

Senator Mark B. Madsen proposes the following substitute bill:

MEDICAL CANNABIS ACT

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: Gage Froerer

LONG TITLE

General Description:

This bill modifies and enacts provisions related to medical cannabis.

Highlighted Provisions:

This bill:

▶ allows an individual with a qualifying illness who registers with the Department of Health to possess and use, under certain circumstances, a cannabis product or a medical cannabis device;

▶ directs the Department of Health, the Department of Agriculture and Food, the Department of Public Safety, and the Department of Technology Services to:

• determine the function and operation of a state electronic verification system;

and

• select a third party provider to develop and maintain the state electronic verification system;

▶ directs the Department of Health to issue:

• a license to operate a cannabis dispensary to a person who meets certain qualifications; and

• to an individual who meets certain qualifications, a registration card to act as an agent of a cannabis dispensary;



- 26 ▶ directs the Department of Agriculture and Food to issue, to a person who meets
27 certain qualifications, a license to operate a cannabis production establishment,
28 including:
- 29 • a cannabis cultivation facility;
 - 30 • a cannabis processing facility; or
 - 31 • an independent cannabis testing laboratory;
- 32 ▶ directs the Department of Agriculture and Food to issue, to an individual who meets
33 certain qualifications, a registration card to act as an agent of a cannabis production
34 establishment;
- 35 ▶ directs the Department of Health to issue a medical cannabis card to an individual
36 who meets the requirements of:
- 37 • a qualified patient;
 - 38 • a parent or guardian of a minor who is a qualified patient; or
 - 39 • a designated caregiver of a qualified patient;
- 40 ▶ allows a licensed cannabis dispensary to possess a cannabis product or a medical
41 cannabis device, and to sell the cannabis product or medical cannabis device to an
42 individual with a medical cannabis card;
- 43 ▶ allows a licensed cannabis cultivation facility to grow cannabis, possess cannabis,
44 and sell the cannabis to a licensed cannabis processing facility;
- 45 ▶ allows a licensed cannabis processing facility to possess cannabis, process cannabis
46 into a cannabis product, and sell the cannabis product to a licensed cannabis
47 dispensary;
- 48 ▶ allows a licensed independent cannabis testing laboratory to possess cannabis or a
49 cannabis product for the purpose of testing the cannabis or cannabis product for
50 content and safety;
- 51 ▶ allows an individual driving with a measurable metabolite of cannabis to assert, as
52 an affirmative defense, that the individual used the cannabis pursuant to Utah law or
53 the law of another state;
- 54 ▶ prohibits a court from discriminating against a parent in a child custody case based
55 on the parent's lawful possession or use of a cannabis product;
- 56 ▶ prohibits a peace officer or child welfare worker from removing a child from an

57 individual's home on the basis of the individual's lawful possession or use of a cannabis
58 product;
59 ▶ imposes a tax on the sale of a cannabis product or a medical cannabis device at a
60 cannabis dispensary;
61 ▶ exempts from sales and use tax the sale of a cannabis product or a medical cannabis
62 device by a cannabis dispensary;
63 ▶ creates the Medical Cannabis Restricted Account, consisting of:
64 • proceeds of the medical cannabis tax;
65 • medical cannabis card application fees;
66 • cannabis dispensary application and licensing fees;
67 • cannabis production establishment application and licensing fees; and
68 • fines collected for violations of state medical cannabis law; and
69 ▶ repeals and replaces, after state medical cannabis regulation is implemented, the
70 Hemp Extract Regulation Act.

71 **Money Appropriated in this Bill:**

72 None

73 **Other Special Clauses:**

74 This bill provides a special effective date.

75 **Utah Code Sections Affected:**

76 AMENDS:

77 **30-3-10**, as last amended by Laws of Utah 2014, Chapter 409

78 **41-6a-517**, as last amended by Laws of Utah 2013, Chapter 333

79 **62A-4a-202.1**, as last amended by Laws of Utah 2012, Chapters 221 and 293

80 **63I-1-226**, as last amended by Laws of Utah 2015, Chapters 16, 31, and 258

81 **63I-1-258**, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,

82 and 432

83 **78A-6-508**, as last amended by Laws of Utah 2014, Chapter 409

84 ENACTS:

85 **4-42-101**, Utah Code Annotated 1953

86 **4-42-102**, Utah Code Annotated 1953

87 **4-42-103**, Utah Code Annotated 1953

- 88 **4-42-201**, Utah Code Annotated 1953
- 89 **4-42-202**, Utah Code Annotated 1953
- 90 **4-42-203**, Utah Code Annotated 1953
- 91 **4-42-301**, Utah Code Annotated 1953
- 92 **4-42-302**, Utah Code Annotated 1953
- 93 **4-42-303**, Utah Code Annotated 1953
- 94 **4-42-401**, Utah Code Annotated 1953
- 95 **4-42-402**, Utah Code Annotated 1953
- 96 **4-42-403**, Utah Code Annotated 1953
- 97 **4-42-404**, Utah Code Annotated 1953
- 98 **4-42-501**, Utah Code Annotated 1953
- 99 **4-42-601**, Utah Code Annotated 1953
- 100 **4-42-602**, Utah Code Annotated 1953
- 101 **4-42-603**, Utah Code Annotated 1953
- 102 **4-42-701**, Utah Code Annotated 1953
- 103 **4-42-702**, Utah Code Annotated 1953
- 104 **4-42-801**, Utah Code Annotated 1953
- 105 **26-58-101**, Utah Code Annotated 1953
- 106 **26-58-102**, Utah Code Annotated 1953
- 107 **26-58-103**, Utah Code Annotated 1953
- 108 **26-58-104**, Utah Code Annotated 1953
- 109 **26-58-105**, Utah Code Annotated 1953
- 110 **26-58-106**, Utah Code Annotated 1953
- 111 **26-58-107**, Utah Code Annotated 1953
- 112 **26-58-108**, Utah Code Annotated 1953
- 113 **26-58-201**, Utah Code Annotated 1953
- 114 **26-58-202**, Utah Code Annotated 1953
- 115 **26-58-203**, Utah Code Annotated 1953
- 116 **26-58-204**, Utah Code Annotated 1953
- 117 **26-58-301**, Utah Code Annotated 1953
- 118 **26-58-302**, Utah Code Annotated 1953

- 119 **26-58-303**, Utah Code Annotated 1953
- 120 **26-58-304**, Utah Code Annotated 1953
- 121 **26-58-401**, Utah Code Annotated 1953
- 122 **26-58-402**, Utah Code Annotated 1953
- 123 **26-58-403**, Utah Code Annotated 1953
- 124 **26-58-501**, Utah Code Annotated 1953
- 125 **26-58-502**, Utah Code Annotated 1953
- 126 **26-58-503**, Utah Code Annotated 1953
- 127 **26-58-504**, Utah Code Annotated 1953
- 128 **26-58-505**, Utah Code Annotated 1953
- 129 **26-58-601**, Utah Code Annotated 1953
- 130 **53-1-106.5**, Utah Code Annotated 1953
- 131 **58-37-3.6**, Utah Code Annotated 1953
- 132 **58-37-3.7**, Utah Code Annotated 1953
- 133 **59-12-104.7**, Utah Code Annotated 1953
- 134 **59-28-101**, Utah Code Annotated 1953
- 135 **59-28-102**, Utah Code Annotated 1953
- 136 **59-28-103**, Utah Code Annotated 1953
- 137 **59-28-104**, Utah Code Annotated 1953
- 138 **59-28-105**, Utah Code Annotated 1953
- 139 **59-28-106**, Utah Code Annotated 1953
- 140 **59-28-107**, Utah Code Annotated 1953
- 141 **59-28-108**, Utah Code Annotated 1953

143 *Be it enacted by the Legislature of the state of Utah:*

144 Section 1. Section **4-42-101** is enacted to read:

145 **CHAPTER 42. CANNABIS PRODUCTION ESTABLISHMENTS**

146 **Part 1. General Provisions**

147 **4-42-101. Title.**

148 (1) This chapter is known as "Cannabis Production Establishments."

149 Section 2. Section **4-42-102** is enacted to read:

150 **4-42-102. Definitions.**

151 As used in this chapter:

152 (1) "Cannabinoid profile" means the percentage of cannabis or a cannabis product, by
153 weight, that is composed of the cannabinoids:

154 (a) Tetrahydrocannabinol or THC;

155 (b) Tetrahydrocannabinolic acid or THCa;

156 (c) Cannabidiol or CBD;

157 (d) Cannabinol or CBN; and

158 (e) Cannabigerol or CBG.

159 (2) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

160 (3) "Cannabis cultivation facility" means a person that:

161 (a) grows cannabis; or

162 (b) possesses cannabis with the intent to grow cannabis.

163 (4) "Cannabis cultivation facility agent" means an individual who is an owner, officer,
164 director, board member, employee, or volunteer of a cannabis cultivation facility.

165 (5) "Cannabis dispensary" means the same as that term is defined in Section
166 [26-58-102](#).

167 (6) "Cannabis dispensary agent" means the same as that term is defined in Section
168 [26-58-102](#).

169 (7) "Cannabis processing facility" means a person that:

170 (a) manufactures a cannabis product from unprocessed cannabis;

171 (b) purchases or possesses cannabis with the intent to manufacture a cannabis product;

172 or

173 (c) sells or intends to sell a cannabis product to a cannabis dispensary.

174 (8) "Cannabis processing facility agent" means an individual who is an owner, officer,
175 director, board member, employee, or volunteer of a cannabis processing facility.

176 (9) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).

177 (10) "Cannabis production establishment" means:

178 (a) a cannabis cultivation facility;

179 (b) a cannabis processing facility; or

180 (c) an independent cannabis testing laboratory;

181 (11) "Cannabis production establishment agent" means:

182 (a) a cannabis cultivation facility agent;

183 (b) a cannabis processing facility agent; or

184 (c) an independent cannabis testing laboratory agent.

185 (12) "Cannabis production establishment agent registration card" means a registration
186 card, issued by the department, that:

187 (a) authorizes an individual to act as a cannabis production establishment agent; and

188 (b) designates the type of cannabis production establishment for which an individual is
189 authorized to act as an agent.

190 (13) "Independent cannabis testing laboratory" means a person that:

191 (a) conducts a chemical or other analysis of cannabis or a cannabis product; or

192 (b) possesses cannabis or a cannabis product with the intent to conduct a chemical or
193 other analysis of the cannabis or cannabis product.

194 (14) "Independent cannabis testing laboratory agent" means an individual who is an
195 owner, officer, director, board member, employee, or volunteer of an independent cannabis
196 testing laboratory.

197 (15) "Inventory control system" means the system described in Section [4-42-103](#).

198 (16) "Medical cannabis card" means the same as that term is defined in Section
199 [26-58-102](#).

200 (17) "Medical Cannabis Restricted Account" means the account created in Section
201 [26-58-108](#).

202 (18) "Physician" means the same as that term is defined in Section [26-58-201](#).

203 (19) "State electronic verification system" means the system described in Section
204 [26-58-103](#).

205 Section 3. Section **4-42-103** is enacted to read:

206 **4-42-103. Inventory control system.**

207 (1) A cannabis production establishment and a cannabis dispensary shall maintain an
208 inventory control system that meets the requirements of this section.

209 (2) An inventory control system shall track cannabis, using a unique identifier, in real
210 time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the
211 cannabis is sold, in the form of a cannabis product, to an individual with a medical cannabis

212 card.

213 (3) An inventory control system shall store in real time a record of the amount of
214 cannabis and cannabis products in the cannabis production establishment's or cannabis
215 dispensary's possession.

216 (4) An inventory control system shall include a video recording system that:

217 (a) tracks all handling and processing of cannabis or a cannabis product in the cannabis
218 production establishment or cannabis dispensary;

219 (b) is tamper proof;

220 (c) is capable of storing a video record for 45 days.

221 (5) An inventory control system installed in a cannabis production establishment or
222 cannabis dispensary shall maintain compatibility with the state electronic verification system.

223 (6) A cannabis production establishment or cannabis dispensary shall allow the
224 department or The Department of Health access to the cannabis production establishment's or
225 cannabis dispensary's inventory control system during an inspection.

226 (7) The department may establish compatibility standards for an inventory control
227 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
228 Rulemaking Act.

229 Section 4. Section **4-42-201** is enacted to read:

230 **Part 2. Cannabis Production Establishment**

231 **4-42-201. Cannabis production establishment -- License.**

232 (1) In order to operate a cannabis production establishment, a person shall obtain a
233 license issued by the department under this chapter.

234 (2) Subject to Subsections (6) and (7), the department shall, within 30 days after
235 receiving a complete application, issue a license to operate a cannabis production establishment
236 to a person who submits to the department:

237 (a) a proposed name, address, and physical location where the person will operate the
238 cannabis production establishment;

239 (b) an operating plan that complies with Section [4-42-203](#);

240 (c) evidence that the person possesses or controls a minimum of \$250,000 in liquid
241 assets for each license for which the person applies;

242 (d) for each location of a cannabis production establishment for which the person

243 applies, a complete application for a local business license;

244 (e) an application fee:

245 (i) before January 1, 2017, of \$5,000; and

246 (ii) after January 1, 2017, in an amount established by the department in accordance

247 with Section 63J-1-504, that is necessary to cover the department's cost to implement this

248 chapter; and

249 (f) the result of a criminal background check for each proposed cannabis production

250 establishment agent for the cannabis production establishment.

251 (3) If the department determines that a cannabis production establishment is eligible for
252 a license under this section, the department shall:

253 (a) before January 1, 2017, charge the cannabis production establishment an initial

254 license fee of \$65,000; and

255 (b) on or after January 1, 2017, charge the cannabis establishment an initial license fee

256 in an amount determined by the department in accordance with Section 63J-1-504.

257 (4) The department shall require a separate application license and a separate license

258 application fee under Subsection (3) for each type of cannabis production establishment and

259 each location of a cannabis production establishment.

260 (5) The department may issue any combination of a cannabis cultivation facility

261 license, a cannabis processing facility license, and a cannabis dispensary license to a person to

262 operate:

263 (a) at the same physical location; or

264 (b) at separate physical locations.

265 (6) The department may not issue a license to operate an independent cannabis testing

266 laboratory to a person:

267 (a) that holds a license or has an ownership interest in a cannabis dispensary, a

268 cannabis processing facility, or a cannabis cultivation facility in the state;

269 (b) that has an owner, officer, director, or employee whose immediate family member

270 holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing

271 facility, or a cannabis cultivation facility; or

272 (c) proposes to operate the independent cannabis testing laboratory at the same physical

273 location as a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation

274 facility.

275 Section 5. Section **4-42-202** is enacted to read:

276 **4-42-202. Renewal.**

277 (1) The department shall renew a person's license issued under Section 4-42-201 every
278 two years, if, at the time of renewal, the person meets the requirements of Section 4-42-201.

279 (2) The department shall charge a cannabis production establishment that the
280 department determines is eligible for license renewal a license renewal fee in an amount
281 determined by the department in accordance with Section 63J-1-504.

282 Section 6. Section **4-42-203** is enacted to read:

283 **4-42-203. Operating plan.**

284 (1) A person applying for a license to operate a cannabis production facility shall
285 submit to the department, with the person's application, a proposed operation plan that
286 includes:

287 (a) drawings of the physical characteristics of the proposed facility, including a site
288 plan, floor plan and architectural elevations which indicate compliance with the requirements
289 of this chapter;

290 (b) a description of the credentials and experience of:

291 (i) each officer, director, or owner of the proposed cannabis production establishment;

292 and

293 (ii) any highly skilled or experienced prospective employee;

294 (c) the cannabis production establishment's employee training standards;

295 (d) a security plan;

296 (e) a banking and financial services plan;

297 (f) a description of the cannabis production establishment's inventory control system,
298 including a plan to make the inventory control system compatible with the state electronic
299 verification system;

300 (g) for a cannabis cultivation facility, the information described in Subsection (2);

301 (h) for a cannabis processing facility, the information described in Subsection (3); and

302 (i) for an independent cannabis testing laboratory, the information described in
303 Subsection (4).

304 (2) A cannabis cultivation facility's operating plan shall include:

305 (a) evidence that the cannabis cultivation facility has entered into a preliminary
306 agreement with a cannabis processing facility or a cannabis dispensary in the state to purchase
307 the cannabis cultivation facility's output; and

308 (b) the cannabis cultivation facility's intended cannabis cultivation practices, including
309 the cannabis cultivation facility's intended:

- 310 (i) pesticide use;
- 311 (ii) fertilizer use;
- 312 (iii) square footage under cultivation; and
- 313 (iv) anticipated cannabis yield.

314 (3) A cannabis processing facility's operating plan shall include:

315 (a) evidence that the cannabis processing facility has entered into a preliminary
316 agreement:

317 (i) with a cannabis cultivation facility in the state to purchase unprocessed cannabis
318 input; and

319 (ii) with a cannabis dispensary in the state to purchase the cannabis processing facility's
320 output;

321 (b) the cannabis processing facility's intended cannabis processing practices, including
322 the cannabis processing facility's intended:

- 323 (i) offered variety of cannabis product;
- 324 (ii) cannabinoid extraction method;
- 325 (iii) cannabinoid extraction equipment;
- 326 (iv) processing equipment;
- 327 (v) processing techniques; and
- 328 (vi) sanitation and food safety procedures;

329 (4) An independent cannabis testing laboratory's operating plan shall include:

330 (a) evidence that the independent cannabis testing laboratory agreement with a
331 cannabis production establishment to provide testing services; and

332 (b) the independent cannabis testing laboratory's intended:

- 333 (i) cannabis and cannabis product testing capability; and
- 334 (ii) cannabis and cannabis product testing equipment.

335 Section 7. Section **4-42-301** is enacted to read:

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Part 3. Cannabis Production Establishment Agents

4-42-301. Cannabis production establishment agent -- Registration.

(1) In order to act as a cannabis production establishment agent, an individual shall register with the department as a cannabis production establishment agent.

(2) A physician may not serve as a cannabis production establishment agent.

(3) An independent cannabis testing laboratory agent may not act as an agent for a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

(4) The department shall, within 30 business days after receiving a complete application, register and issue a cannabis production establishment agent registration card to an individual who:

(a) has not been convicted of an offense that is a felony under either state or federal law;

(b) provides to the department:

(i) the individual's name and address; and

(ii) the name and location of a licensed cannabis production establishment where the individual seeks to act as the cannabis production establishment's agent;

(c) pays the department a fee:

(i) before January 1, 2017, of \$250; and

(ii) on or after January 1, 2017, in an amount determined by the department in accordance with Section [63J-1-504](#), that is necessary to cover the department's cost to implement this part; and

(d) complies with the requirement for and passes a criminal background check described in Section [4-42-302](#).

(5) The department shall designate, on an individual's cannabis production establishment agent registration card the name and type of any cannabis production establishment where the individual is registered as an agent.

(6) A cannabis production establishment agent shall comply with a certification standard developed by the department or with a third party certification standard approved by the department.

(7) The certification standard described in Subsection (6) shall address:

(a) Utah medical cannabis law;

367 (b) for a cannabis cultivation facility agent, cannabis cultivation best practices;

368 (c) for a cannabis processing facility agent, cannabis processing, food safety, and
369 sanitation best practices; and

370 (d) for an independent cannabis testing laboratory agent, cannabis testing best
371 practices.

372 (8) The department may revoke or refuse to issue a cannabis production establishment
373 agent registration card of an individual who:

374 (a) violates the requirements of this chapter; or

375 (b) is convicted of an offense, that is a felony under state or federal law, that involves a
376 drug or violent crime.

377 Section 8. Section **4-42-302** is enacted to read:

378 **4-42-302. Cannabis production establishment agent -- Criminal background**
379 **checks.**

380 (1) An individual that applies for registration as a cannabis production establishment
381 agent under Section [4-42-301](#) shall:

382 (a) submit, at the time of application, a fingerprint card in a form acceptable to the
383 department; and

384 (b) consent to a fingerprint background check by:

385 (i) the Utah Bureau of Criminal Identification; and

386 (ii) the Federal Bureau of Investigation.

387 (2) The department shall request that the Department of Public Safety complete a
388 Federal Bureau of Investigation criminal background check for the individual described in
389 Subsection (1).

390 Section 9. Section **4-42-303** is enacted to read:

391 **4-42-303. Cannabis production establishment agent registration card --**
392 **Rebuttable presumption.**

393 (1) A cannabis production establishment agent who is registered with the department
394 under Section [4-42-301](#) shall carry the individual's cannabis production establishment agent
395 registration card with the individual at all times when:

396 (a) the individual is on the premises of the cannabis production establishment where
397 the individual is a cannabis production establishment agent; and

398 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis
399 device between two cannabis production establishments or between a cannabis production
400 establishment and a cannabis dispensary.

401 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis
402 device at a cannabis production establishment, or transporting cannabis, a cannabis product, or
403 a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis
404 device in compliance with Subsection (1):

405 (a) there is a rebuttable presumption that the individual possesses the cannabis,
406 cannabis product, or medical cannabis device legally; and

407 (b) a law enforcement officer does not have probable cause, based solely on the
408 individual's possession of the cannabis, cannabis product, or medical cannabis device in
409 compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

410 (3) A cannabis production establishment agent registered with the department is guilty
411 of an infraction if the registered cannabis production establishment agent:

412 (a) (i) is on the premises of a cannabis production establishment where the individual is
413 registered as an agent; or

414 (ii) transports cannabis, a cannabis product, or a medical cannabis device; and

415 (b) does not possess, on the registered cannabis production establishment agent's
416 person, a valid cannabis production establishment agent registration card.

417 (4) A registered cannabis production establishment agent who is guilty of an infraction
418 under Subsection (3) is subject to a fine of no more than \$100.

419 Section 10. Section ~~4-42-401~~ is enacted to read:

420 **Part 4. General Cannabis Production Establishment Operating Requirements**

421 **4-42-401. Cannabis production establishment -- General operating requirements.**

422 (1) (a) A cannabis production establishment shall operate in accordance with the
423 operating plan provided to the department under Section [4-42-203](#).

424 (b) A cannabis production establishment shall notify the department no longer than 30
425 days after a change in the cannabis production establishment's operating plan.

426 (2) A cannabis production establishment shall operate:

427 (a) except as provided in Subsection (3), in a facility with a controlled entrance that is
428 accessible only by an individual with a valid cannabis production establishment agent

429 registration card issued under Section 4-42-301; and

430 (b) at the physical address provided to the department under Section 4-42-201.

431 (3) A cannabis production establishment may allow an individual who is a visitor, a
432 contractor, or a member of the press to access the cannabis production establishment if the
433 cannabis production establishment:

434 (a) ensures that the individual is accompanied by a cannabis production establishment
435 agent at all times while the individual is at the cannabis production establishment; and

436 (b) maintains a record of the individual's access.

437 (4) A cannabis production establishment shall operate in a facility that has:

438 (a) no exterior signage that indicates the type of business;

439 (b) a single, secure public entrance;

440 (c) a security system with a backup power source that:

441 (i) detects and records entry into the cannabis production establishment during business
442 hours; and

443 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis
444 production establishment is closed; and

445 (d) a locked and reinforced area where the cannabis production establishment stores
446 cannabis or a cannabis product.

447 (5) A cannabis production establishment may not operate:

448 (a) within 600 feet of a community location, as defined in Section 32B-1-102, that is
449 not a public or private school; or

450 (b) within 1000 feet of a public or private school.

451 Section 11. Section 4-42-402 is enacted to read:

452 **4-42-402. Inspections.**

453 (1) Subject to Subsection (2), the department shall inspect the records and facility of a
454 cannabis production establishment in order to determine if the cannabis production
455 establishment complies with the licensing requirements of this chapter.

456 (2) The department may inspect the records and facility of a cannabis production
457 establishment at any time, scheduled or unscheduled.

458 Section 12. Section 4-42-403 is enacted to read:

459 **4-42-403. Advertising.**

460 (1) A cannabis production establishment may not advertise to the general public in any
461 medium.

462 (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise
463 employment opportunities at the cannabis production facility.

464 Section 13. Section ~~4-42-404~~ is enacted to read:

465 **4-42-404. Cannabis, cannabis product, or medical cannabis device transportation.**

466 (1) Except for an individual or a designated caregiver with a medical cannabis card
467 who possesses cannabis or a cannabis product in accordance with Section [26-58-204](#), an
468 individual may only transport cannabis, a cannabis product, or a cannabis device between
469 cannabis production establishments or between a cannabis production establishment and a
470 cannabis dispensary if the individual is:

471 (a) a registered cannabis production establishment agent; or

472 (b) a registered cannabis dispensary agent.

473 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis
474 device shall possess a transportation manifest that:

475 (a) includes a unique identifier that links the cannabis, cannabis product, or medical
476 cannabis device to a related inventory control system;

477 (b) includes origin and destination information for any cannabis, cannabis product, or
478 medical cannabis device the individual is transporting; and

479 (c) indicates the departure and arrival times and locations of the individual transporting
480 the cannabis, cannabis product, or medical cannabis device.

481 (3) In addition to the requirements in Subsections (1) and (2), the department may
482 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
483 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical
484 cannabis device that are related to safety for human consumption of cannabis or cannabis
485 products.

486 (4) A cannabis production establishment agent registered with the department is guilty
487 of an infraction if the registered cannabis production establishment agent:

488 (a) transports cannabis, a cannabis product, or a medical cannabis device; and

489 (b) does not possess, on the registered cannabis production establishment agent's
490 person or in the transport vehicle, a manifest that complies with Subsection (3).

491 (5) A registered cannabis production establishment agent who is guilty of an infraction
492 under Subsection (3) is subject to a \$100 fine.

493 Section 14. Section **4-42-501** is enacted to read:

494 **Part 5. Cannabis Cultivation Facility Operating Requirements**

495 **4-42-501. Cannabis cultivation facility -- Operating requirements.**

496 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
497 cannabis cultivation facility is screened from view at the cannabis cultivation facility perimeter.

498 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the
499 cannabis cultivation facility's inventory control system for:

500 (a) beginning at the time a cannabis plant is 8 inches tall and has a root ball, each
501 cannabis plant;

502 (b) each unique harvest of cannabis plants; and

503 (c) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing
504 facility, or an independent cannabis testing laboratory.

505 (4) The department shall review a cannabis cultivation facility's operating plan
506 submitted under Section [4-42-203](#) for the purpose of ensuring that the cannabis that a
507 cultivation facility cultivates is safe for human use.

508 Section 15. Section **4-42-601** is enacted to read:

509 **Part 6. Cannabis Processing Facility Operating Requirements**

510 **4-42-601. Cannabis processing facility -- Operating requirements -- General.**

511 (1) A cannabis processing facility shall ensure that a cannabis product that the cannabis
512 processing facility sells or provides to a cannabis dispensary complies with the requirements of
513 this part.

514 (2) If a cannabis processing facility extracts cannabinoids from cannabis using a
515 hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a
516 blast hood.

517 (3) The department shall review a cannabis processing facility's operating plan
518 submitted under Section [4-42-203](#) for the purpose of ensuring that a cannabis product that the
519 cannabis processing facility produces is safe for human consumption.

520 Section 16. Section **4-42-602** is enacted to read:

521 **4-42-602. Cannabis product -- Labeling and packaging.**

522 (1) A cannabis product shall have a label that:
523 (a) clearly and unambiguously states that the cannabis product contains cannabis;
524 (b) clearly displays:
525 (i) the total amount of cannabinoids by weight in the cannabis product;
526 (ii) the cannabinoid profile of the cannabis product; and
527 (iii) the number of doses, and the milligrams in each dose, in the cannabis product;
528 (c) has a unique batch identifier that is connected to the cannabis processing facility's
529 inventory control system.
530 (d) identifies the cannabinoid extraction method that the cannabis processing facility
531 used to create the cannabis product;
532 (e) if the cannabis processing facility used a hydrocarbon extraction process to create
533 the cannabis product, a certification that the product contains a level of residual solvents that is
534 safe for human consumption;
535 (f) does not display images, words, or phrases that are:
536 (i) intended to appeal to children; or
537 (ii) similar to words or phrases used on candy labels; and
538 (g) certifies that the cannabis product is free from microbiological contaminants.
539 (2) A cannabis processing facility shall package a cannabis product in a container that:
540 (a) is tamper evident;
541 (b) is not appealing to children or similar to a candy container;
542 (c) is opaque; and
543 (d) complies with child-resistant special packaging standards described in 16 C.F.R.
544 Sec. 1700.15 that apply to a controlled drug as described in 16 C.F.R. Sec. 1700.14.
545 Section 17. Section **4-42-603** is enacted to read:
546 **4-42-603. Cannabis product -- Product quality.**
547 (1) A cannabis processing facility may not produce a cannabis product in a physical
548 form that:
549 (a) is intended to appeal to children; or
550 (b) is designed to mimic or be mistaken for an existing candy product.
551 (2) A cannabis processing facility may not manufacture a cannabis product by applying
552 a cannabis agent only to the surface of a pre-manufactured food product that is not produced by

553 the cannabis processing facility.

554 (3) A cannabis product may vary in the cannabis product's labeled cannabis profile by
555 up to 15% of the indicated amount of a given cannabinoid, by weight.

556 (4) The department shall adopt, by rule made in accordance with Title 63G, Chapter 3,
557 Utah Administrative Rulemaking Act, human consumption safety standards for a cannabis
558 product that are consistent, to the extent possible, with standards adopted by the United States
559 Food and Drug Administration for products that are similarly applied or ingested.

560 Section 18. Section **4-42-701** is enacted to read:

561 **Part 7. Independent Cannabis Testing Laboratories**

562 **4-42-701. Cannabis and cannabis product testing.**

563 (1) An independent cannabis testing laboratory shall, before a cannabis product is
564 offered for sale at a cannabis dispensary, accurately test and certify the cannabis product as
565 provided in this section.

566 (2) An independent cannabis testing laboratory shall determine the cannabinoid profile
567 of a cannabis product.

568 (3) An independent cannabis testing laboratory shall determine if a cannabis product
569 contains, in an amount that is harmful to human health:

570 (a) mold;

571 (b) fungus;

572 (c) pesticides; or

573 (d) microbial contaminants.

574 (4) For a cannabis product that is manufactured using a process that involves extraction
575 using hydrocarbons, an independent cannabis testing laboratory shall test the cannabis product
576 for an unhealthy level of a residual solvent.

577 (5) The department may determine, by rule made in accordance with Title 63G,
578 Chapter 3, Utah Administrative Rulemaking Act, the amount that is safe for human
579 consumption of:

580 (a) a substance described in Subsection (3); and

581 (b) a residual solvent.

582 Section 19. Section **4-42-702** is enacted to read:

583 **4-42-702. Reporting -- Inspections -- Seizure by the department.**

584 (1) If an independent cannabis testing laboratory determines that the results of a lab test
585 indicate that a cannabis product batch may be unsafe for human consumption:

586 (a) the independent cannabis testing laboratory shall report the results and the cannabis
587 product batch simultaneously to:

588 (i) the department; and

589 (ii) the cannabis production establishment that prepared the cannabis product batch;

590 (b) retain possession of the cannabis product batch for one week in order to investigate
591 the cause of the defective batch and to make a determination; and

592 (c) allow the cannabis production establishment that prepared the cannabis product
593 batch to appeal the determination described in Subsection (1)(b), and, if necessary following
594 the appeal, allow the independent cannabis testing laboratory to retest the cannabis product
595 batch.

596 (2) If, under Subsection (1)(b), the department determines, following an appeal, that a
597 cannabis product prepared by a cannabis production establishment is unsafe for human
598 consumption, the department may seize, embargo, or destroy a cannabis product batch.

599 Section 20. Section **4-42-801** is enacted to read:

600 **Part 8. Enforcement**

601 **4-42-801. Enforcement -- Fine -- Citation.**

602 (1) For a violation of the licensing provisions of this chapter by a person that is a
603 cannabis production establishment or a cannabis production establishment agent:

604 (a) revoke the person's cannabis production establishment license or cannabis
605 production establishment agent registration card;

606 (b) refuse to renew the person's license or registration; or

607 (c) assess the person an administrative penalty.

608 (2) The department shall deposit an administrative penalty imposed under this section
609 in the Medical Cannabis Restricted Account.

610 (3) (a) The department may take an action described in Subsection (3)(b) if the
611 department concludes, upon inspection or investigation, that, for a person that is a cannabis
612 production establishment or a cannabis production establishment agent:

613 (i) the person has violated the provisions of this chapter, a rule made under this
614 chapter, or an order issued under this chapter; or

615 (ii) the person produced a cannabis product batch that a test shows contains a
616 contaminant described in Section 4-42-701.

617 (b) If the department makes the determination about a person described in Subsection
618 (3)(a)(i), the department shall:

619 (i) issue the person a written citation;

620 (ii) attempt to negotiate a stipulated settlement; or

621 (iii) direct the person to appear before an adjudicative proceeding conducted under
622 Title 63G, Chapter 4, Administrative Procedures Act.

623 (c) If the department makes the determination about a person described in Subsection
624 (3)(a)(ii), the department may:

625 (i) seize, embargo, or destroy the cannabis or cannabis product batch as described in
626 Subsection 4-42-702(2); and

627 (ii) direct the person to appear before an adjudicative proceeding conducted under Title
628 63G, Chapter 4, Administrative Procedures Act.

629 (4) The department may, for a person subject to an uncontested citation, a stipulated
630 settlement, or a finding of a violation in an adjudicative proceeding under this section:

631 (a) assess the person a fine, established in accordance with Section 63J-1-504, of up to
632 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
633 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

634 (b) order the person to cease and desist from, and cure, the action that creates a
635 violation.

636 (5) The department may not revoke a cannabis production establishment's license via a
637 citation.

638 (6) If within 20 calendar days after the day on which a department serves a citation for
639 a violation of this chapter, the person that is the subject of the citation fails to request a hearing
640 to contest the citation, the department shall use the citation as the basis for the department's
641 final order.

642 (7) The department may, for a person who fails to cure the violation that the basis is for
643 the citation under this section:

644 (a) refuse to issue or renew the person's license or cannabis production establishment
645 agent registration card; or

646 (b) suspend, revoke, or place on probation the person's license or cannabis production
647 establishment registration card.

648 Section 21. Section **26-58-101** is enacted to read:

649 **CHAPTER 58. MEDICAL CANNABIS ACT**

650 **Part 1. General Provisions**

651 **26-58-101. Title.**

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

653 Section 22. Section **26-58-102** is enacted to read:

654 **26-58-102. Definitions.**

655 As used in this chapter:

656 (1) "Cannabinoid profile" means the percentage of cannabis or a cannabis product, by
657 weight, that is composed of the cannabinoids:

658 (a) Tetrahydrocannabinol or THC;

659 (b) Tetrahydrocannabinolic acid or THCa;

660 (c) Cannabidiol or CBD;

661 (d) Cannabinol or CBN; and

662 (e) Cannabigerol or CBG.

663 (2) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

664 (3) "Cannabis cultivation facility" means the same as that term is defined in Section
665 [4-42-102](#).

666 (4) "Cannabis dispensary" means a person that:

667 (a) sells cannabis, a cannabis product, or a medical cannabis device; or

668 (b) purchases or possesses cannabis, a cannabis product, or a medical cannabis device,
669 with the intent to sell the cannabis, cannabis product, or medical cannabis device.

670 (5) "Cannabis dispensary agent" means an owner, officer, director, board member, or
671 employee of, or a volunteer at, a cannabis dispensary.

672 (6) "Cannabis dispensary agent registration card" means a registration card, issued by
673 the department, that identifies an individual as a cannabis dispensary agent.

674 (7) "Cannabis processing facility" means the same as that term is defined in Section
675 [4-42-102](#).

676 (8) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).

677 (9) "Cannabis production establishment agent" means the same as that term is defined
678 in Section 4-42-102.

679 (10) "Cannabis production establishment agent registration card" means the same as
680 that term is defined in Section 4-42-102.

681 (11) "Designated caregiver" means an individual:

682 (a) whom a patient with a medical cannabis card designates as the patient's caregiver;

683 and

684 (b) registers with the department under Section 26-58-202.

685 (12) "Independent cannabis testing laboratory" means the same as that term is defined
686 in Section 4-42-102.

687 (13) "Inventory control system" means the system described in Section 4-42-103.

688 (14) "Medical cannabis card" means an official, tamper proof document or card, issued
689 by the department to an individual with a qualifying illness or the individual's designated
690 caregiver under this chapter, that is connected to the electronic verification system.

691 (15) "Medical cannabis device" means the same as that term is defined in Section
692 58-37-3.6(1)(b).

693 (16) "Medical Cannabis Restricted Account" means the account created in Section
694 26-58-108.

695 (17) "Participating entity" means:

696 (a) the Department of Agriculture and Food;

697 (b) the Department of Health; and

698 (c) the Department of Technology Services.

699 (18) "Physician" means an individual who is qualified to recommend cannabis under
700 Section 26-58-207.

701 (19) "Qualifying illness" means a condition described in Section 26-58-104.

702 (20) "State electronic verification system" means the system described in Section
703 26-58-103.

704 Section 23. Section **26-58-103** is enacted to read:

705 **26-58-103. State electronic verification system.**

706 (1) The Department of Agriculture and Food, the Department of Health, the
707 Department of Public Safety, and the Department of Technology Services shall:

708 (a) enter into a memorandum of understanding in order to determine the function and
709 operation of an electronic verification system;

710 (b) coordinate with the Division of Purchasing under Title 63G, Chapter 6a, Utah
711 Procurement Code, to develop a request for proposals for a third party provider to develop and
712 maintain an electronic verification system in coordination with the Department of Technology
713 Services;

714 (c) select a third party provided described in Subsection (1)(b); and

715 (d) take the actions described in Subsections (1)(a), (b), and (c) according to the
716 following schedule:

717 (i) no later than 75 days after the effective date of the bill, enter into the memorandum
718 of understanding described in Subsection (1)(a);

719 (ii) no later than 60 days after taking the action described in Subsection (1)(d)(i), issue
720 the request for proposals for a third party provider described in Subsection (1)(b);

721 (iii) 30 days after taking the action described in Subsection (1)(d)(ii), close bidding for
722 the request for proposals;

723 (iv) 90 days after taking the action described in Subsection (1)(d)(iii), select a third
724 party provider;

725 (v) 300 days after taking the action described in Subsection (1)(d)(iv), require the third
726 party provider to have a working prototype of a state electronic verification system and begin
727 training state employees on the state electronic verification system;

728 (vi) 90 days after taking the action described in Subsection (1)(d)(v), require the third
729 party provider to successfully integrate any cannabis production establishment or cannabis
730 dispensary licensee's inventory control system into the state electronic verification system; and

731 (vii) 30 days after taking the action described in Subsection (1)(d)(vi), require the state
732 electronic verification system and any associated system or process to be fully operational.

733 (2) The electronic verification system described in Subsection (1) shall:

734 (a) allow an individual, with the individual's physician in the physician's office, to
735 apply for a medical cannabis card;

736 (b) allow a physician to:

737 (i) electronically recommend, during a visit with a patient, treatment with a cannabis
738 product for the patient; and

- 739 (ii) see, on a screen where the physician inputs a recommendation, simultaneously
740 while the physician inputs the recommendation, the patient's cannabis dispensing history;
- 741 (c) issue a medical cannabis card to an individual if the individual meets the
742 requirements described in Section 26-58-201;
- 743 (d) issue to a designated caregiver, if the designated caregiver meets the requirements
744 in Section 26-58-202, a medical cannabis card on behalf of a named patient;
- 745 (e) connect with an inventory control system used by each cannabis dispensary and
746 cannabis production establishment to track, in real time, for the purchase of a cannabis product
747 by a medical cannabis card holder:
- 748 (i) the time and date of the purchase;
749 (ii) the quantity and type of a cannabis product purchased; and
750 (iii) any cannabis production establishment or cannabis dispensary that cultivated,
751 processed, tested, or sold the cannabis product;
- 752 (f) provide access to the Department of Health and the Department of Agriculture and
753 Food to the extent necessary to carry out the Department of Health's and the Department of
754 Agriculture and Food's functions and responsibilities under:
- 755 (i) this chapter; and
756 (ii) Title 4, Chapter 42, Cannabis Production Establishment;
757 (g) provide access to state or local law enforcement:
758 (i) during a traffic stop for the purpose of determining if the individual subject to the
759 traffic stop is complying with state medical cannabis law; or
760 (ii) after obtaining a warrant;
761 (h) create a record each time a person accesses the database that identifies the person
762 who accesses the database and the individual whose records are accessed; and
763 (i) transmit an individual's cannabis product purchase history to the controlled
764 substance database created in Section 58-37f-203.
- 765 (3) The Department of Health may release de-identified data collected by the system
766 under Subsection (2) for the purpose of conducting medical research.
- 767 Section 24. Section 26-58-104 is enacted to read:
- 768 **26-58-104. Qualifying illness.**
- 769 (1) For the purposes of this chapter, the following conditions are considered a

770 qualifying illness:

771 (a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;

772 (b) Alzheimer's disease;

773 (c) amyotrophic lateral sclerosis;

774 (d) cancer, cachexia, or such condition manifest by physical wasting, nausea, or
775 malnutrition associated with chronic disease;

776 (e) Crohn's disease or a similar gastrointestinal disorder;

777 (f) epilepsy or a similar condition that causes debilitating seizures;

778 (g) multiple sclerosis or a similar condition that causes persistent and debilitating

779 muscle spasms;

780 (h) post-traumatic stress disorder related to military service; and

781 (i) chronic pain in an individual, if:

782 (A) a physician determines that the individual is at greater risk of becoming addicted
783 to, chemically dependent on, or overdosing on, opiate-based pain medication; or

784 (B) a physician determines that the individual is allergic to opiates, or is otherwise
785 medically unable to use opiates.

786 (2) In addition to the conditions described in Subsection (1), a condition approved
787 under Section [26-58-105](#), in an individual, on a case-by-case basis, is considered a qualifying
788 illness for the purposes of this chapter.

789 Section 25. Section **26-58-105** is enacted to read:

790 **26-58-105. Compassionate Use Board.**

791 (1) The department shall establish a Compassionate Use Board consisting of:

792 (a) five physicians who are knowledgeable about the medical use of cannabis and
793 certified in one of the following specialties:

794 (i) neurology;

795 (ii) pain medicine and pain management;

796 (iii) medical oncology;

797 (iv) psychiatry;

798 (v) infectious disease;

799 (vi) internal medicine; and

800 (vii) pediatrics;

801 (b) the director of the Department of Health or the director's designee as a non-voting
802 member; and

803 (c) two medical research professionals with expertise in cannabinoids or a qualifying
804 illness, including one medical research professional who is affiliated with a research-based
805 higher education institution.

806 (2) The department shall appoint at least one member of the board who has a specialty
807 in addiction medicine.

808 (3) (a) Four of the members of the board first appointed shall serve for a term of three
809 years and three of the members of the board first appointed shall serve for a term of four years.

810 (b) After the first members' terms expire, members of the board shall serve for a term
811 of four years and shall be eligible for reappointment.

812 (c) Any member of the board may serve until a successor is appointed.

813 (d) The director of the Department of Health or the director's designee shall serve as
814 the nonvoting chair of the board.

815 (4) A quorum of the Compassionate Use Board shall consist of five members.

816 (5) A member of the board may not receive compensation or benefits for the member's
817 service, but may receive per diem and travel expenses in accordance with:

818 (a) Section [63A-3-106](#);

819 (b) Section [63A-3-107](#); and

820 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
821 [63A-3-107](#).

822 (6) The Compassionate Use Board shall:

823 (a) review and recommend to the department approval for an individual who is not
824 otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for
825 compassionate use if:

826 (i) the individual and the individual's physician appear before the board and offer, in
827 the board's discretion, satisfactory evidence that the individual suffers from a condition:

828 (A) that substantially impairs the individual's quality of life;

829 (B) that is intractable;

830 (C) that is not responsive to other treatments; and

831 (D) for which it is reasonably likely the condition will respond to treatment with

832 cannabis.

833 (ii) the board determines it is in the best interest of the patient to allow the

834 compassionate use of medical cannabis;

835 (b) meet to receive or review compassionate use petitions:

836 (i) quarterly, unless no petitions are pending; or

837 (ii) as often as necessary if there are more petitions than the board can receive or

838 review during the board's regular schedule;

839 (c) report before November 1 of each year, to the Legislature's Health and Human

840 Services Interim Committee, the number of compassionate use approvals the board issued

841 during the past year and the types of conditions for which the board approved compassionate

842 use; and

843 (d) evaluate whether the number of cannabis dispensaries in a geographic area meets

844 the needs for a geographic area and recommend to the Legislature whether the number of

845 cannabis dispensaries should be increased in a geographic area;

846 (e) evaluate physician variances under Subsection [26-58-106\(5\)](#).

847 (7) The department shall review any compassionate use recommended by the board

848 under this section to confirm if the board properly exercised the board's discretion under this

849 section.

850 (8) If the department determines the board properly approved an individual for a

851 compassionate use under this section, the department shall issue the individual a provisional

852 medical cannabis card in accordance with this chapter that is valid for one year.

853 (9) Any individually identifiable health information contained in a petition received

854 under this section shall be a protected record in accordance with Title 63G, Chapter 2,

855 Government Records Access and Management Act.

856 (10) The Compassionate Use Board shall, before November 1 of each year,

857 recommend to the Legislature:

858 (a) a condition to designate as a qualifying illness under Section [26-58-104](#); or

859 (b) a condition to remove as a qualifying illness under Section [26-58-104](#).

860 Section 26. Section **26-58-106** is enacted to read:

861 **26-58-106. Physician qualification.**

862 (1) For the purposes of this section, a physician means an individual who is licensed to

863 practice:

864 (a) medicine under Title 58, Chapter 67, Utah Medical Practice Act; or

865 (b) osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical
866 Practice Act.

867 (2) A physician may recommend cannabis if the physician:

868 (a) completes the training requirements described in Subsection (3); and

869 (b) except as described in Subsection (4), recommends cannabis to no more than 250 of
870 the physician's patients at any given time.

871 (3) (a) A physician shall complete, before recommending cannabis to a patient, a
872 training program in cannabis recommendation best practices that is approved by the
873 department, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
874 Rulemaking Act.

875 (b) The department shall issue an endorsement to a physician that completes the
876 training program described in Subsection (3)(a)

877 (c) The endorsement described in Subsection (3)(b) entitles a physician to use a
878 medical cannabis endorsement image developed by the department on the physician's website.

879 (4) A physician may recommend cannabis to greater than 20% of the physician's
880 patients if the physician:

881 (a) is certified in one of the following specialties:

882 (i) anesthesiology;

883 (ii) gastroenterology;

884 (iii) neurology;

885 (iv) oncology;

886 (v) pain and palliative care;

887 (vi) physiatry;

888 (vii) psychiatry; or

889 (viii) addiction medicine;

890 (b) appears before the Compassionate Use Board described in Section [26-58-105](#); and

891 (c) demonstrates, to the satisfaction of the board and with the department's approval,
892 that:

893 (i) the physician's practice has unique characteristics that warrant allowing the

894 physician to recommend cannabis to greater than 250 of the physician's patients; and

895 (ii) the physician has established expertise in medical cannabis.

896 (5) (a) Except as provided in Subsection (5)(b), a physician eligible to recommend

897 cannabis or a cannabis product under this section may not advertise that the physician

898 recommends cannabis or a cannabis product.

899 (b) A physician may advertise via a website that displays only:

900 (i) a green cross;

901 (ii) the physician's office's hours of operation;

902 (iii) the medical cannabis endorsement image described in Subsection (3)(c);

903 (iv) a qualifying illness that the physician treats;

904 (v) scientific studies regarding cannabis use; and

905 (vi) current studies on treatment with cannabis being conducted on patients.

906 Section 27. Section **26-58-107** is enacted to read:

907 **26-58-107. Standard of care -- Medical practitioners not liable -- No private right**
908 **of action -- Insurance coverage.**

909 (1) It is not a breach of the applicable standard of care for a physician to recommend
910 treatment with a cannabis product to an individual under this chapter.

911 (2) A physician who recommends treatment with a cannabis product to an individual in
912 accordance with this chapter may not, based solely on the reason that the recommendation is
913 for a cannabis product, be subject to:

914 (a) civil liability;

915 (b) criminal liability; or

916 (c) licensure sanctions under:

917 (i) Title 58, Chapter 67, Utah Medical Practice Act; or

918 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

919 (3) An insurance carrier, third-party administrator, or employer is not required to
920 provide reimbursement for a cannabis product or a medical cannabis device, under this chapter.

921 Section 28. Section **26-58-108** is enacted to read:

922 **26-58-108. Medical Cannabis Restricted Account -- Creation.**

923 (1) There is created in the General Fund a restricted account known as the "Medical
924 Cannabis Restricted Account."

- 956 (a) is at least 18 years old;
957 (b) is a Utah resident; and
958 (c) recommended by the individual's physician under Subsection (5).
959 (3) An individual who is the parent or legal guardian of a minor is eligible for a
960 medical cannabis card if:
961 (a) the individual is at least 18 years old;
962 (b) the individual is a Utah resident; and
963 (c) recommended by the minor's physician under Subsection (5).
964 (4) An individual who is eligible for a medical cannabis card under Subsection (2) or
965 (3) shall submit an application for a medical cannabis card to the department:
966 (a) with the recommending physician, in the recommending physician's office;
967 (b) via an electronic application connected to the electronic verification system;
968 (c) that includes:
969 (i) the individual's name, gender, age, address, and for the purpose of being notified
970 about a recall or a research study, the individual's contact information; and
971 (ii) a copy of the individual's valid photo identification;
972 (5) A physician who recommends treatment with medical cannabis to an individual or
973 minor shall:
974 (a) input in the physician's diagnosis that the individual suffers from a qualifying
975 illness:
976 (i) the type of qualifying illness; and
977 (ii) a recommendation that the individual try a cannabis product; and
978 (b) look up the individual in the controlled substance database created in Section
979 [58-37f-201](#) to check for potential interactions or warning signs.
980 (6) A medical cannabis card the department issues under this section is valid for the
981 lesser of:
982 (a) an amount of time determined by the physician who recommends treatment with a
983 cannabis product under Subsection (5); or
984 (b) two years.
985 (7) An individual may not ingest cannabis or a cannabis product:
986 (a) in public view; or

987 (b) while the individual operates a motor vehicle.

988 (8) The department may revoke an individual's medical cannabis card if the individual
989 violates this chapter.

990 (9) The department may establish procedures, by rule in accordance with Title 63G,
991 Chapter 3, Utah Administrative Rulemaking Act, to implement the medical cannabis card
992 application and issuance provisions of this Section.

993 (10) (a) A person may submit, to the department, a request to conduct a medical
994 research study using medical cannabis cardholder data contained in the electronic verification
995 system.

996 (b) The department shall review a request submitted under Subsection (10)(a) to
997 determine if the medical research study is valid.

998 (c) If the department determines that a medical research study is valid under Subsection
999 (10)(b), the department shall notify a relevant medical cannabis cardholder asking for the
1000 medical cannabis cardholder's participation in the study.

1001 (d) The department may release, for the purposes of a study, information about a
1002 medical cannabis cardholder who consents to participation under Subsection (10)(c).

1003 (e) The department may establish standards for a medical research study's validity, by
1004 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1005 Section 30. Section **26-58-202** is enacted to read:

1006 **26-58-202. Medical cannabis card --- Designated caregiver -- Registration --**
1007 **Renewal -- Revocation.**

1008 (1) An individual may designate up to two individuals to serve as designated caregivers
1009 of the individual if:

1010 (a) the individual has a valid medical cannabis card under Section [26-58-201](#); and

1011 (b) a physician determines that, due to physical impossibility or undue hardship, the
1012 individual is unable to obtain a cannabis product from a cannabis dispensary.

1013 (2) An individual registered as a designated caregiver under this section may:

1014 (a) carry a valid medical cannabis card with the designated caregiver's name for the
1015 purpose of transporting cannabis or a cannabis product to a designating patient or assisting a
1016 designating patient in administering the cannabis product; and

1017 (b) purchase and possess, in accordance with this chapter, a cannabis product or a

1018 medical cannabis device on behalf of the designating patient.
1019 (3) The department shall register an individual designated as a caregiver under
1020 Subsection (1) if the individual:
1021 (a) is at least 18 years old;
1022 (b) is a Utah resident;
1023 (c) applies online, with the department, through the electronic verification system, for a
1024 medical cannabis card as a designated caregiver;
1025 (d) pays, to the department, a fee established by the department in accordance with
1026 Section [63J-1-504](#), plus the cost of a criminal background check;
1027 (e) complies with Section [26-58-205](#); and
1028 (f) completes a training program for designated caregivers established by the
1029 department that includes an endorsement that the individual understands state law for
1030 caregivers.
1031 (4) The department shall issue, to an individual who registers under this section, a
1032 medical cannabis card that:
1033 (a) is connected to the electronic verification system; and
1034 (b) includes the individual's name.
1035 (5) A medical cannabis card is renewable for a designated caregiver if, at the time of
1036 renewal:
1037 (a) an individual with a medical cannabis card described in Subsection (1) renews the
1038 caregiver's designation; and
1039 (b) the designated caregiver meets the requirements of Subsection (3).
1040 (6) A designated caregiver may charge an individual to act as the individual's
1041 designated caregiver.
1042 (7) The Department of Health may revoke an individual's medical cannabis card if the
1043 individual:
1044 (a) violates this chapter; or
1045 (b) is convicted of a felony that is:
1046 (i) a crime of involving the use of force or violence against another person; or
1047 (ii) a felony conviction of a state or federal law pertaining to controlled substances.
1048 Section 31. Section **26-58-203** is enacted to read:

1049 **26-58-203. Designated caregiver -- Criminal background check.**

1050 (1) An individual registered as a designated caregiver under Section 26-58-202 shall
1051 submit to a criminal background check in accordance with Subsection (2).

1052 (2) Each designated caregiver shall:

1053 (a) submit, to the department, a fingerprint card in a form acceptable to the department
1054 and the Department of Public Safety; and

1055 (b) consent to a fingerprint background check by:

1056 (i) the Utah Bureau of Criminal Identification; and

1057 (ii) the Federal Bureau of Investigation.

1058 (3) The Department of Public Safety shall complete a Federal Bureau of Investigation
1059 Criminal Background Check for each designated caregiver under Subsection (2) and report the
1060 results of the background check to the department.

1061 Section 32. Section **26-58-204** is enacted to read:

1062 **26-58-204. Medical cannabis card -- Patient and designated caregiver**
1063 **requirements -- Rebuttable presumption.**

1064 (1) An individual who has a medical cannabis card and who possesses a cannabis
1065 product outside of the individual's residence shall:

1066 (a) carry, with the individual at all times, the individual's medical cannabis card; and

1067 (b) carry, with the cannabis product, a label that identifies that the cannabis product
1068 was originally sold from a department licensed cannabis dispensary, including the bar code or
1069 identification number that links the cannabis or cannabis product to the dispensary's inventory
1070 control system.

1071 (2) If an individual possesses a cannabis product in compliance with Subsection (1), or
1072 a medical cannabis device that corresponds with the cannabis product:

1073 (a) there is a rebuttable presumption that the individual possesses the cannabis product
1074 or medical cannabis device legally; and

1075 (b) a law enforcement officer does not have probable cause, based solely on the
1076 individual's possession of the cannabis product or medical cannabis device, to believe that the
1077 individual is engaging in illegal activity.

1078 (3) (a) If a law enforcement officer stops an individual who possesses a cannabis
1079 product or a medical cannabis device, and the individual represents to the law enforcement

1080 officer that the individual holds a valid medical cannabis card, but the individual does not have
1081 the medical cannabis card in the individual's possession at the time of the stop by the law
1082 enforcement officer, the law enforcement officer shall attempt to access the state electronic
1083 verification system to determine the individual's identity and whether the individual holds a
1084 valid medical cannabis card.

1085 (b) If the law enforcement officer is able to verify the identity of the individual
1086 described in Subsection (3)(a), and that the individual holds a valid medical cannabis card, the
1087 law enforcement officer:

1088 (i) may not arrest or take the individual into custody for the sole reason that the
1089 individual is in possession of a cannabis product or a medical cannabis device; and

1090 (ii) may not seize the cannabis product or medical cannabis device.

1091 (4) An individual who has a valid medical cannabis card is guilty of an infraction if the
1092 individual:

1093 (a) possesses a cannabis product or a medical cannabis device; and

1094 (b) (i) does not possess the individual's medical cannabis card on the individual's
1095 person; or

1096 (ii) does not possess a label that complies with Subsection (1)(b).

1097 (5) (a) Except as described in Subsection (5)(b), an individual who has a valid medical
1098 cannabis card is guilty of an infraction if the individual uses a cannabis product or a medical
1099 cannabis device in public view.

1100 (b) An individual may use a cannabis product or a medical cannabis device in public
1101 view in the event of a medical emergency.

1102 (6) An individual who is guilty of an infraction under Subsection (4) or (5) is subject to
1103 a \$100 fine.

1104 Section 33. Section **26-58-301** is enacted to read:

1105 **Part 3. Cannabis Dispensary License**

1106 **26-58-301. Cannabis dispensary -- License -- Eligibility.**

1107 (1) In order to operate as a cannabis dispensary, a person shall obtain a license from the
1108 department issued under this part.

1109 (2) Subject to the requirements of this part, the department shall, within 30 business
1110 days after receiving a complete application, issue a license to operate a cannabis dispensary to a

- 1111 person who submits to the department:
- 1112 (a) a proposed name and address of the cannabis dispensary;
- 1113 (b) evidence that the person:
- 1114 (i) possesses or controls a minimum of \$500,000 in liquid assets for each application
1115 submitted to the department; and
- 1116 (ii) can comply with the operating requirements for a cannabis dispensary described in
1117 this chapter;
- 1118 (c) a complete application for a local business license;
- 1119 (d) an application fee:
- 1120 (i) before January 1, 2017, of \$5,000; and
- 1121 (ii) after January 1, 2017, in an amount determined by the department in accordance
1122 with Section 63J-1-504, that is necessary to cover the department's cost to implement this part;
- 1123 (e) an operating plan that complies with Section 26-58-303; and
- 1124 (f) the results of a criminal background check for each cannabis dispensary agent.
- 1125 (3) If the department determines that a cannabis dispensary is eligible for a license
1126 under this section, the department shall:
- 1127 (a) before January 1, 2017, charge the cannabis dispensary an initial license fee of
1128 \$65,000; and
- 1129 (b) on or after January 1, 2017, charge the cannabis dispensary an initial license fee in
1130 an amount determined by the department in accordance with Section 63J-1-504.
- 1131 (4) The department shall require a separate license and a separate license fee under
1132 Subsection (3) for each location of a cannabis dispensary.
- 1133 (5) The department may revoke a license under this part if the cannabis dispensary is
1134 not operating within one year of the issuance of the initial license.
- 1135 (6) The department shall deposit the proceeds of a fee imposed by this section in the
1136 Medical Cannabis Restricted Account.
- 1137 Section 34. Section **26-58-302** is enacted to read:
- 1138 **26-58-302. Renewal.**
- 1139 (1) Except as provided in Subsection (3), the department shall renew a person's license
1140 under this part every two years if, at the time of renewal:
- 1141 (a) the person meets the requirements of Section 26-58-301; and

1142 (b) the person pays the department a license renewal fee in an amount determined by
1143 the department in accordance with Section 63J-1-504.

1144 (2) (a) The department may not renew a cannabis dispensary's license for a sixth
1145 consecutive time unless the department publishes a notice, in a newspaper of general
1146 circulation for the geographic area in which the cannabis dispensary is located, one year before
1147 the day on which the cannabis dispensary's license expires, that includes:

- 1148 (i) the name and location of the cannabis dispensary;
- 1149 (ii) the day on which the license for the cannabis dispensary will expire; and
- 1150 (iii) a solicitation for cannabis dispensary license applicants.

1151 (b) If, after the department publishes the notice described in Subsection (2)(a), the
1152 department receives an application for a cannabis dispensary from a new applicant and also
1153 receives an application for renewal from the existing cannabis dispensary, the department shall
1154 issue the license to the applicant that the department determines best meets the criteria
1155 established in Section 26-58-304.

1156 (3) (a) If a licensed cannabis dispensary abandons the cannabis dispensary's license or
1157 has the cannabis dispensary license revoked, the department shall publish notice of an available
1158 license in the same manner as described in Subsection (2)(a).

1159 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,
1160 Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute
1161 abandonment of a cannabis dispensary license.

1162 Section 35. Section **26-58-303** is enacted to read:

1163 **26-58-303. Operating plan.**

1164 (1) A person applying for a cannabis dispensary license shall submit to the department
1165 a proposed operation plan for the cannabis dispensary that complies with this section.

1166 (2) A cannabis dispensary's operating plan shall include:

1167 (a) a description of the physical characteristics of the proposed facility, including a
1168 floor plan and architectural elevations that indicate compliance with the requirements of this
1169 chapter;

1170 (b) a description of the credentials and experience of:

- 1171 (i) each officer, director, or owner of the proposed cannabis dispensary; and
- 1172 (ii) any highly skilled or experienced prospective employee;

- 1173 (c) the cannabis dispensary's employee training standards;
- 1174 (d) a security plan;
- 1175 (e) a banking plan;
- 1176 (f) a description of the cannabis dispensary's inventory control system, including a plan
- 1177 to make the inventory control system compatible with the state electronic verification system;
- 1178 and
- 1179 (g) that the cannabis processing facility has entered into a preliminary agreement with a
- 1180 cannabis processing facility in the state to purchase a cannabis product that the cannabis
- 1181 dispensary intends to sell.

1182 Section 36. Section **26-58-304** is enacted to read:

1183 **26-58-304. Maximum number of licenses.**

1184 (1) The department may not issue more than the greater of, in each county in the state:

1185 (a) one cannabis dispensary license; or

1186 (b) an amount of cannabis dispensary licenses equal to the number of residents in the

1187 county divided by 200,000, rounded up to the nearest greater whole number.

1188 (2) If more than one applicant for a license in a geographic area meets the

1189 qualifications of this chapter for a cannabis dispensary, the department shall evaluate the

1190 applicants, and award the license to the applicant that best demonstrates:

1191 (a) experience with:

1192 (i) establishing and running a similar cannabis based business;

1193 (ii) operating a secure inventory control system;

1194 (iii) complying with a regulatory environment; and

1195 (iv) training, evaluating, and monitoring employees;

1196 (b) connections to the local community;

1197 (c) the extent to which the applicant can reduce the cost of cannabis products to a

1198 patient; and

1199 (d) the extent to which the applicant's business plan reflects cannabis industry best

1200 practices.

1201 (3) The department may conduct a face-to-face interview with an applicant for a

1202 license that the department evaluates under Subsection (2).

1203 Section 37. Section **26-58-401** is enacted to read:

1204 **Part 4. Cannabis Dispensary Agents**

1205 **26-58-401. Cannabis dispensary agent -- Registration card.**

1206 (1) An individual may only act as a cannabis dispensary agent of a cannabis dispensary
1207 if the individual is registered by the department as a cannabis dispensary agent.

1208 (2) A physician may not act as a cannabis dispensary agent.

1209 (3) The department shall, within 30 days after receiving a complete application,
1210 register and issue a cannabis dispensary agent registration card to an individual who:

1211 (a) provides to the department:

1212 (i) the individual's name and address; and

1213 (ii) the name and location of the licensed cannabis dispensary where the individual
1214 seeks to act as the cannabis dispensary agent;

1215 (b) pays a fee to the department:

1216 (i) before January 1, 2017, of \$250; and

1217 (ii) on or after January 1, 2017, in an amount determined by the department in
1218 accordance with Section [63J-1-504](#), that is necessary to cover the department's cost to
1219 implement this part; and

1220 (c) complies with Section [26-58-402](#).

1221 (4) A cannabis dispensary agent shall comply with a certification standard developed
1222 by the department, or a third party certification standard approved by the department.

1223 (5) The certification standard described in Subsection (4) shall address:

1224 (a) Utah medical cannabis law;

1225 (b) cannabis dispensary best practices; and

1226 (c) resources available to help patients.

1227 (6) The department may revoke or refuse to issue the cannabis dispensary agent
1228 registration card of an individual who:

1229 (a) violates the requirements of this chapter; or

1230 (b) is convicted of a felony under state or federal law that involves a drug or violent
1231 crime that is a felony under state or federal law.

1232 Section 38. Section **26-58-402** is enacted to read:

1233 **26-58-402. Cannabis dispensary agents -- Criminal background checks.**

1234 (1) An individual applying for a cannabis dispensary agent registration card under this

1235 chapter shall:

1236 (a) submit, at the time of application, a fingerprint card in a form acceptable to the
1237 department; and

1238 (b) consent to a fingerprint background check by:

1239 (i) the Utah Bureau of Criminal Identification; and

1240 (ii) the Federal Bureau of Investigation.

1241 (2) The department shall request that the Department of Public Safety complete a
1242 Federal Bureau of Investigation criminal background check for each cannabis dispensary agent
1243 registration card applicant.

1244 (3) The department may revoke or refuse to issue an individual's cannabis dispensary
1245 agent registration card if the individual has been convicted of an offense that is a felony under
1246 state or federal law that is related to drugs or a violent crime.

1247 Section 39. Section **26-58-403** is enacted to read:

1248 **26-58-403. Cannabis dispensary agent registration card -- Rebuttable**
1249 **presumption.**

1250 (1) An individual who has a cannabis dispensary agent registration card shall carry the
1251 individual's cannabis dispensary agent registration card with the individual at all times when:

1252 (a) the individual is on the premises of a cannabis dispensary; and

1253 (b) the individual is transporting cannabis, a cannabis product, or a medical cannabis
1254 device between two cannabis production establishments or between a cannabis production
1255 establishment and a cannabis dispensary.

1256 (2) If an individual handling cannabis, a cannabis product, or a medical cannabis
1257 device at a cannabis dispensary, or transporting cannabis, a cannabis product, or a medical
1258 cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in
1259 compliance with Subsection (1):

1260 (a) there is a rebuttable presumption that the individual possesses the cannabis,
1261 cannabis product, or medical cannabis device legally; and

1262 (b) a law enforcement officer does not have probable cause to believe that the
1263 individual is engaging in illegal activity, based solely on the individual's possession of the
1264 cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1).

1265 (3) A cannabis dispensary agent registered with the department is guilty of an

1266 infraction if the registered cannabis dispensary agent:

1267 (a) (i) is on the premises of a cannabis dispensary where the individual is registered as
1268 an agent; or

1269 (ii) transports cannabis, a cannabis product, or a medical cannabis device; and

1270 (b) does not possess, on the registered cannabis dispensary agent's person, a valid
1271 cannabis dispensary agent registration card.

1272 (4) A registered cannabis dispensary agent who is guilty of an infraction under
1273 Subsection (3) is subject to a fine of no more than \$100.

1274 Section 40. Section **26-58-501** is enacted to read:

1275 **Part 5. Cannabis Dispensary Operation**

1276 **26-58-501. Operating requirements -- General.**

1277 (1) (a) A cannabis dispensary shall operate in accordance with the operating plan
1278 provided to the department under Section [26-58-303](#).

1279 (b) A cannabis dispensary shall notify the department no longer than 30 days after a
1280 change in the cannabis dispensary's operating plan.

1281 (2) A cannabis dispensary shall operate:

1282 (a) except as provided in Subsection (3), in a facility that is accessible only by an
1283 individual with a valid cannabis dispensary agent registration card issued under Section
1284 [26-58-401](#) or a medical cannabis card issued under Section [26-58-201](#); and

1285 (b) at the physical address provided to the department under Section [26-58-301](#).

1286 (3) A cannabis dispensary may allow an individual who is a visitor, a contractor, or a
1287 member of the press to access the cannabis dispensary if the cannabis dispensary:

1288 (a) tracks and monitors the individual at all times while the individual is at the
1289 cannabis dispensary; and

1290 (b) maintains a record of the individual's access.

1291 (4) A cannabis dispensary shall operate in a facility that has:

1292 (a) a single, secure public entrance with a checkpoint;

1293 (b) a security system with a backup power source that:

1294 (i) detects and records entry into the cannabis dispensary during business hours; and

1295 (ii) provides notice of an unauthorized entry to law enforcement when the cannabis
1296 dispensary is closed; and

1297 (c) a reinforced and locked area where the cannabis dispensary stores cannabis or a
1298 cannabis product.

1299 (5) A cannabis dispensary shall post, clearly and conspicuously in the cannabis
1300 dispensary, the limit on the purchase of cannabis described in Subsection 26-58-502(3),

1301 (6) A cannabis dispensary may not allow any individual to consume cannabis on the
1302 property or premises of the establishment.

1303 (7) A cannabis dispensary may not, on an interior or exterior space, display or offer
1304 anything that glorifies or trivializes cannabis or that promotes a recreational cannabis lifestyle.

1305 (8) A cannabis dispensary shall:

1306 (a) have a clinical, medical appearance; and

1307 (b) require any employee to wear a white lab coat.

1308 (9) A cannabis dispensary may not operate:

1309 (a) within 600 feet of a community location, as defined in Section 32B-1-102, that is
1310 not a public or private school; or

1311 (b) within 1000 feet of a public or private school.

1312 Section 41. Section 26-58-502 is enacted to read:

1313 **26-58-502. Dispensing -- Amount a cannabis dispensary may dispense --**

1314 **Reporting -- Form of cannabis or cannabis product.**

1315 (1) A cannabis dispensary may only sell, subject to this chapter:

1316 (a) a cannabis product;

1317 (b) a medical cannabis device; or

1318 (c) educational materials related to the medical use of cannabis.

1319 (2) A cannabis dispensary may only sell a cannabis product or a medical cannabis
1320 device to an individual with a medical cannabis card issued by the department.

1321 (3) A cannabis dispensary may not dispense on behalf of any one individual with a
1322 medical cannabis card, in any one 30-day period an amount of cannabis products that contains,
1323 in total, greater than 10 grams of cannabinoids by weight.

1324 (4) An individual with a medical cannabis card may not purchase more cannabis
1325 products than the amount designated in Subsection (3).

1326 (5) A designated caregiver designated by any individual with a medical cannabis card
1327 may not purchase, for the individual, an amount of cannabis products that exceeds the amount

1328 designated in Subsection (3).

1329 (6) A cannabis dispensary shall:

1330 (a) access the electronic verification system before dispensing a cannabis product to an
1331 individual with a medical cannabis card in order to determine if the individual has already met
1332 the maximum amount of cannabis products described in Subsection (3); and

1333 (b) submit a record to the electronic verification system each time the cannabis
1334 dispensary dispenses a cannabis product to an individual with a medical cannabis card.

1335 (7) (a) Except as provided in Subsection (7)(b), a cannabis dispensary may not sell a
1336 cannabis product that is intentionally designed or fabricated to resemble a cigarette, or made to
1337 resemble or be mistaken for a cigarette.

1338 (b) A cannabis dispensary may sell a cannabis product with a thin, cylindrical
1339 configuration that warms a cannabis product into a vapor that is ingested into an individual's
1340 respiratory system.

1341 (8) A cannabis dispensary may not sell a medical cannabis device that produces a vapor
1342 with an odor or flavor.

1343 (9) A cannabis dispensary may give to an individual with a medical cannabis card, at
1344 no cost, a product that the cannabis dispensary may sell under Subsection (1).

1345 Section 42. Section **26-58-503** is enacted to read:

1346 **26-58-503. Advertising and signage.**

1347 (1) Except as provided in Subsections (2) and (3) a cannabis dispensary may not
1348 advertise in any medium.

1349 (2) A cannabis dispensary may display signage on the outside of the cannabis
1350 dispensary that includes only:

1351 (a) the cannabis dispensary's name and hours of operation; and

1352 (b) a green cross.

1353 (3) A cannabis dispensary may maintain a website that includes information about:

1354 (a) the location and hours of the cannabis dispensary;

1355 (b) the products and services available at the cannabis dispensary;

1356 (c) personnel affiliated with the cannabis dispensary;

1357 (d) best practices that the cannabis dispensary upholds;

1358 (e) educational materials related to the medical use of cannabis; and

1359 (f) employment opportunities with the cannabis dispensary.

1360 Section 43. Section **26-58-504** is enacted to read:

1361 **26-58-504. Inspections.**

1362 (1) The department shall inspect, in accordance with Subsection (2), a cannabis
1363 dispensary's facility and records in order to determine if the cannabis dispensary complies with
1364 the licensing requirements of this part.

1365 (2) The department may inspect the records and facility of a cannabis dispensary at any
1366 time, scheduled or unscheduled.

1367 Section 44. Section **26-58-505** is enacted to read:

1368 **26-58-505. Cannabis, cannabis product, or medical cannabis device**
1369 **transportation.**

1370 (1) Except for an individual or designated caregiver with a medical cannabis card who
1371 possesses cannabis or a cannabis product in accordance with Section [26-58-204](#), an individual
1372 may only transport cannabis, a cannabis product, or a cannabis device between cannabis
1373 production establishments or between a cannabis production establishment and a cannabis
1374 dispensary if the individual is:

1375 (a) a registered cannabis production establishment agent; or

1376 (b) a registered cannabis dispensary agent.

1377 (2) An individual transporting cannabis, a cannabis product, or a medical cannabis
1378 device shall possess a transportation manifest that:

1379 (a) includes a unique identifier that links the cannabis, cannabis product, or medical
1380 cannabis device to a related inventory control system;

1381 (b) includes origin and destination information for any cannabis, cannabis product, or
1382 medical cannabis device the individual is transporting; and

1383 (c) indicates the departure and arrival times and locations of the individual transporting
1384 the cannabis, cannabis product, or medical cannabis device.

1385 (3) In addition to the requirements in Subsections (1) and (2), the department may
1386 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1387 Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical
1388 cannabis device that reflect best practices for cannabis or cannabis product transportation for
1389 safety for human cannabis or cannabis product consumption.

1390 (4) A cannabis dispensary agent registered with the department is guilty of an
1391 infraction if the registered cannabis dispensary agent:

- 1392 (a) transports cannabis, a cannabis product, or a medical cannabis device; and
- 1393 (b) does not possess, on the registered cannabis dispensary agent's person or in the
1394 transport vehicle, a manifest that complies with Subsection (3).

1395 (5) A registered cannabis dispensary agent who is guilty of an infraction under
1396 Subsection (3) is subject to a fine of no more than \$100.

1397 Section 45. Section **26-58-601** is enacted to read:

1398 **Part 6. Enforcement**

1399 **26-58-601. Enforcement -- Fine -- Citation.**

1400 (1) The department may, for a violation of this chapter by a person who is a cannabis
1401 dispensary or cannabis dispensary agent:

1402 (a) revoke the person's cannabis dispensary license or cannabis dispensary agent
1403 registration card;

1404 (b) refuse to renew the person's license or registration; or

1405 (c) assess the person an administrative penalty.

1406 (2) The department shall deposit an administrative penalty imposed under this section
1407 into the Medical Cannabis Restricted Account.

1408 (3) The department may, for a person subject to an uncontested citation, a stipulated
1409 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1410 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to
1411 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance
1412 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1413 (b) order the person to cease and desist from, and cure, the action that creates a
1414 violation.

1415 (4) The department may not revoke a cannabis dispensary's license via a citation.

1416 (5) If, within 20 calendar days after the day on which the department issues a citation
1417 for a violation of this chapter, the person that is the subject of the citation fails to request a
1418 hearing to contest the citation, the citation becomes the basis of the department's final order.

1419 (6) The department may, for a person who fails to cure the violation for which a
1420 citation under this section:

1421 (a) refuse to issue or renew the person's license or cannabis dispensary agent
1422 registration card; or

1423 (b) suspend, revoke, or place on probation the person's license or cannabis dispensary
1424 agent registration card.

1425 Section 46. Section **30-3-10** is amended to read:

1426 **30-3-10. Custody of children in case of separation or divorce -- Custody**
1427 **consideration.**

1428 (1) If a husband and wife having minor children are separated, or their marriage is
1429 declared void or dissolved, the court shall make an order for the future care and custody of the
1430 minor children as it considers appropriate.

1431 (a) In determining any form of custody, including a change in custody, the court shall
1432 consider the best interests of the child without preference for either the mother or father solely
1433 because of the biological sex of the parent and, among other factors the court finds relevant, the
1434 following:

1435 (i) the past conduct and demonstrated moral standards of each of the parties;

1436 (ii) which parent is most likely to act in the best interest of the child, including
1437 allowing the child frequent and continuing contact with the noncustodial parent;

1438 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
1439 and nature of the relationship between a parent and child;

1440 (iv) whether the parent has intentionally exposed the child to pornography or material
1441 harmful to a minor, as defined in Section 76-10-1201; and

1442 (v) those factors outlined in Section 30-3-10.2.

1443 (b) There shall be a rebuttable presumption that joint legal custody, as defined in
1444 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

1445 (i) domestic violence in the home or in the presence of the child;

1446 (ii) special physical or mental needs of a parent or child, making joint legal custody
1447 unreasonable;

1448 (iii) physical distance between the residences of the parents, making joint decision
1449 making impractical in certain circumstances; or

1450 (iv) any other factor the court considers relevant including those listed in this section
1451 and Section 30-3-10.2.

1452 (c) The person who desires joint legal custody shall file a proposed parenting plan in
1453 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may
1454 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of
1455 the child.

1456 (d) The children may not be required by either party to testify unless the trier of fact
1457 determines that extenuating circumstances exist that would necessitate the testimony of the
1458 children be heard and there is no other reasonable method to present their testimony.

1459 (e) The court may inquire of the children and take into consideration the children's
1460 desires regarding future custody or parent-time schedules, but the expressed desires are not
1461 controlling and the court may determine the children's custody or parent-time otherwise. The
1462 desires of a child 14 years of age or older shall be given added weight, but is not the single
1463 controlling factor.

1464 (f) If interviews with the children are conducted by the court pursuant to Subsection
1465 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be
1466 obtained but is not necessary if the court finds that an interview with the children is the only
1467 method to ascertain the child's desires regarding custody.

1468 (2) In awarding custody, the court shall consider, among other factors the court finds
1469 relevant, which parent is most likely to act in the best interests of the child, including allowing
1470 the child frequent and continuing contact with the noncustodial parent as the court finds
1471 appropriate.

1472 (3) If the court finds that one parent does not desire custody of the child, the court shall
1473 take that evidence into consideration in determining whether to award custody to the other
1474 parent.

1475 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a
1476 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
1477 whether a substantial change has occurred for the purpose of modifying an award of custody.

1478 (b) If a court takes a parent's disability into account in awarding custody or determining
1479 whether a substantial change has occurred for the purpose of modifying an award of custody,
1480 the parent with a disability may rebut any evidence, presumption, or inference arising from the
1481 disability by showing that:

1482 (i) the disability does not significantly or substantially inhibit the parent's ability to

1483 provide for the physical and emotional needs of the child at issue; or

1484 (ii) the parent with a disability has sufficient human, monetary, or other resources
1485 available to supplement the parent's ability to provide for the physical and emotional needs of
1486 the child at issue.

1487 (c) Nothing in this section may be construed to apply to adoption proceedings under
1488 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

1489 (5) This section establishes neither a preference nor a presumption for or against joint
1490 physical custody or sole physical custody, but allows the court and the family the widest
1491 discretion to choose a parenting plan that is in the best interest of the child.

1492 (6) In considering the past conduct and demonstrated moral standards of each of the
1493 parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent
1494 because of the parent's possession or consumption of a cannabis product or a medical cannabis
1495 device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1496 Section 47. Section **41-6a-517** is amended to read:

1497 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
1498 **body -- Penalties -- Arrest without warrant.**

1499 (1) As used in this section:

1500 (a) "Controlled substance" has the same meaning as in Section 58-37-2.

1501 (b) "Practitioner" has the same meaning as in Section 58-37-2.

1502 (c) "Prescribe" has the same meaning as in Section 58-37-2.

1503 (d) "Prescription" has the same meaning as in Section 58-37-2.

1504 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
1505 operate or be in actual physical control of a motor vehicle within this state if the person has any
1506 measurable controlled substance or metabolite of a controlled substance in the person's body.

1507 (3) It is an affirmative defense to prosecution under this section that the controlled
1508 substance was:

1509 (a) involuntarily ingested by the accused;

1510 (b) prescribed by a practitioner for use by the accused; [or]

1511 (c) a cannabis product that was:

1512 (i) not causing impairment; and

1513 (ii) (A) recommended by a physician to the accused, if the accused holds a valid

1514 medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act; or

1515 (B) ingested by the accused in another state in which the use of a cannabis product is

1516 legal under state law; or

1517 [~~c~~] (d) otherwise legally ingested.

1518 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
1519 misdemeanor.

1520 (b) A person who violates this section is subject to conviction and sentencing under
1521 both this section and any applicable offense under Section 58-37-8.

1522 (5) A peace officer may, without a warrant, arrest a person for a violation of this
1523 section when the officer has probable cause to believe the violation has occurred, although not
1524 in the officer's presence, and if the officer has probable cause to believe that the violation was
1525 committed by the person.

1526 (6) The Driver License Division shall, if the person is 21 years of age or older on the
1527 date of arrest:

1528 (a) suspend, for a period of 120 days, the driver license of a person convicted under
1529 Subsection (2) of an offense committed on or after July 1, 2009; or

1530 (b) revoke, for a period of two years, the driver license of a person if:

1531 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1532 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
1533 and within a period of 10 years after the date of the prior violation.

1534 (7) The Driver License Division shall, if the person is 19 years of age or older but
1535 under 21 years of age on the date of arrest:

1536 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
1537 longer, the driver license of a person convicted under Subsection (2) of an offense committed
1538 on or after July 1, 2011; or

1539 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
1540 longer, the driver license of a person if:

1541 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1542 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
1543 and within a period of 10 years after the date of the prior violation.

1544 (8) The Driver License Division shall, if the person is under 19 years of age on the date

1545 of arrest:

1546 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
1547 under Subsection (2) of an offense committed on or after July 1, 2009; or

1548 (b) revoke, until the person is 21 years of age, the driver license of a person if:

1549 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1550 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
1551 and within a period of 10 years after the date of the prior violation.

1552 (9) The Driver License Division shall subtract from any suspension or revocation
1553 period the number of days for which a license was previously suspended under Section
1554 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
1555 which the record of conviction is based.

1556 (10) The Driver License Division shall:

1557 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
1558 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
1559 committed prior to July 1, 2009; or

1560 (b) deny, suspend, or revoke the operator's license of a person for the denial,
1561 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

1562 (i) the person was 20 years of age or older but under 21 years of age at the time of
1563 arrest; and

1564 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
1565 July 1, 2009, and prior to July 1, 2011.

1566 (11) A court that reported a conviction of a violation of this section for a violation that
1567 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
1568 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
1569 if the person:

1570 (a) completes at least six months of the license suspension;

1571 (b) completes a screening;

1572 (c) completes an assessment, if it is found appropriate by a screening under Subsection
1573 (11)(b);

1574 (d) completes substance abuse treatment if it is found appropriate by the assessment
1575 under Subsection (11)(c);

1576 (e) completes an educational series if substance abuse treatment is not required by the
1577 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1578 (f) has not been convicted of a violation of any motor vehicle law in which the person
1579 was involved as the operator of the vehicle during the suspension period imposed under
1580 Subsection (7)(a) or (8)(a);

1581 (g) has complied with all the terms of the person's probation or all orders of the court if
1582 not ordered to probation; and

1583 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
1584 person has not consumed a controlled substance not prescribed by a practitioner for use by the
1585 person or unlawfully consumed alcohol during the suspension period imposed under
1586 Subsection (7)(a) or (8)(a); or

1587 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
1588 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
1589 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
1590 for use by the person or unlawfully consumed alcohol during the suspension period imposed
1591 under Subsection (7)(a) or (8)(a).

1592 (12) If the court shortens a person's license suspension period in accordance with the
1593 requirements of Subsection (11), the court shall forward the order shortening the person's
1594 license suspension period prior to the completion of the suspension period imposed under
1595 Subsection (7)(a) or (8)(a) to the Driver License Division.

1596 (13) (a) The court shall notify the Driver License Division if a person fails to:

1597 (i) complete all court ordered screening and assessment, educational series, and
1598 substance abuse treatment; or

1599 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1600 (b) Upon receiving the notification, the division shall suspend the person's driving
1601 privilege in accordance with Subsections 53-3-221(2) and (3).

1602 (14) The court shall order supervised probation in accordance with Section 41-6a-507
1603 for a person convicted under Subsection (2).

1604 Section 48. Section 53-1-106.5 is enacted to read:

1605 **53-1-106.5. Medical Cannabis Act -- Department duties.**

1606 (1) In addition to the duties described in Section 53-1-106, the department shall:

1607 (a) develop standards for training peace officers and law enforcement agencies in state
1608 medical cannabis law and the use of the state electronic verification system; and

1609 (b) collaborate with the Department of Health and the Department of Agriculture and
1610 Food to provide a curriculum for training peace officers and law enforcement agencies in
1611 medical cannabis.

1612 (2) The department may not allow a law enforcement official to access the electronic
1613 verification system unless the law enforcement official has completed the training described in
1614 Subsections (1)(b) and (1)(c).

1615 Section 49. Section **58-37-3.6** is enacted to read:

1616 **58-37-3.6. Exemption for possession or use of cannabis to treat a qualifying**
1617 **illness.**

1618 (1) As used in this section:

1619 (a) (i) "Cannabis" means the plant cannabis sativa.

1620 (ii) "Cannabis" includes marijuana.

1621 (b) "Cannabis dispensary" means the same as that term is defined in Section
1622 [26-58-102](#).

1623 (c) "Cannabis product" means a product that:

1624 (i) is intended for human ingestion;

1625 (ii) contains cannabinoids extracted out of a whole cannabis plant; and

1626 (iii) is separated into doses with an identified amount of total cannabinoids and
1627 cannabinoid profile per dose.

1628 (d) "Designated caregiver" means the same as that term is defined in Section
1629 [26-58-102](#).

1630 (e) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

1631 (f) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

1632 (g) "Medical cannabis card" means the same as that term is defined in Section
1633 [26-58-102](#).

1634 (h) "Medical cannabis device" means a device that:

1635 (i) an individual uses to ingest a lawfully sold cannabis product; and

1636 (ii) measures the amount of cannabinoids ingested.

1637 (i) "Qualifying illness" means the same as that term is defined in Section [26-58-102](#).

1638 (j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the
1639 description in Subsection 58-37-4(2)(a)(iii)(AA).

1640 (2) Notwithstanding any other provision of this chapter:

1641 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to
1642 the penalties described in this title for the growth, possession, sale, or offer for sale of
1643 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,
1644 or offer for sale of the cannabis complies with:

1645 (i) Title 4, Chapter 42, Cannabis Production Establishment; and

1646 (ii) Title 26, Chapter 58, Medical Cannabis Act;

1647 (b) an individual who possesses, sells, or offers to sell a cannabis product or a medical
1648 cannabis device is not subject to the penalties described in this title for the possession, sale, or
1649 offer for sale of marijuana or tetrahydrocannabinol to the extent that the individual's
1650 possession, sale, or offer for sale of the cannabis product or medical cannabis device complies
1651 with:

1652 (i) Title 4, Chapter 42, Cannabis Production Establishment; and

1653 (ii) Title 26, Chapter 58, Medical Cannabis Act;

1654 (c) an individual who possesses, sells, or offers to sell a medical cannabis device is not
1655 subject to the penalties described in this title for the possession, sale, or offer for sale of
1656 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's
1657 possession, sale, or offer for sale of the medical cannabis device complies with:

1658 (i) Title 4, Chapter 42, Cannabis Production Establishment; and

1659 (ii) Title 26, Chapter 58, Medical Cannabis Act.

1660 (3) An individual with a medical cannabis card is guilty of an infraction if the
1661 individual uses or possesses drug paraphernalia that is not a medical cannabis device.

1662 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a
1663 \$100 fine.

1664 Section 50. Section 58-37-3.7 is enacted to read:

1665 **58-37-3.7. Affirmative defense.**

1666 (1) Before the day on which the Department of Health is issuing medical cannabis
1667 cards and a cannabis dispensary in the state is licensed and selling a cannabis product, it is an
1668 affirmative defense to criminal charges against an individual for the use or possession of

1669 marijuana, tetrahydrocannabinol, or marijuana or tetrahydrocannabinol drug paraphernalia
1670 under this chapter that the individual's conduct would have been lawful after the individual
1671 obtains a medical cannabis card under Title 26, Chapter 58, Medical Cannabis Act.

1672 (2) A court shall, for charges that the court dismisses under Subsection (1), dismiss the
1673 charges without prejudice.

1674 Section 51. Section **59-12-104.7** is enacted to read:

1675 **59-12-104.7. Exemption from sales tax for medical cannabis.**

1676 (1) As used in this section:

1677 (a) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1678 (b) "Cannabis dispensary" means the same as that term is defined in Section
1679 [26-58-102](#).

1680 (c) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).

1681 (d) "Medical cannabis device" means the same as that term is defined in Section
1682 [58-37-3.6](#).

1683 (2) In addition to the exemptions described in Section [59-12-104](#), the sale, by a
1684 licensed cannabis dispensary, of a cannabis product or a medical cannabis device, is not subject
1685 to the taxes imposed by this chapter.

1686 Section 52. Section **59-28-101** is enacted to read:

1687 **CHAPTER 28. MEDICAL CANNABIS TAX ACT**

1688 **59-28-101. Title.**

1689 This chapter is known as the "Medical Cannabis Tax Act."

1690 Section 53. Section **59-28-102** is enacted to read:

1691 **59-28-102. Definitions.**

1692 As used in this chapter:

1693 (1) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1694 (2) "Cannabis dispensary" means the same as that term is defined in Section
1695 [26-58-102](#).

1696 (3) "Cannabis product" means the same as that term is defined in Section [58-37-3.6](#).

1697 (4) "Medical cannabis device" means the same as that term is defined in Section
1698 [58-37-3.6](#).

1699 (5) "Medical Cannabis Restricted Account" means the account created in Section

1700 [26-58-108.](#)

1701 Section 54. Section **59-28-103** is enacted to read:

1702 **59-28-103. Imposition of tax -- Rate.**

1703 There is imposed a tax on the retail purchaser of a cannabis product, or a medical
1704 cannabis device at a cannabis dispensary in the state, in an amount equal to 4.70% of amounts
1705 paid or charged for the cannabis product or medical cannabis device.

1706 Section 55. Section **59-28-104** is enacted to read:

1707 **59-28-104. Collection of tax.**

1708 A cannabis dispensary shall:

1709 (1) collect the tax imposed by Section [59-28-103](#) from a cannabis product or medical
1710 cannabis device purchaser; and

1711 (2) pay the tax collected under Subsection (1):

1712 (a) to the commission quarterly on or before the last day of the month immediately
1713 following the last day of the previous quarter; and

1714 (b) using a form prescribed by the commission.

1715 Section 56. Section **59-28-105** is enacted to read:

1716 **59-28-105. Deposit of tax revenue.**

1717 The commission shall deposit revenues generated by the tax imposed by this chapter
1718 into the Medical Cannabis Restricted Account.

1719 Section 57. Section **59-28-106** is enacted to read:

1720 **59-28-106. Records.**

1721 (1) A cannabis dispensary shall maintain any record typically deemed necessary to
1722 determine the amount of tax that the cannabis dispensary is required to remit to the commission
1723 under this chapter.

1724 (2) The commission may require a cannabis dispensary to keep any record the
1725 commission reasonably considers necessary to constitute sufficient evidence of the amount of
1726 tax the cannabis dispensary is required to remit to the commission under this chapter:

1727 (a) by notice served upon the cannabis dispensary; or

1728 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1729 Rulemaking Act.

1730 (3) Upon notice by the commission, a cannabis dispensary shall open the cannabis

1731 dispensary's records for examination by the commission.

1732 Section 58. Section **59-28-107** is enacted to read:

1733 **59-28-107. Rulemaking authority -- Enforcement not more strict than those**
1734 **applied to a similarly situated business.**

1735 (1) Except as provided in Subsection (2), the commission may make rules in
1736 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

1737 (a) implement the tax imposed by this chapter; and

1738 (b) enforce payment of the tax imposed by this chapter.

1739 (2) The commission may not make a rule that applies to a cannabis dispensary that is
1740 more restrictive than would apply to a similarly situated business.

1741 (3) The commission may not enforce this chapter against a cannabis dispensary more
1742 strictly than the commission would for a similarly situated business.

1743 Section 59. Section **59-28-108** is enacted to read:

1744 **59-28-108. Penalties and interest.**

1745 A cannabis dispensary that fails to comply with any provision of this chapter is subject
1746 to penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

1747 Section 60. Section **62A-4a-202.1** is amended to read:

1748 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
1749 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
1750 **emergency placement.**

1751 (1) A peace officer or child welfare worker may not:

1752 (a) enter the home of a child who is not under the jurisdiction of the court, remove a
1753 child from the child's home or school, or take a child into protective custody unless authorized
1754 under Subsection [78A-6-106\(2\)](#); or

1755 (b) remove a child from the child's home or take a child into custody under this section
1756 solely on the basis of:

1757 (i) educational neglect, truancy, or failure to comply with a court order to attend
1758 school[-]; or

1759 (ii) the possession or use of a cannabis product or a medical cannabis device in the
1760 home, if the use and possession of the cannabis product or medical cannabis device is in
1761 compliance with Title 26, Chapter 58, Medical Cannabis Act.

1762 (2) A child welfare worker within the division may take action under Subsection (1)
1763 accompanied by a peace officer, or without a peace officer when a peace officer is not
1764 reasonably available.

1765 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
1766 into protective custody, the child welfare worker shall also determine whether there are
1767 services available that, if provided to a parent or guardian of the child, would eliminate the
1768 need to remove the child from the custody of the child's parent or guardian.

1769 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
1770 utilized.

1771 (c) In determining whether the services described in Subsection (3)(a) are reasonably
1772 available, and in making reasonable efforts to provide those services, the child's health, safety,
1773 and welfare shall be the child welfare worker's paramount concern.

1774 (4) (a) A child removed or taken into custody under this section may not be placed or
1775 kept in a secure detention facility pending court proceedings unless the child is detainable
1776 based on guidelines promulgated by the Division of Juvenile Justice Services.

1777 (b) A child removed from the custody of the child's parent or guardian but who does
1778 not require physical restriction shall be given temporary care in:

1779 (i) a shelter facility; or

1780 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

1781 (c) When making a placement under Subsection (4)(b), the Division of Child and
1782 Family Services shall give priority to a placement with a noncustodial parent, relative, or
1783 friend, in accordance with Section [62A-4a-209](#).

1784 (d) If the child is not placed with a noncustodial parent, a relative, or a designated
1785 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor
1786 explaining why a different placement was in the child's best interest.

1787 (5) When a child is removed from the child's home or school or taken into protective
1788 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

1789 (a) the parent's rights under this part, including the right to be present and participate in
1790 any court proceeding relating to the child's case;

1791 (b) that it may be in the parent's best interest to contact an attorney and that, if the
1792 parent cannot afford an attorney, the court will appoint one;

1793 (c) the name and contact information of a division employee the parent may contact
1794 with questions;

1795 (d) resources that are available to the parent, including:

1796 (i) mental health resources;

1797 (ii) substance abuse resources; and

1798 (iii) parenting classes; and

1799 (e) any other information considered relevant by the division.

1800 (6) The pamphlet or flier described in Subsection (5) shall be:

1801 (a) evaluated periodically for its effectiveness at conveying necessary information and
1802 revised accordingly;

1803 (b) written in simple, easy-to-understand language; and

1804 (c) available in English and other languages as the division determines to be
1805 appropriate and necessary.

1806 Section 61. Section **63I-1-226** is amended to read:

1807 **63I-1-226. Repeal dates, Title 26.**

1808 (1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
1809 1, 2025.

1810 (2) Section [26-10-11](#) is repealed July 1, 2020.

1811 (3) Section [26-21-23](#), Licensing of non-Medicaid nursing care facility beds, is repealed
1812 July 1, 2018.

1813 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

1814 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

1815 (6) Section [26-38-2.5](#) is repealed July 1, 2017.

1816 (7) Section [26-38-2.6](#) is repealed July 1, 2017.

1817 (8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed [~~July 1, 2016~~]
1818 January 1, 2017.

1819 Section 62. Section **63I-1-258** is amended to read:

1820 **63I-1-258. Repeal dates, Title 58.**

1821 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
1822 repealed July 1, 2026.

1823 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

- 1824 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.
- 1825 (4) Section [58-37-4.3](#) is repealed [~~July 1, 2016~~] January 1, 2017.
- 1826 (5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.
- 1827 (6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is
1828 repealed July 1, 2019.
- 1829 (7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.
- 1830 (8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July
1831 1, 2023.
- 1832 (9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.
- 1833 (10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1,
1834 2026.
- 1835 (11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.
- 1836 Section 63. Section **78A-6-508** is amended to read:
- 1837 **78A-6-508. Evidence of grounds for termination.**
- 1838 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
1839 evidence of abandonment that the parent or parents:
- 1840 (a) although having legal custody of the child, have surrendered physical custody of the
1841 child, and for a period of six months following the surrender have not manifested to the child
1842 or to the person having the physical custody of the child a firm intention to resume physical
1843 custody or to make arrangements for the care of the child;
- 1844 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
1845 months;
- 1846 (c) failed to have shown the normal interest of a natural parent, without just cause; or
- 1847 (d) have abandoned an infant, as described in Subsection [78A-6-316\(1\)](#).
- 1848 (2) In determining whether a parent or parents are unfit or have neglected a child the
1849 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:
- 1850 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the
1851 parent unable to care for the immediate and continuing physical or emotional needs of the child
1852 for extended periods of time;
- 1853 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
1854 nature;

1855 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
1856 dangerous drugs that render the parent unable to care for the child;

1857 (d) repeated or continuous failure to provide the child with adequate food, clothing,
1858 shelter, education, or other care necessary for the child's physical, mental, and emotional health
1859 and development by a parent or parents who are capable of providing that care;

1860 (e) whether the parent is incarcerated as a result of conviction of a felony, and the
1861 sentence is of such length that the child will be deprived of a normal home for more than one
1862 year;

1863 (f) a history of violent behavior; or

1864 (g) whether the parent has intentionally exposed the child to pornography or material
1865 harmful to a minor, as defined in Section 76-10-1201.

1866 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent
1867 because of the parent's possession or consumption of a cannabis product or a medical cannabis
1868 device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

1869 [~~3~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not
1870 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit
1871 parent.

1872 [~~4~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful
1873 or unfit because of a health care decision made for a child by the child's parent unless the state
1874 or other party to the proceeding shows, by clear and convincing evidence, that the health care
1875 decision is not reasonable and informed.

1876 (b) Nothing in Subsection [~~4~~] (5)(a) may prohibit a parent from exercising the right to
1877 obtain a second health care opinion.

1878 [~~5~~] (6) If a child has been placed in the custody of the division and the parent or
1879 parents fail to comply substantially with the terms and conditions of a plan within six months
1880 after the date on which the child was placed or the plan was commenced, whichever occurs
1881 later, that failure to comply is evidence of failure of parental adjustment.

1882 [~~6~~] (7) The following circumstances constitute prima facie evidence of unfitness:

1883 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
1884 child, due to known or substantiated abuse or neglect by the parent or parents;

1885 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to

1886 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
1887 child's physical, mental, or emotional health and development;

1888 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
1889 of the child;

1890 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
1891 commit murder or manslaughter of a child or child abuse homicide; or

1892 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent
1893 of the child, without legal justification.

1894 Section 64. **Effective date.**

1895 This bill takes effect on July 1, 2016.