

Effective 5/3/2023

Part 2
Cannabinoid Research and Medical Cannabis

26B-4-201 Definitions.

As used in this part:

- (1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.
- (2) "Administration of criminal justice" means the performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, and adjudication.
- (3) "Advertise" means information provided by a person in any medium:
 - (a) to the public; and
 - (b) that is not age restricted to an individual who is at least 21 years old.
- (4) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.
- (5) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.
- (6) "Cannabis" means marijuana.
- (7) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.
- (8) "Cannabis product" means a product that:
 - (a) is intended for human use; and
 - (b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.
- (9) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.
- (10) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.
- (11) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.
- (12) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.
- (13) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.
- (14) "Delivery address" means the same as that term is defined in Section 4-41a-102.
- (15) "Department" means the Department of Health and Human Services.
- (16) "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 26B-4-214; or
 - (b)
 - (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or
 - (ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).
- (17) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

- (18) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.
- (19) "Government issued photo identification" means any of the following forms of identification:
 - (a) a valid state-issued driver license or identification card;
 - (b) a valid United States federal-issued photo identification, including:
 - (i) a United States passport;
 - (ii) a United States passport card;
 - (iii) a United States military identification card; or
 - (iv) a permanent resident card or alien registration receipt card; or
 - (c) a foreign passport.
- (20) "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 delivery address to fulfill electronic orders that the state central patient portal facilitates.
- (21) "Inventory control system" means the system described in Section 4-41a-103.
- (22) "Legal dosage limit" means an amount that:
 - (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26B-4-230(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.
- (23) "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.
- (24) "Limited medical provider" means an individual who:
 - (a) meets the recommending qualifications; and
 - (b) has no more than 15 patients with a valid medical cannabis patient card as a result of the individual's recommendation, in accordance with Subsection 26B-4-204(1)(b).
- (25) "Marijuana" means the same as that term is defined in Section 58-37-2.
- (26) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
- (27) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.
- (28) "Medical cannabis cardholder" means:
 - (a) a holder of a medical cannabis card; or
 - (b) a facility or assigned employee, described in Subsection (16)(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 26B-4-214(1)(b); and
 - (ii) while in possession of documentation that establishes:
 - (A) a caregiver designation described in Subsection 26B-4-214(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.
- (29) "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.
- (30) "Medical cannabis courier" means the same as that term is defined in Section 4-41a-102.
- (31)
- (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.
- (32) "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.
- (33) "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.
- (34) "Medical cannabis pharmacy" means a person that:
- (a)
 - (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or
 - (ii) possesses medical cannabis or a medical cannabis device; and
 - (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.
- (35) "Medical cannabis pharmacy agent" means an individual who holds a valid medical cannabis pharmacy agent registration card issued by the department.
- (36) "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.
- (37) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.
- (38) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.
- (39)
- (a) "Medicinal dosage form" means:
 - (i) for processed medical cannabis, 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 that does not exceed 30 milliliters;
 - (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;
 - (I) a resin or wax;

- (J) an aerosol;
 - (K) a suppository preparation; or
 - (L) a soft or hard confection that is a uniform rectangular cuboid or uniform spherical shape, is homogeneous in color and texture, and each piece is a single serving; or
- (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:
- (A) contains cannabis flower 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 bag or box 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 a barcode that provides information connected to an inventory control system.
- (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 (39)(a)(ii) for use; and
 - (ii) does not exceed the quantity described in Subsection (39)(a)(ii).
- (c) "Medicinal dosage form" does not include:
- (i) any unprocessed cannabis flower outside of the container described in Subsection (39)(a)(ii), except as provided in Subsection (39)(b);
 - (ii) any unprocessed cannabis flower in a container described in Subsection (39)(a)(ii) after the legal use termination date;
 - (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;
 - (iv) a liquid suspension that is branded as a beverage;
 - (v) a substance described in Subsection (39)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters; or
 - (vi) a substance that contains or is covered to any degree with chocolate.
- (40) "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 26B-4-203.
- (41) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26B-4-219.
- (42) "Provisional patient card" means a card that:
- (a) the department issues to a minor with a qualifying condition for whom:
 - (i) a recommending 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.
- (43) "Qualified medical provider" means an individual:
- (a) who meets the recommending qualifications; and
 - (b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26B-4-204.
- (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26B-1-310.
- (45) "Qualifying condition" means a condition described in Section 26B-4-203.

- (46) "Recommend" or "recommendation" means, for a recommending 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 recommending medical provider's discretion, directions of use, with or without dosing guidelines.
- (47) "Recommending medical provider" means a qualified medical provider or a limited medical provider.
- (48) "Recommending qualifications" means that an individual:
 - (a)
 - (i) has the authority to write a prescription;
 - (ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and
 - (iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and
 - (b) is licensed as:
 - (i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
 - (ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;
 - (iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
 - (iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.
- (49) "State central patient portal" means the website the department creates, in accordance with Section 26B-4-236, to facilitate patient safety, education, and an electronic medical cannabis order.
- (50) "State electronic verification system" means the system described in Section 26B-4-202.
- (51) "Targeted marketing" means the promotion by a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider of a medical cannabis recommendation service using any of the following methods:
 - (a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;
 - (b) an in-person marketing event that is held in an area where only an individual who is at least 21 years old may access the event;
 - (c) other marketing material that is physically or digitally displayed in the office of the medical clinic or office that employs a qualified medical provider; or
 - (d) a leaflet that a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider shares with an individual who is at least 21 years old.
- (52) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).
- (53) "THC analog" means the same as that term is defined in Section 4-41-102.

Amended by Chapter 217, 2024 General Session

Amended by Chapter 240, 2024 General Session

26B-4-202 Electronic verification system.

- (1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division 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 Division 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 Division of Technology Services shall ensure that 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:
 - (i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or
 - (ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);
 - (b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26B-4-213;
 - (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 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) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:
 - (A) a medical cannabis patient card;
 - (B) a medical cannabis guardian card; or
 - (C) a medical cannabis caregiver card;
 - (d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:
 - (i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;
 - (ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider;
 - (iii) record a limited medical provider's renewal of the provider's previous recommendation; and

- (iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:
 - (A) a medical cannabis patient card;
 - (B) a medical cannabis guardian card; or
 - (C) a medical cannabis caregiver card;
 - (e) 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;
 - (f) provides access to:
 - (i) the department to the extent necessary to carry out the department's functions and responsibilities under this part;
 - (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 Pharmacies; and
 - (iii) the Division of 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 podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
 - (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
 - (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;
 - (g) provides access to and interaction with the state central patient portal;
 - (h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 4-41a-1102(3)(a)(ii) to the controlled substance database;
 - (i) provides access to state or local law enforcement only to verify the validity of an individual's medical cannabis card for the administration of criminal justice and through a database used by law enforcement; and
 - (j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.
- (3)

- (a) 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) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
 - (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
 - (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
 - (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.
 - (b) 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 26B-4-222; 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) 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) 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.
- (9)
 - (a) Except as provided in Subsections (9)(c) and (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) A law enforcement officer who uses the database used by law enforcement to access information in the electronic verification system for a reason that is not the administration of criminal justice is guilty of a class B misdemeanor.
- (d) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (e) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.
- (f) 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 217, 2024 General Session

Amended by Chapter 240, 2024 General Session

26B-4-203 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 part, 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;
 - (D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing specialty and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(5)(g); or
 - (E) a licensed physician assistant who is qualified to specialize in mental health care under Section 58-70a-501.1;
- (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;
- (p) pain that is expected to last for two weeks or longer for an acute condition, including a surgical procedure, for which a medical professional may generally prescribe opioids for a limited duration, subject to Subsection 26B-4-213(5)(c); and
- (q) a condition that the Compassionate Use Board approves under Section 26B-1-421, on an individual, case-by-case basis.

Renumbered and Amended by Chapter 307, 2023 General Session
Amended by Chapter 317, 2023 General Session

26B-4-204 Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

- (1)
- (a)
- (i) 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.
 - (ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.
- (b) An individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:
- (i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:
 - (A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

- (B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and
 - (ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.
 - (c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:
 - (i)
 - (A) the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or
 - (B) the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and
 - (ii) may include:
 - (A) directions of use or dosing guidelines; and
 - (B) an indication of a need for a caregiver in accordance with Subsection 26B-4-213(3)(c).
 - (d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:
 - (i) the date of issuance;
 - (ii) the provider's name, address and contact information, controlled substance license information, and signature; and
 - (iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.
 - (e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.
- (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 an acknowledgment that the individual has completed four hours of continuing education related to medical cannabis;
 - (iii) provides to the department evidence that the individual meets the recommending qualifications;
 - (iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); 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 related to medical cannabis 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) The department may, in consultation with the Division of Professional Licensing, develop continuing education related to medical cannabis.
 - (c) The continuing education described in this Subsection (3) may discuss:
 - (i) the provisions of this part;
 - (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 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 1.5% of the total amount of medical cannabis patient cardholders.
 - (b) If a qualified medical provider receives payment from an insurance plan for services provided under this chapter, then the patient whose insurance plan was billed does not count toward the 1.5% patient cap described in Subsection (4)(a).
- (5) A recommending medical provider may recommend medical cannabis to an individual under this part only in the course of a provider-patient relationship after the recommending 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 Subsections (6)(b) and (c), a person may not advertise that the person or the person's employee recommends a medical cannabis treatment.
 - (b) Notwithstanding Subsection (6)(a) and Section 4-41a-109, a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider may advertise only the following:
 - (i) a green cross;
 - (ii) the provider's or clinic's name and logo;
 - (iii) a qualifying condition that the individual treats;
 - (iv) that the qualified medical provider, medical clinic, or medical office evaluates patients for medical cannabis recommendations;
 - (v) a scientific study regarding medical cannabis use; or
 - (vi) contact information.
 - (c) Notwithstanding Subsection (6)(a) and Section 4-41a-109, qualified medical provider, medical clinic, or medical office that employs a qualified medical provider may engage in targeted marketing, as determined by the department through rule, for advertising medical cannabis recommendation services.
- (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 under the recommending qualifications;
 - (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 recommending medical provider may not:
 - (a) receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:
 - (i) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;
 - (ii) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or
 - (iii) a recommending medical provider or pharmacy medical provider; or
 - (b) provide a medical cannabis recommendation at a medical clinic or medical office that is violating the advertising limitations described in Subsection (6).
- (10)
 - (a) Each quarter, a qualified medical provider shall report to the department, in a manner designated by the department:
 - (i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and
 - (ii)
 - (A) for cash payment without insurance, the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation as an actual cash rate; and
 - (B) whether the qualified medical provider or the entity that employs the qualified medical provider bills insurance.
 - (b) The department shall:
 - (i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):
 - (A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;
 - (B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and
 - (C) the fee amount described in Subsection (10)(a)(ii)(A); and
 - (ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Amended by Chapter 217, 2024 General Session

26B-4-205 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) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, 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; or
 - (B) who makes a recommendation as a limited medical provider; and
 - (ii) 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 part; 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 part.
- (3) Nothing in this section or part 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 a health care facility as defined in Section 26B-2-201.
 - (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 26B-4-214 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).

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-207 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 part, 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)
 - (i) A state employer or a political subdivision employer shall take the action described in Subsection (2)(a)(ii) before:
 - (A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this part; 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 part.
 - (ii) The employer described in Subsection (2)(a)(i) shall give the employee or prospective employee described in Subsection (2)(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 (2)(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 Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (2)(a).
 - (c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (2)(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 (2)(a).

- (3) 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 217, 2024 General Session

26B-4-208 No insurance requirement.

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

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-209 No effect on use of hemp extract -- Cannabidiol -- Approved drugs.

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

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-210 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.

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-211 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 part;
- (2) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; or
- (3) Subsection 58-37-3.7(2) or (3).

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-212 Institutional review board -- Approved study of cannabis, a cannabinoid product, or an expanded cannabinoid product.

- (1) As used in this section:
 - (a) "Approved study" means a medical research study:

- (i) the purpose of which is to investigate the medical benefits and risks of cannabinoid products; and
 - (ii) that is approved by an IRB.
 - (b) "Board" means the Cannabis Research Review Board created in Section 26B-1-420.
 - (c) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.
 - (d) "Cannabis" means the same as that term is defined in Section 58-37-3.6.
 - (e) "Expanded cannabinoid product" means the same as that term is defined in Section 58-37-3.6.
 - (f) "Institutional review board" or "IRB" means an institutional review board that is registered for human subject research by the United States Department of Health and Human Services.
- (2) A person conducting an approved study may, for the purposes of the study:
- (a) process a cannabinoid product or an expanded cannabinoid product;
 - (b) possess a cannabinoid product or an expanded cannabinoid product; and
 - (c) administer a cannabinoid product, or an expanded cannabinoid product to an individual in accordance with the approved study.
- (3) A person conducting an approved study may:
- (a) import cannabis, a cannabinoid product, or an expanded cannabinoid product from another state if:
 - (i) the importation complies with federal law; and
 - (ii) the person uses the cannabis, cannabinoid product, or expanded cannabinoid product in accordance with the approved study; or
 - (b) obtain cannabis, a cannabinoid product, or an expanded cannabinoid product from the National Institute on Drug Abuse.
- (4) A person conducting an approved study may distribute cannabis, a cannabinoid product, or an expanded cannabinoid product outside the state if:
- (a) the distribution complies with federal law; and
 - (b) the distribution is for the purposes of, and in accordance with, the approved study.

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-213 Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

- (1)
- (a) Subject to Section 26B-4-246, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26B-4-214 submits an application in accordance with this section or Section 26B-4-214, the department shall:
 - (i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);
 - (ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);
 - (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and
 - (iv) issue a medical cannabis caregiver card to an individual described in Subsection 26B-4-214(4).
 - (b)
 - (i) Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

- (ii) A conditional medical cannabis card is valid for the lesser of:
 - (A) 60 days; or
 - (B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).
 - (iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.
 - (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.
- (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 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;
 - (ii) the individual is a Utah resident;
 - (iii) the individual's recommending 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 (9); and
 - (v) the individual pays to the department a fee in an amount that, subject to Subsection 26B-1-310(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 recommending medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26B-1-421, 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 (9); and
 - (E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215.
 - (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 recommending medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;
 - (C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26B-1-421, 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 26B-4-214.
 - (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) 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 26B-4-214(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 medical provider; and
 - (iii) with information including:
 - (A) the applicant's name, gender, age, and address;
 - (B) the number of the applicant's government issued 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 recommending 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 recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26B-4-204(1)(c) and (d).
 - (ii) If a recommending 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;
 - (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-1-301, 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 recommending medical provider shall:
- (a) visit with the patient face-to-face for an initial recommendation unless the patient:
 - (i) prefers a virtual visit; and
 - (ii)
 - (A) is on hospice or has a terminal illness according to the patient's medical provider; or
 - (B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a nursing care facility, as defined in Section 26B-2-201;
 - (b) before recommending or renewing a recommendation for medical 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 government issued photo 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) for a qualified medical provider, 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, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during a visit with the patient; and
 - (c) state in the recommending 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) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:
 - (i) an amount of time that the recommending medical provider determines; or
 - (ii) one year from the day the card is issued.
 - (b)
 - (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26B-4-203 expires after one year.
 - (ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26B-4-203 if the medical cannabis cardholder no longer has the terminal illness.
 - (c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26B-4-203 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.
- (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 26B-1-421.

- (b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.
 - (c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:
 - (i) subject to Subsection 26B-1-310(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.
- (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 part 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 part 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 medical cannabis or a medical cannabis device; and
 - (B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of medical cannabis or a medical cannabis device.
- (8)
- (a) The department may revoke a medical cannabis card that the department issues under this section if:
 - (i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or
 - (ii) the cardholder:
 - (A) violates this part; or
 - (B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.
 - (b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).
- (9) 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 26B-4-203(1); and

- (c) other relevant warnings and safety information that the department determines.
- (10) 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.
- (11)
 - (a) 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 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 (11)(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.
- (12)
 - (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 (12)(a) to determine whether an institutional review board, as that term is defined in Section 26B-4-201, 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 (12)(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 (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).
 - (f) If an individual withdraws consent under Subsection (12)(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.
- (13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Amended by Chapter 217, 2024 General Session

Amended by Chapter 240, 2024 General Session

26B-4-214 Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1)

- (a) A cardholder described in Section 26B-4-213 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.
- (b)
 - (i) A cardholder described in Section 26B-4-213 may designate one of the following types of facilities as one of the caregivers described in Subsection (1)(a):
 - (A) for a patient or resident, an assisted living facility, as that term is defined in Section 26B-2-201;
 - (B) for a patient or resident, a nursing care facility, as that term is defined in Section 26B-2-201; or
 - (C) for a patient, a general acute hospital, as that term is defined in Section 26B-2-201.
 - (ii) A facility may:
 - (A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and
 - (B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.
 - (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 26B-4-213(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 26B-4-213.
- (d)
 - (i) Upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26B-4-203, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).
 - (ii) A conditional medical cannabis caregiver card is valid for the lesser of:
 - (A) 60 days; or
 - (B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under 26B-4-246.
 - (iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.
 - (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.
- (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 part, 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; and
 - (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.
- (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 Subsections (5)(b) and (3)(c)(i).
 - (c) If a cardholder described in Section 26B-4-213 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:
 - (i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;
 - (ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;
 - (iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and
 - (iv) is not subject to an additional background check.
- (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 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215;
 - (d) signs an acknowledgment stating that the applicant received the information described in Subsection 26B-4-213(9) .
- (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 26B-4-213 who designated the applicant;
 - (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; and
 - (iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

- (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 26B-4-213 who designated the caregiver determines; or
 - (b) the amount of time remaining before the card of the cardholder described in Section 26B-4-213 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 26B-4-213 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 26B-4-213 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 shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Amended by Chapter 240, 2024 General Session

26B-4-215 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 26B-4-213 or a medical cannabis caregiver card under Section 26B-4-214 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.

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-216 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 part:
 - (i) shall carry:
 - (A) at all times the cardholder's medical cannabis card; and
 - (B) 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;
 - (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;
 - (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii);
 - (iv) may only possess the medical cannabis in the container in which the cardholder received the medical cannabis from the medical cannabis pharmacy; and
 - (v) may not alter or remove any label described in Section 4-41a-602 from the container described in Subsection (1)(a)(iv).
 - (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-1-301.
 - (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.

Renumbered and Amended by Chapter 307, 2023 General Session

Effective until 10/1/2024

26B-4-219 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) The pharmacist-in-charge shall determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory.
 - (c) 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 26B-1-310(5), the department sets in accordance with Section 63J-1-504.
 - (b) The department may not register a recommending 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 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 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 part;
 - (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 medical cannabis 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 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and
 - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.
- (5)
 - (a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.
 - (b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy medical provider may advertise the following:
 - (i) a green cross;
 - (ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or
 - (iii) a scientific study regarding medical cannabis use.
- (6)
 - (a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.

- (b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Amended by Chapter 238, 2024 General Session

Effective 10/1/2024

26B-4-219 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) The pharmacist-in-charge shall determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory.
 - (c) 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 26B-1-310(5), the department sets in accordance with Section 63J-1-504.
 - (b) The department may not register a recommending 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 Professional Licensing and:
 - (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy; or
 - (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Medical Licensing Board.
- (c) The department may, in consultation with the Division of 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 part;
 - (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 medical cannabis 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 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and
 - (B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.
- (5)
 - (a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.
 - (b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy medical provider may advertise the following:
 - (i) a green cross;
 - (ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

- (iii) a scientific study regarding medical cannabis use.
- (6)
 - (a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.
 - (b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Amended by Chapter 507, 2024 General Session

26B-4-220 Enforcement -- Misdemeanor.

- (1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, 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).

Amended by Chapter 273, 2023 General Session

Amended by Chapter 307, 2023 General Session, (Coordination Clause)

Renumbered and Amended by Chapter 307, 2023 General Session

26B-4-222 Report.

- (1) By the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:
 - (a) the number of applications and renewal applications filed for medical cannabis cards;
 - (b) the number of qualifying patients and designated caregivers;
 - (c) the nature of the debilitating medical conditions of the qualifying patients;
 - (d) the age and county of residence of cardholders;
 - (e) the number of medical cannabis cards revoked;
 - (f) the number of practitioners providing recommendations for qualifying patients;
 - (g) the number of license applications and renewal license applications received;

- (h) the number of licenses the department has issued in each county;
 - (i) the number of licenses the department has revoked;
 - (j) the quantity 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 in consultation with the Department of Agriculture and Food.
- (2) The report shall include information provided by the Center for Medical Cannabis Research described in Section 53B-17-1402.
- (3) The department may not include personally identifying information in the report described in this section.
- (4) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Amended by Chapter 240, 2024 General Session

26B-4-231 Partial filling -- Pharmacy medical provider directions of use.

- (1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing guidelines.
- (2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending 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 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 guidelines, subject to the dosing limits in Subsection 4-41a-1102(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:
- (a) the pharmacy medical provider determined dosing guidelines for the partial fill under Subsection 4-41a-1102(5) or (6); 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.
- (5) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:
- (a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:
 - (i) information regarding the qualifying condition underlying the recommendation;
 - (ii) information regarding prior treatment attempts with medical cannabis; and

- (iii) portions of the patient's current medication list; and
- (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:
 - (i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (5)(a); and
 - (ii) after completing the review described in Subsection (5)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:
 - (A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;
 - (B) indications for available treatments;
 - (C) directions of use and dosing guidelines; and
 - (D) potential adverse reactions.

Amended by Chapter 238, 2024 General Session

26B-4-236 State central patient portal -- Department duties.

- (1) 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 26B-4-213(12);
 - (c) if the cardholder's recommending 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 26B-4-230(4):
 - (i) alert the cardholder of the outstanding need for consultation; and
 - (ii) provide the cardholder with access to the contact information for 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 4-41a-1102(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 part.
- (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 273, 2023 General Session
Amended by Chapter 307, 2023 General Session, (Coordination Clause)
Renumbered and Amended by Chapter 307, 2023 General Session
Amended by Chapter 317, 2023 General Session

26B-4-243 Guidance for treatment with medical cannabis.

The department, in consultation with the Center for Medical Cannabis Research created in Section 53B-17-1402, shall:

- (1) develop evidence-based guidance for treatment with medical cannabis based on the latest medical research that shall include:
 - (a) for each qualifying condition, a summary of the latest medical research regarding the treatment of the qualifying condition with medical cannabis;
 - (b) risks, contraindications, side effects, and adverse reactions that are associated with medical cannabis use; and
 - (c) potential drug interactions between medical cannabis and medications that have been approved by the United States Food and Drug Administration; and
- (2) educate recommending medical providers, pharmacy medical providers, medical cannabis cardholders, and the public regarding:
 - (a) the evidence-based guidance for treatment with medical cannabis described in Subsection (1) (a);
 - (b) relevant warnings and safety information related to medical cannabis use; and
 - (c) other topics related to medical cannabis use as determined by the department.

Enacted by Chapter 281, 2023 General Session

26B-4-244 Government issued photo identification.

A government issued photo identification is valid for purposes of this chapter if the identification:

- (1) is unexpired;
- (2) expired within the previous six months; or
- (3) is expired and belongs to an individual who:
 - (a) as reported by the individual's recommending medical provider is in hospice or has a terminal illness; or
 - (b) is a patient or resident of:
 - (i) an assisted living facility, as defined in Section 26B-2-201;
 - (ii) a nursing care facility, as defined in Section 26B-2-201; or
 - (iii) a general acute hospital, as defined in Section 26B-2-201.

Enacted by Chapter 317, 2023 General Session

26B-4-245 Purchasing and use limitations.

- (1) An individual with a medical cannabis card:
 - (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
 - (i) unprocessed cannabis in a medicinal dosage form; and
 - (ii) a cannabis product in a medicinal dosage form;
 - (b) may not purchase:
 - (i) except as provided in Subsection (2), more medical cannabis than described in Subsection (1)(a); or

- (ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(5), any medical cannabis; and
 - (c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection 26B-4-231(5), has not recommended.
- (2)
- (a) A qualified medical provider may petition the department to waive the 28-day period limit described in Subsection (1)(a) for a medical cannabis cardholder if the medical cannabis cardholder:
 - (i) has been diagnosed with a terminal illness;
 - (ii) has a life expectancy of six months or less; and
 - (iii) needs the waiver for palliative purposes.
 - (b) The department shall:
 - (i) consult with the Compassionate Use Board to determine whether the waiver should be granted;
 - (ii) issue a response to the petition within 10 days from the day on which the petition is received.
 - (c) The department may waive the 28-day period limit for no more than 180 days.
 - (d) A petition described in this Subsection (2) may be combined with the petition described in Subsection 26B-1-421(6).

Amended by Chapter 217, 2024 General Session

Amended by Chapter 240, 2024 General Session

26B-4-246 Denial or revocation of guardian card or caregiver card.

The department may deny or revoke a medical cannabis guardian card or a medical cannabis caregiver card if the applicant or cardholder:

- (1) violates the requirements of this chapter; or
- (2) unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application, has been convicted of any of the following under state or federal law:
 - (a) a drug distribution offense that is a felony within the preceding 10 years; or
 - (b) after December 3, 2018, a drug distribution offense that is a misdemeanor.

Enacted by Chapter 317, 2023 General Session

26B-4-247 Department coordination.

The department shall:

- (1) provide draft rules made under this chapter to the advisory board for the advisory board's review;
- (2) consult with the advisory board regarding:
 - (a) patient education; and
 - (b) fees set by the department that pertain to the medical cannabis program; and
- (3) when appropriate, consult with the advisory board regarding issues that arise in the medical cannabis program.

Enacted by Chapter 273, 2023 General Session

