b) state in the qualified medical provider's recommendation that the patient:
    - (i) suffers from a qualifying condition, including the type of qualifying condition; and
    - (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
- (5)
- (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:
    - (i) an amount of time that the qualified medical provider determines; or
    - (ii)
      - (A) for the first issuance, 90 days;
      - (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or
      - (C) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the qualified medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.
  - (b)
    - (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.
    - (ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.
- (6)
- (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:
    - (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or
    - (ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.
  - (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:
    - (i) using the application process described in Subsection (3); or
    - (ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

- (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:
    - (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and
    - (ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.
  - (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.
  - (e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.
- (7)
- (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.
  - (b)
    - (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.
    - (ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.
    - (iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:
      - (A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and
      - (B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.
  - (c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section:
    - (i) may possess:
      - (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;
      - (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and
      - (C) marijuana drug paraphernalia; and
    - (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).
- (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:
- (a) risks associated with medical cannabis treatment;
  - (b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and
  - (c) other relevant warnings and safety information that the department determines.

- (9) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.
- (10)
- (a) On or before January 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the Department of Health in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.
  - (b) The department may only provide the registration process described in Subsection (10)(a):
    - (i) to a nonresident patient; and
    - (ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.
- (11)
- (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.
  - (b) The department shall review a request described in Subsection (11)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.
  - (c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:
    - (i) of how the individual's information will be used as a cardholder;
    - (ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (11)(d), the individual consents to the use of the individual's information for external research; and
    - (iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.
  - (d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.
  - (e) The department may release, for the purposes of a study described in this Subsection (11), information about a cardholder under this section who consents to participate under Subsection (11)(c).
  - (f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of consent:
    - (i) applies to external research that is initiated after the withdrawal of consent; and
    - (ii) does not apply to research that was initiated before the withdrawal of consent.
  - (g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 12, 2020 General Session  
Amended by Chapter 148, 2020 General Session

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

- (1)
- (a) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due

to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

- (b)
- (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 who is a patient in one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):
    - (A) an assisted living facility, as that term is defined in Section 26-21-2;
    - (B) a nursing care facility, as that term is defined in Section 26-21-2; or
    - (C) a general acute hospital, as that term is defined in Section 26-21-2.
  - (ii) A facility may assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b).
  - (iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).
- (c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.
- (2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):
- (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;
  - (b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;
  - (c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;
  - (d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and
  - (e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021:
    - (i) may possess up to the legal dosage limit of:
      - (A) unprocessed medical cannabis in a medicinal dosage form;
      - (B) a cannabis product in a medicinal dosage form; and
    - (ii) may possess marijuana drug paraphernalia; and
    - (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).
- (3)
- (a) The department shall:
    - (i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:
      - (A) is designated as a caregiver under Subsection (1);
      - (B) is eligible for a medical cannabis caregiver card under Subsection (4); and
      - (C) complies with this section; and
    - (ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

- (b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).
- (4) An individual is eligible for a medical cannabis caregiver card if the individual:
  - (a) is at least 21 years old;
  - (b) is a Utah resident;
  - (c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;
  - (d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and
  - (e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.
- (5) An eligible applicant for a medical cannabis caregiver card shall:
  - (a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and
  - (b) submit the following information in the application described in Subsection (5)(a):
    - (i) the applicant's name, gender, age, and address;
    - (ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and
    - (iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.
- (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:
  - (a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or
  - (b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.
- (7)
  - (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:
    - (i) renews the cardholder's card; and
    - (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).
  - (b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:
    - (i) signify that the cardholder renews the caregiver's designation;
    - (ii) remove a caregiver's designation; or
    - (iii) designate a new caregiver.
- (8) The department may revoke a medical cannabis caregiver card if the designated caregiver:
  - (a) violates this chapter; or
  - (b) is convicted under state or federal law of:
    - (i) a felony; or
    - (ii) after December 3, 2018, a misdemeanor for drug distribution.

Amended by Chapter 12, 2020 General Session

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

- (1) Except for an applicant reapplying for a medical cannabis card within less than one year after the expiration of the applicant's previous medical cannabis card, each applicant for a medical cannabis guardian card under Section 26-61a-201 or a medical cannabis caregiver card under Section 26-61a-202 shall:
  - (a) submit to the department, at the time of application:
    - (i) a fingerprint card in a form acceptable to the Department of Public Safety; and
    - (ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
  - (b) consent to a fingerprint background check by:
    - (i) the Bureau of Criminal Identification; and
    - (ii) the Federal Bureau of Investigation.
- (2) The Bureau of Criminal Identification shall:
  - (a) check the fingerprints the applicant submits under Subsection (1)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
  - (b) report the results of the background check to the department;
  - (c) maintain a separate file of fingerprints that applicants submit under Subsection (1)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;
  - (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
  - (e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (3) The department shall:
  - (a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
  - (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Amended by Chapter 5, 2019 Special Session 1

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

- (1)
  - (a) A medical cannabis cardholder who possesses medical cannabis that the cardholder purchased under this chapter:
    - (i) shall carry:
      - (A) at all times the cardholder's medical cannabis card; and
      - (B) after the earlier of January 1, 2021, or the day on which the individual purchases any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system; and
    - (ii) may possess up to the legal dosage limit of:

- (A) unprocessed cannabis in medicinal dosage form; and
  - (B) a cannabis product in medicinal dosage form; and
  - (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii).
  - (b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis in violation of Subsection (1)(a) is:
    - (i) guilty of an infraction; and
    - (ii) subject to a \$100 fine.
  - (c) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:
    - (i) for a first offense:
      - (A) guilty of an infraction; and
      - (B) subject to a fine of up to \$100; and
    - (ii) for a second or subsequent offense:
      - (A) guilty of a class B misdemeanor; and
      - (B) subject to a fine of \$1,000.
  - (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).
  - (e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:
    - (i) for a first offense:
      - (A) guilty of an infraction; and
      - (B) subject to a fine of up to \$100; and
    - (ii) for a second or subsequent offense, is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.
  - (f) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.
- (2)
- (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.
  - (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.
  - (c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
  - (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:
    - (i) for a first offense:
      - (A) guilty of an infraction; and
      - (B) subject to a fine of up to \$100; and
    - (ii) for a second or subsequent offense:
      - (A) guilty of a class B misdemeanor; and
      - (B) subject to a fine of \$1,000.

- (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:
  - (a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and
  - (b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.
- (4)
  - (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.
  - (b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:
    - (i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and
    - (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

Amended by Chapter 12, 2020 General Session

### **Part 3**

#### **Medical Cannabis Pharmacy License**

##### **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 \$125,000 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; and
  - (b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).
- (4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):
- (a) has been convicted under state or federal law of:

- (i) a felony; or
  - (ii) after December 3, 2018, a misdemeanor for drug distribution;
  - (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) The department may revoke a license under this part:
- (a) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;
  - (b) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;
  - (c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:
    - (i) a felony; or
    - (ii) after December 3, 2018, a misdemeanor for drug distribution;
  - (d) 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; or
  - (e) 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.
- (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 in 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.

Amended by Chapter 12, 2020 General Session

Amended by Chapter 148, 2020 General Session, (Coordination Clause)

Amended by Chapter 148, 2020 General Session

Amended by Chapter 354, 2020 General Session

**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

**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 63F-1-701.
  - (b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

Amended by Chapter 12, 2020 General Session

**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

**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 14 medical cannabis pharmacy licenses in accordance with this section.
  - (b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy license, the department shall issue a medical cannabis pharmacy license to each qualified applicant.
  - (c) The department may issue the licenses described in Subsection (1)(a) in two phases 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 this Subsection (1)(c), the department shall:
      - (A) divide the state into no less than four geographic regions;
      - (B) issue at least one license in each geographic region during each phase of issuing licenses; and
      - (C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.
  - (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);
      - (B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and
      - (C) 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) to the intended licensee.
- (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 12, 2020 General Session

**Part 4**  
**Medical Cannabis Pharmacy Agents**

**26-61a-401 Medical cannabis pharmacy agent -- Registration.**

- (1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.
- (2) Except as provided in Section 26-61a-403, a qualified medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.
- (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 Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) The department shall ensure that the certification standard described in Subsection (5) includes training in:
  - (a) Utah medical cannabis law; and
  - (b) medical cannabis pharmacy best practices.
- (7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:
  - (a) violates the requirements of this chapter; or
  - (b) is convicted under state or federal law of:
    - (i) a felony; or
    - (ii) after December 3, 2018, a misdemeanor for drug distribution.
- (8)
  - (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.
  - (b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:
    - (i) is eligible for a medical cannabis pharmacy agent registration card under this section;
    - (ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and
    - (iii) pays to the department a renewal fee in an amount that:
      - (A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and
      - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Amended by Chapter 5, 2019 Special Session 1

**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

### **26-61a-403 Pharmacy medical providers -- Registration -- Continuing education.**

- (1)
- (a) A medical cannabis pharmacy:
    - (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;
    - (ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;
    - (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and
    - (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.
  - (b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).
- (2)
- (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical

provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

- (i) provides to the department:
    - (A) the prospective pharmacy medical provider's name and address;
    - (B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;
    - (C) a report detailing the completion of the continuing education requirement described in Subsection (3); and
    - (D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
  - (ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
- (b) The department may not register a qualified medical provider or a state central patient portal medical provider as a pharmacy medical provider.
- (3)
- (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:
    - (i) as a condition precedent to registration, four hours; and
    - (ii) as a condition precedent to renewal of the registration, four hours every two years.
  - (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:
    - (i) complete continuing education:
      - (A) regarding the topics described in Subsection (3)(d); and
      - (B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and
    - (ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:
      - (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;
      - (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and
      - (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.
  - (c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).
  - (d) The continuing education described in this Subsection (3) may discuss:
    - (i) the provisions of this chapter;
    - (ii) general information about medical cannabis under federal and state law;
    - (iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;
    - (iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or
    - (v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

- (4)
  - (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.
  - (b) A pharmacy medical provider may renew the provider's registration card if the provider:
    - (i) is eligible for a pharmacy medical provider registration card under this section;
    - (ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;
    - (iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and
    - (iv) pays to the department a renewal fee in an amount that:
      - (A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and
      - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Amended by Chapter 5, 2019 Special Session 1

## **Part 5**

### **Medical Cannabis Pharmacy Operation**

#### **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, 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; and
  - (b) except as provided in Subsection (5), possesses a valid:
    - (i) medical cannabis pharmacy agent registration card;
    - (ii) pharmacy medical provider registration card; or
    - (iii) medical cannabis card.
- (3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.
- (4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.
- (5) Notwithstanding Subsection (2), 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.
- (6) 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.
- (7) 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).
- (8) A medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.
- (9) 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.
- (10)
  - (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:
    - (i) the qualified 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 qualified 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 (10)(b)(ii), 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 qualified 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 Occupational and Professional Licensing and the Board of Pharmacy.
    - (ii) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (10)(b)(i).
- (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:
  - (a) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), 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
  - (b) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.
- (12)

- (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 (12)(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.
- (13) 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 12, 2020 General Session

**26-61a-502 Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**

- (1)
  - (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:
    - (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;
    - (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;
    - (iii) a medical cannabis device; or
    - (iv) educational material related to the medical use of cannabis.
  - (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:
    - (i)
      - (A) a medical cannabis card;
      - (B) a department registration described in Subsection 26-61a-202(10); or
      - (C) until December 31, 2020, a letter from a medical provider in accordance with Subsection (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 or to an individual described in Subsection (10)(b), 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 qualified medical provider, or for an individual described in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i), 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 or an individual described in Subsection (10)(a):
  - (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 qualified 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 qualified medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.
- (4) If a qualified medical provider recommends treatment with medical cannabis but does not provide directions of use and dosing guidelines:
  - (a) the qualified medical provider shall document in the recommendation:
    - (i) an evaluation of the qualifying condition underlying the recommendation;
    - (ii) prior treatment attempts with medical cannabis; and
    - (iii) 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 qualified 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 qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:
      - (A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;
      - (B) indications for available treatments;
      - (C) 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 medical cannabis pharmacy shall:
- (a)
    - (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and
    - (ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):
      - (A) decline the sale; and
      - (B) notify the qualified medical provider who made the underlying recommendation;
  - (b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;
  - (c) package any medical cannabis that is in a container that:
    - (i) complies with Subsection 4-41a-602(2) or, if applicable, 26-61a-102(32)(a)(ii);
    - (ii) is tamper-resistant and tamper-evident; and
    - (iii) opaque; and
  - (d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.
- (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 medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).
- (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) Except as provided in Subsection (10)(b), until December 31, 2020, an individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from a licensed medical cannabis pharmacy if:
    - (i) the individual presents to the medical cannabis pharmacy a letter from the medical professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical professional's medical cannabis recommendation for the individual;
    - (ii) the medical cannabis pharmacy receives independent confirmation from the medical professional described in Subsection (10)(a)(i) or an employee of the medical professional that the letter is valid;
    - (iii) the medical cannabis pharmacy:

- (A) scans or photocopies the individual's letter and the individual's valid form of photo identification;
  - (B) creates a record of the transaction, including the documents described in Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis the individual purchased; and
  - (C) provides information to the individual about obtaining a medical cannabis card; and
  - (iv) unless the medical professional recommends specific directions of using and dosing guidelines in the letter, the pharmacy medical provider determines the best course of treatment through consultation with the individual regarding:
    - (A) the individual's qualifying condition underlying the recommendation from the medical professional;
    - (B) indications for available treatments;
    - (C) directions of use and dosing guidelines; and
    - (D) potential adverse reactions.
- (b)
- (i) An individual who purchases medical cannabis from a medical cannabis pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different medical cannabis pharmacy under Subsection (10)(a).
  - (ii) If the department notifies a medical cannabis pharmacy, in accordance with Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a) from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an item listed in Subsection (1)(a) to the individual under Subsection (10)(a).
  - (iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the individual is a medical cannabis cardholder.
- (c)
- (i) Until December 31, 2020, on or before the first day of each month, each medical cannabis pharmacy shall provide to the department, in a secure manner, information identifying each individual who has purchased medical cannabis from the medical cannabis pharmacy under Subsection (10)(a).
  - (ii) The department shall review information the department receives under Subsection (10)(c)
    - (i) to identify any individuals who:
      - (A) have purchased medical cannabis under Subsection (10)(a) from more than one pharmacy; or
      - (B) hold a medical cannabis card.
    - (iii) If the department identifies an individual described in Subsection (10)(c)(ii), the department shall notify each medical cannabis pharmacy regarding:
      - (A) the identification of the individual; and
      - (B) the individual's ineligibility to purchase medical cannabis for a reason described in Subsection (10)(b).
- (11) 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 12, 2020 General Session  
Amended by Chapter 148, 2020 General Session  
Amended by Chapter 148, 2020 General Session, (Coordination Clause)

**26-61a-503 Partial filling.**

- (1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.
- (2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.
- (3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.
- (4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:
  - (a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4) or (5); and
  - (b) the medical cannabis cardholder reports that:
    - (i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or
    - (ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Amended by Chapter 5, 2019 Special Session 1

#### **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 to make the determinations described in Subsection 4-41a-701(2) 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 12, 2020 General Session

**26-61a-505 Advertising.**

- (1) Except as provided in this section, a medical cannabis pharmacy may not advertise in any medium.
- (2) A medical cannabis pharmacy may advertise an employment opportunity at the medical cannabis pharmacy.
- (3) Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:
  - (a) includes only:
    - (i) the medical cannabis pharmacy's name and hours of operation; and
    - (ii) a green cross; and
  - (b) complies with local ordinances regulating signage.
- (4)
  - (a) A medical cannabis pharmacy may maintain a website that includes information about:
    - (i) the location and hours of operation of the medical cannabis pharmacy;
    - (ii) a product or service available at the medical cannabis pharmacy;
    - (iii) personnel affiliated with the medical cannabis pharmacy;
    - (iv) best practices that the medical cannabis pharmacy upholds; and
    - (v) educational material related to the medical use of cannabis, as defined by the department.
  - (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection (4)(a).
- (5)
  - (a) A medical cannabis pharmacy may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).
  - (b) A medical cannabis pharmacy may not include in an educational event described in Subsection (5)(a):
    - (i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;
    - (ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

- (iii) 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
- (iv) a presenter other than the following:
  - (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
  - (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
  - (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
  - (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or
  - (E) a state employee.
- (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Amended by Chapter 12, 2020 General Session  
Amended by Chapter 148, 2020 General Session

**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 Occupational and 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 12, 2020 General Session

**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

## **Part 6**

### **State Central Patient Portal and Home Delivery**

#### **26-61a-601 State central patient portal -- Department duties.**

- (1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.
- (2) The state central patient portal shall:
  - (a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;
  - (b) allow a medical cannabis patient cardholder to:
    - (i) obtain and download the cardholder's medical cannabis card;
    - (ii) review the cardholder's medical cannabis purchase history; and
    - (iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201(11);
  - (c) if the cardholder's qualified medical provider recommended the use of medical cannabis without providing directions of use and dosing guidelines and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):
    - (i) alert the cardholder of the outstanding need for consultation; and
    - (ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;
  - (d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:
    - (i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or
    - (ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;
  - (e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection 26-61a-502(2)(a) or (b);
  - (f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and
  - (g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.
- (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Amended by Chapter 12, 2020 General Session

#### **26-61a-602 State central patient portal medical provider.**

- (1) In relation to the state central patient portal:
  - (a) the department may only employ, as a state central patient portal medical provider:
    - (i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or
    - (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
  - (b) if the department employs a state central patient portal medical provider, the department shall ensure that a state central patient portal medical provider is available during normal business hours.
- (2) A state central patient portal medical provider may:
  - (a) provide consultations to medical cannabis cardholders and qualified medical providers; and
  - (b) determine dosing parameters in accordance with Subsection 26-61a-502(5).

Amended by Chapter 354, 2020 General Session

**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

**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; or
  - (c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:
    - (i) a felony; or
    - (ii) after September 23, 2019, a misdemeanor for drug distribution.
- (7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.
- (8) The department shall begin accepting applications under this section on or before July 1, 2020.
- (9) The department's authority to issue a license under this section is plenary and is not subject to review.

- (10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:
  - (a) a fingerprint card in a form acceptable to the Department of Public Safety;
  - (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and
  - (c) consent to a fingerprint background check by:
    - (i) the Bureau of Criminal Identification; and
    - (ii) the Federal Bureau of Investigation.
- (11) The Bureau of Criminal Identification shall:
  - (a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;
  - (b) report the results of the background check to the department;
  - (c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;
  - (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and
  - (e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.
- (12) The department shall:
  - (a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and
  - (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.
- (13) The department shall renew a license under this section every year if, at the time of renewal:
  - (a) the licensee meets the requirements of this section; and
  - (b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
- (14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:
  - (a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;
  - (b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;
  - (c) the medical cannabis courier's employee training standards;
  - (d) a security plan; and
  - (e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

Amended by Chapter 354, 2020 General Session

**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 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 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 Occupational and 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 12, 2020 General Session

**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 courier where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.
- (4)
  - (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
  - (b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:
    - (i) Utah medical cannabis law;
    - (ii) the medical cannabis shipment process; and
    - (iii) medical cannabis courier agent best practices.
- (5)
  - (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.
  - (b) A medical cannabis courier agent may renew the agent's registration card if the agent:
    - (i) is eligible for a medical cannabis courier agent registration card under this section;
    - (ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and
    - (iii) pays to the department a renewal fee in an amount that:
      - (A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and
      - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.
- (6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:
  - (a) violates the requirements of this chapter; or
  - (b) is convicted under state or federal law of:
    - (i) a felony; or
    - (ii) after December 3, 2018, a misdemeanor for drug distribution.
- (7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:
  - (a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and
  - (b) the agent is handling a medical cannabis shipment.
- (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

- (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
  - (b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.
- (9)
- (a) A medical cannabis courier agent who violates Subsection (7) is:
    - (i) guilty of an infraction; and
    - (ii) subject to a \$100 fine.
  - (b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Amended by Chapter 5, 2019 Special Session 1

**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 valid medical cannabis card under the same name that appears on the valid form of photo identification; and
  - (b) the delivery occurs at the medical cannabis cardholder's home address that is on file in the state electronic verification system.
- (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 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 5, 2019 Special Session 1

## **Part 7 Enforcement**

### **26-61a-701 Enforcement -- Misdemeanor.**

- (1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments, and Sections 26-61a-502, 26-61a-605, and 26-61a-607, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.
- (2)
  - (a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:
    - (i) guilty of a class B misdemeanor; and
    - (ii) subject to a \$1,000 fine.
  - (b) An individual is not guilty under Subsection (2)(a) if the individual:
    - (i)
      - (A) is a designated caregiver; and
      - (B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or
    - (ii)
      - (A) is a medical cannabis guardian cardholder; and
      - (B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.
  - (c) An individual who is guilty of a violation described in Subsection (2)(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 (2)(a).

Enacted by Chapter 1, 2018 Special Session 3

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

- (1)

- (a) The department may, for a medical cannabis pharmacy's violation of this chapter or an applicable administrative rule:
  - (i) revoke the medical cannabis pharmacy license;
  - (ii) refuse to renew the medical cannabis pharmacy license; or
  - (iii) assess the medical cannabis pharmacy an administrative penalty.
- (b) The department may, for a medical cannabis pharmacy agent's or 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 354, 2020 General Session

**26-61a-703 Report.**

- (1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:
  - (a) the number of applications and renewal applications filed for medical cannabis cards;
  - (b) the number of qualifying patients and designated caregivers;
  - (c) the nature of the debilitating medical conditions of the qualifying patients;

- (d) the age and county of residence of cardholders;
  - (e) the number of medical cannabis cards revoked;
  - (f) the number of practitioners providing recommendations for qualifying patients;
  - (g) the number of license applications and renewal license applications received;
  - (h) the number of licenses the department has issued in each county;
  - (i) the number of licenses the department has revoked;
  - (j) the quantity of medical cannabis shipments that the state central patient portal facilitates;
  - (k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;
  - (l) the expenses incurred and revenues generated from the medical cannabis program; and
  - (m) an analysis of product availability in medical cannabis pharmacies.
- (2) The department may not include personally identifying information in the report described in this section.

Amended by Chapter 5, 2019 Special Session 1