

**Representative Robert M. Spendlove** proposes the following substitute bill:

**CANNABIS-BASED MEDICINE AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Brad M. Daw

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**LONG TITLE**

**General Description:**

This bill modifies and enacts provisions related to medical cannabis-based medicine.

**Highlighted Provisions:**

This bill:

- ▶ allows an individual with a qualifying illness who registers with a state electronic verification system to possess and use cannabis-based medicine under certain circumstances;
- ▶ directs the Department of Health to issue a medical cannabis card to an individual who meets the requirements of:
  - a qualified patient; or
  - a designated caregiver of a qualified patient;
- ▶ directs the Division of Occupational and Professional Licensing to issue:
  - a license to operate a CBM dispensary to a person that meets certain qualifications; and
  - a registration card to an individual to act as an agent of a CBM dispensary to an individual who meets certain qualifications;
- ▶ directs the Department of Agriculture and Food to issue:
  - a license to operate a cannabis production establishment to a person that meets



26 certain qualifications; and  
27           • a registration card to an individual to act as an agent of a medical  
28 cannabis-based medicine establishment if the individual meets certain  
29 qualifications;  
30           ▶ directs the Department of Financial Institutions to issue a license to a person to  
31 operate a cannabis payment processor;  
32           ▶ requires a CBM dispensary to report the distribution of cannabis-based medicine to  
33 an individual to the Utah Controlled Substance Database;  
34           ▶ permits a political subdivision to restrict the location of and operations of a CBM  
35 dispensary or medical cannabis-based medicine establishment through local zoning  
36 ordinances and business licenses;  
37           ▶ amends the Controlled Substances Act to allow a licensed person to grow cannabis,  
38 process cannabis, and to possess and sell cannabis-based medicine under certain  
39 circumstances;  
40           ▶ requires a physician who recommends cannabis-based medicine to a patient to:  
41           • receive training;  
42           • report adverse events to the Department of Health; and  
43           • limit the number of patients for whom the physician will recommend  
44 cannabis-based medicine;  
45           ▶ imposes a tax on the retail sale of medical cannabis-based medicine;  
46           ▶ amends provisions related to driving with a measurable metabolite of  
47 cannabis-based medicine;  
48           ▶ creates the Medical Cannabis Restricted Account;  
49           ▶ modifies the membership of the Controlled Substances Advisory Committee;  
50           ▶ allows a higher education institution to purchase cannabis-based medicine, possess  
51 cannabis-based medicine, and give cannabis-based medicine to a patient pursuant to  
52 a medical research study approved by the Department of Health;  
53           ▶ directs the Controlled Substances Advisory Committee to recommend conditions to  
54 include as qualifying illnesses for treatment using cannabis-based medicine;  
55           ▶ prohibits a court from discriminating against a parent in a child custody case based  
56 on the parent's legal use of cannabis-based medicine; and

57           ▶ prohibits a peace officer or child welfare worker from removing a child from an  
58 individual's home on the basis of the individual's lawful use of cannabis-based  
59 medicine.

60 **Money Appropriated in this Bill:**

61           None

62 **Other Special Clauses:**

63           This bill provides a special effective date.

64 **Utah Code Sections Affected:**

65 AMENDS:

66           41-6a-517, as last amended by Laws of Utah 2013, Chapter 333

67           58-38a-201, as last amended by Laws of Utah 2011, Chapter 60

68           58-38a-203, as last amended by Laws of Utah 2011, Chapters 12 and 340

69           62A-4a-202.1, as last amended by Laws of Utah 2012, Chapters 221 and 293

70           63I-1-258, as last amended by Laws of Utah 2015, Chapters 40, 186, 187, 320, 367,  
71 and 432

72           78A-6-508, as last amended by Laws of Utah 2014, Chapter 409

73 ENACTS:

74           4-42-101, Utah Code Annotated 1953

75           4-42-102, Utah Code Annotated 1953

76           4-42-103, Utah Code Annotated 1953

77           4-42-104, Utah Code Annotated 1953

78           4-42-201, Utah Code Annotated 1953

79           4-42-202, Utah Code Annotated 1953

80           4-42-203, Utah Code Annotated 1953

81           4-42-204, Utah Code Annotated 1953

82           4-42-205, Utah Code Annotated 1953

83           4-42-301, Utah Code Annotated 1953

84           4-42-302, Utah Code Annotated 1953

85           4-42-303, Utah Code Annotated 1953

86           4-42-401, Utah Code Annotated 1953

87           4-42-402, Utah Code Annotated 1953

- 88 [4-42-403](#), Utah Code Annotated 1953
- 89 [4-42-404](#), Utah Code Annotated 1953
- 90 [4-42-501](#), Utah Code Annotated 1953
- 91 [4-42-601](#), Utah Code Annotated 1953
- 92 [4-42-602](#), Utah Code Annotated 1953
- 93 [4-42-603](#), Utah Code Annotated 1953
- 94 [4-42-701](#), Utah Code Annotated 1953
- 95 [4-42-702](#), Utah Code Annotated 1953
- 96 [4-42-801](#), Utah Code Annotated 1953
- 97 [4-42-802](#), Utah Code Annotated 1953
- 98 [4-42-803](#), Utah Code Annotated 1953
- 99 [7-26-101](#), Utah Code Annotated 1953
- 100 [7-26-102](#), Utah Code Annotated 1953
- 101 [7-26-201](#), Utah Code Annotated 1953
- 102 [7-26-202](#), Utah Code Annotated 1953
- 103 [7-26-203](#), Utah Code Annotated 1953
- 104 [7-26-301](#), Utah Code Annotated 1953
- 105 [7-26-401](#), Utah Code Annotated 1953
- 106 [7-26-402](#), Utah Code Annotated 1953
- 107 [26-58-101](#), Utah Code Annotated 1953
- 108 [26-58-102](#), Utah Code Annotated 1953
- 109 [26-58-103](#), Utah Code Annotated 1953
- 110 [26-58-104](#), Utah Code Annotated 1953
- 111 [26-58-105](#), Utah Code Annotated 1953
- 112 [26-58-201](#), Utah Code Annotated 1953
- 113 [26-58-202](#), Utah Code Annotated 1953
- 114 [26-58-203](#), Utah Code Annotated 1953
- 115 [26-58-204](#), Utah Code Annotated 1953
- 116 [26-58-205](#), Utah Code Annotated 1953
- 117 [26-58-206](#), Utah Code Annotated 1953
- 118 [26-58-207](#), Utah Code Annotated 1953

- 119 [26-58-301](#), Utah Code Annotated 1953
- 120 [26-58-401](#), Utah Code Annotated 1953
- 121 [53-1-106.5](#), Utah Code Annotated 1953
- 122 [58-37-3.6](#), Utah Code Annotated 1953
- 123 [58-37f-204](#), Utah Code Annotated 1953
- 124 [58-38a-203.1](#), Utah Code Annotated 1953
- 125 [58-67-807](#), Utah Code Annotated 1953
- 126 [58-68-807](#), Utah Code Annotated 1953
- 127 [58-86-101](#), Utah Code Annotated 1953
- 128 [58-86-102](#), Utah Code Annotated 1953
- 129 [58-86-201](#), Utah Code Annotated 1953
- 130 [58-86-202](#), Utah Code Annotated 1953
- 131 [58-86-203](#), Utah Code Annotated 1953
- 132 [58-86-204](#), Utah Code Annotated 1953
- 133 [58-86-205](#), Utah Code Annotated 1953
- 134 [58-86-301](#), Utah Code Annotated 1953
- 135 [58-86-302](#), Utah Code Annotated 1953
- 136 [58-86-303](#), Utah Code Annotated 1953
- 137 [58-86-401](#), Utah Code Annotated 1953
- 138 [58-86-402](#), Utah Code Annotated 1953
- 139 [58-86-403](#), Utah Code Annotated 1953
- 140 [58-86-404](#), Utah Code Annotated 1953
- 141 [58-86-405](#), Utah Code Annotated 1953
- 142 [58-86-406](#), Utah Code Annotated 1953
- 143 [58-86-501](#), Utah Code Annotated 1953
- 144 [58-86-502](#), Utah Code Annotated 1953
- 145 [59-12-104.7](#), Utah Code Annotated 1953
- 146 [59-28-101](#), Utah Code Annotated 1953
- 147 [59-28-102](#), Utah Code Annotated 1953
- 148 [59-28-103](#), Utah Code Annotated 1953
- 149 [59-28-104](#), Utah Code Annotated 1953

- 150 [59-28-105](#), Utah Code Annotated 1953
- 151 [59-28-106](#), Utah Code Annotated 1953
- 152 [59-28-107](#), Utah Code Annotated 1953
- 153 [59-28-108](#), Utah Code Annotated 1953

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

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

157 **CHAPTER 42. CANNABIS PRODUCTION ESTABLISHMENT LICENSE**

158 **Part 1. General Provisions**

159 **4-42-101. Title.**

160 This chapter is known as "Cannabis Production Establishment License."

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

162 **4-42-102. Definitions.**

163 As used in this chapter:

164 (1) "Cannabis-based medicine" means the same as that term is defined in Section  
165 [58-37-3.6](#).

166 (2) "Cannabis cultivation facility" means a person that:

167 (a) grows cannabis; or

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

169 (3) "Cannabis cultivation facility agent" means an owner, officer, director, board  
170 member, shareholder, agent, employee, or volunteer of a cannabis cultivation facility.

171 (4) "Cannabis-based medicine dispensary" or "CBM dispensary" means a person that:

172 (a) sells cannabis-based medicine; or

173 (b) purchases or possesses cannabis-based medicine with the intent to sell  
174 cannabis-based medicine.

175 (5) "Cannabis-based medicine dispensary agent" or "CBM dispensary agent" means the  
176 same as that term is defined in Section [58-86-102](#).

177 (6) "Cannabis-based medicine dispensary agent registration card" or "CBM dispensary  
178 agent registration card" means the same as that term is defined in Section [58-86-102](#).

179 (7) "Cannabis payment processor" means the same as that term is defined in Section  
180 [7-26-102](#).

- 181 (8) "Cannabis processing facility" means a person that:  
182 (a) manufactures cannabis-based medicine from cannabis;  
183 (b) purchases or possesses cannabis with the intent to manufacture cannabis-based  
184 medicine; or  
185 (c) sells or intends to sell cannabis-based medicine to a cannabis dispensary.  
186 (9) "Cannabis processing facility agent" means an owner, officer, director, board  
187 member, shareholder, agent, employee, or volunteer of a cannabis processing facility.  
188 (10) "Cannabis production establishment" means:  
189 (a) a cannabis cultivation facility;  
190 (b) a cannabis processing facility; or  
191 (c) an independent cannabis testing laboratory.  
192 (11) "Cannabis production establishment agent" means:  
193 (a) a cannabis cultivation facility agent;  
194 (b) a cannabis processing facility agent; or  
195 (c) an independent cannabis testing laboratory agent.  
196 (12) "Cannabis production establishment agent registration card" means a registration  
197 card issued by the department under Section [4-42-301](#) that:  
198 (a) authorizes an individual to act as a cannabis production establishment agent; and  
199 (b) designates the type of cannabis production establishment for which the individual is  
200 authorized to act as a cannabis production establishment agent.  
201 (13) "Cannabinoid profile" means the percentage of cannabis-based medicine, by  
202 weight, that is composed of the cannabinoids:  
203 (a) tetrahydrocannabinol or THC;  
204 (b) tetrahydrocannabinolic acid or THCa;  
205 (c) cannabidiol or CBD;  
206 (d) cannabinol or CBN; and  
207 (e) cannabigerol or CBG.  
208 (14) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).  
209 (15) "Controlled Substances Advisory Committee" means the committee created in  
210 Section [58-38a-201](#).  
211 (16) "Designated caregiver" means the same as that term is defined in Section

212 [58-86-102.](#)

213 (17) "Electronic verification system" means the system described in Section [26-58-104.](#)

214 (18) "Independent cannabis testing laboratory" means a person that:

215 (a) conducts a chemical or other analysis of cannabis-based medicine; or

216 (b) possesses cannabis-based medicine with the intent to conduct a chemical or other  
217 analysis of the cannabis-based medicine.

218 (19) "Independent cannabis testing laboratory agent" means an owner, officer, director,  
219 board member, shareholder, agent, employee, or volunteer of an independent cannabis testing  
220 laboratory.

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

222 (21) "Medical cannabis card" means the same as that term is defined in Section  
223 [26-58-102.](#)

224 (22) "Medical Cannabis Restricted Account" means the account created in Section  
225 [26-58-105.](#)

226 (23) "Physician" means the same as that term is defined in Section [26-58-102.](#)

227 (24) "Qualifying illness" means a condition described in Subsection [58-38a-203.1\(1\).](#)  
228 Section 3. Section **4-42-103** is enacted to read:

229 **4-42-103. Inventory control system.**

230 (1) The electronic verification system shall include, for each cannabis production  
231 establishment and CBM dispensary, an inventory control system that meets the requirements of  
232 this section.

233 (2) An inventory control system shall track cannabis-based medicine and the cannabis  
234 from which the cannabis-based medicine is derived, in real time, from the time that a cannabis  
235 plant is first planted as a seed or clone until the cannabis-based medicine derived from the  
236 cannabis is sold by a CBM dispensary.

237 (3) An inventory control system shall store, in real time, a record of the amount of  
238 cannabis or cannabis-based medicine in a cannabis production establishment's or CBM  
239 dispensary's possession.

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

241 (a) tracks all handling and processing of cannabis or a cannabis product in a cannabis  
242 production establishment or CBM dispensary;



- 243 (b) is tamper proof; and
- 244 (c) is capable of storing a video record for 180 days.
- 245 (5) An inventory control system shall maintain compatibility with the electronic
- 246 verification system.
- 247 (6) An inventory control system shall allow access by:
- 248 (a) the Department of Public Safety;
- 249 (b) the Department of Agriculture and Food;
- 250 (c) the Department of Health; and
- 251 (d) the Division of Occupational and Professional Licensing within the Department of
- 252 Commerce.

253 Section 4. Section **4-42-104** is enacted to read:

254 **4-42-104. Preemption.**

255 This chapter does not preempt an ordinance enacted by a political subdivision of the

256 state regarding a cannabis production establishment that is more restrictive than this chapter.

257 Section 5. Section **4-42-201** is enacted to read:

258 **4-42-201. Cannabis production establishment -- License -- Renewal.**

259 (1) A person may not act as a cannabis production establishment without a license

260 issued by the department under this chapter.

261 (2) Subject to Subsections (4) through (6), the department shall, within 30 days after

262 receiving a complete application, issue a license to operate a cannabis production establishment

263 to a person that submits to the department:

264 (a) a proposed name, address, and physical location where the person will operate the

265 cannabis production establishment;

266 (b) a bond as required by Section [4-42-205](#), for each license for which the person

267 applies;

268 (c) for each location of a cannabis production establishment for which the person

269 applies, evidence that the person can obtain a business license and meet zoning requirements

270 established by a political subdivision;

271 (d) an application fee established by the department, in accordance with Section

272 [63J-1-504](#), that is necessary to cover the department's cost to implement this chapter;

273 (e) evidence that the person can comply with the requirements in this chapter;

274 (f) evidence that the person will implement an inventory control system at the cannabis  
275 production establishment; and

276 (g) an operation plan that complies with Section 4-42-203.

277 (3) If the department determines that a cannabis production establishment is eligible for  
278 a license under this section, the department shall charge the cannabis-based medicine  
279 establishment an initial license fee in an amount determined by the department in accordance  
280 with Section 63J-1-504.

281 (4) The department shall require a separate license and separate license fee for each  
282 type of cannabis production establishment and each location of a cannabis production  
283 establishment.

284 (5) The department may issue a cannabis cultivation facility license and a cannabis  
285 processing facility license to be operated by:

286 (a) the same person at the same physical location; or

287 (b) the same person at separate physical locations.

288 (6) The department may not issue a license to operate an independent cannabis testing  
289 laboratory to a person:

290 (a) that holds a license for or has an ownership interest in a CBM dispensary, a  
291 cannabis processing facility, or a cannabis cultivation facility in the state;

292 (b) that has an owner, officer, board member, volunteer, shareholder, agent, director, or  
293 employee whose immediate family member holds a license for or has an ownership interest in a  
294 CBM dispensary, a cannabis processing facility, or a cannabis cultivation facility; or

295 (c) proposes to operate the independent testing laboratory at the same physical location  
296 as a CBM dispensary, a cannabis processing facility, or a cannabis cultivation facility.

297 (7) The department may not issue a cannabis production establishment license to a  
298 person that holds a license for, or has an ownership interest in, a CBM dispensary.

299 (8) The department may revoke a license under this chapter if the cannabis production  
300 establishment is not operational within one year of the issuance of the initial license.

301 Section 6. Section 4-42-202 is enacted to read:

302 **4-42-202. Renewal.**

303 (1) Except as provided in Subsection (2), the department shall renew a person's  
304 cannabis production establishment license every two years if, at the time of renewal:

305 (a) the person meets the requirements of Section 4-42-201; and

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

308 (2) (a) The department may not renew a cannabis production establishment's license for  
309 a sixth consecutive time unless the department publishes a notice, in a newspaper of general  
310 circulation for the geographic area in which the cannabis production establishment is located,  
311 one year before the day on which the cannabis production establishment's license expires, that  
312 includes:

313 (i) the name and location of the cannabis production establishment;

314 (ii) the day on which the license for the cannabis production establishment will expire;

315 and

316 (iii) a solicitation for cannabis production establishment license applicants.

317 (b) If, after the department publishes the notice described in Subsection (2)(a), the  
318 department receives an application for a cannabis production establishment from a new  
319 applicant and also receives an application for renewal from the existing cannabis production  
320 establishment, the department shall issue the license to the applicant that the department  
321 determines best meets the criteria established in Section 4-42-204.

322 (3) (a) If a licensed cannabis production establishment abandons the cannabis  
323 production establishment's license, the department shall publish notice of an available license  
324 in the same manner as described in Subsection (2)(a).

325 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,  
326 Utah Administrative Rulemaking Act, for what actions by a cannabis production establishment  
327 constitute abandonment of a cannabis production establishment license.

328 Section 7. Section **4-42-203** is enacted to read:

329 **4-42-203. Operating plan.**

330 (1) A person applying for a license to act as a cannabis production establishment shall  
331 submit to the department, with the person's application, a proposed operating plan that  
332 includes:

333 (a) a description of the physical characteristics of the proposed facility;

334 (b) a description of the credentials and experience of any proposed cannabis production  
335 establishment agent;

- 336 (c) the cannabis production establishment's employee training standards;
- 337 (d) a security plan;
- 338 (e) a plan to process payments thought a cannabis payment processor licensed under

339 Section 7-26-201.

- 340 (f) for a cannabis cultivation facility, the information described in Subsection (2);
- 341 (g) for a cannabis processing facility, the information described in Subsection (3); and
- 342 (h) for an independent cannabis-based medicine testing lab, the information described
- 343 in Subsection (4).

344 (2) A cannabis cultivation facility's operating plan shall include the cannabis  
345 cultivation facility's proposed cannabis cultivation practices, including the cannabis cultivation  
346 facility's:

- 347 (a) pesticide and fertilizer use;
- 348 (b) proposed square footage under cultivation; and
- 349 (c) anticipated cannabis-based medicine yield.

350 (3) A cannabis processing facility's operating plan shall include the cannabis  
351 processing facility's proposed cannabis-based medicine processing practices, including the  
352 cannabis processing facility's:

- 353 (a) proposed cannabinoid extraction method;
- 354 (b) processing equipment; and
- 355 (c) other processing techniques.

356 (4) An independent cannabis testing laboratory's operating plan shall include the  
357 independent cannabis testing laboratory's proposed cannabis-based medicine and  
358 cannabis-based medicine product testing capability.

359 Section 8. Section **4-42-204** is enacted to read:

360 **4-42-204. Maximum number of licenses.**

361 (1) The department may not issue more than, at any given time:

- 362 (a) two cannabis cultivation facility licenses;
- 363 (b) two cannabis processing facility licenses; and
- 364 (c) two independent cannabis testing laboratory licenses.

365 (2) If the department receives more applications for a license to operate a given type of  
366 cannabis production establishment than are available under Subsection (1), the department

367 shall evaluate the applicants to determine which applicant has best demonstrated:

368 (a) experience with:

369 (i) establishing and running a business in a related field;

370 (ii) operating a secure inventory control system;

371 (iii) complying with a regulatory environment; and

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

373 (b) connections to the local community; and

374 (c) that the applicant will keep the cost of the applicant's products or services low.

375 Section 9. Section **4-42-205** is enacted to read:

376 **4-42-205. Bond for a cannabis production establishment license.**

377 (1) A cannabis production establishment licensed under Section [4-42-201](#) shall post a  
378 cash bond or surety bond, payable to the department, in an amount equal to:

379 (a) for a cannabis cultivation facility, \$2,000,000;

380 (b) for a cannabis processing facility, \$1,000,000; and

381 (c) for an independent cannabis testing laboratory, \$75,000.

382 (2) A cannabis production establishment licensed under Section [4-42-201](#) shall  
383 maintain the bond described in Subsection (1) for as long as the cannabis production  
384 establishment continues to operate.

385 (3) The department shall require a bond a cannabis production establishment posts  
386 under this section to be:

387 (a) in a form approved by the attorney general; and

388 (b) conditioned upon the cannabis production establishment's compliance with this  
389 chapter.

390 (4) If a bond described in Subsection (1) is canceled due to a cannabis production  
391 establishment's negligence, the department may assess the cannabis production establishment a  
392 \$300 reinstatement fee.

393 (5) A cannabis production establishment may not withdraw any part of a bond posted  
394 under Subsection (1):

395 (a) during the period when the cannabis production establishment's license is in effect;

396 or

397 (b) while a license revocation proceeding is pending against the cannabis production

398 establishment.

399 (6) A cannabis production establishment forfeits a bond posted under Subsection (1) if  
400 the cannabis production establishment's license is revoked.

401 (7) The department may, without revoking a license, make a claim against a bond  
402 posted by a cannabis production establishment under Subsection (1) for money the cannabis  
403 production establishment owes the department under this chapter.

404 Section 10. Section **4-42-301** is enacted to read:

405 **Part 3. Cannabis Production Establishment Agents**

406 **4-42-301. Cannabis production establishment agent -- Registration.**

407 (1) An individual may not act as a cannabis production establishment agent of a  
408 cannabis production establishment unless the individual is registered by the department under  
409 this section.

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

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

413 (4) The department shall, within 15 business days after receiving a complete  
414 application, register and issue a cannabis production establishment agent registration card to an  
415 individual who:

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

418 (b) provides to the department:

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

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

422 (iii) any other information required by the department by rule made in accordance with  
423 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

424 (c) pays the department a fee, determined by the department in accordance with Section  
425 63J-1-504, that is necessary to cover the department's cost to implement this part; and

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

428 (5) The department shall designate, for a cannabis production establishment agent

429 registration card the department issues under Subsection (4), whether the cannabis production  
430 establishment agent registration card holder is authorized to act as an agent for:

431 (a) a cannabis cultivation facility;

432 (b) a cannabis processing facility;

433 (c) both a cannabis cultivation facility and a cannabis processing facility; or

434 (d) an independent cannabis testing laboratory.

435 (6) A cannabis production establishment agent shall complete training in

436 cannabis-based medicine production that complies with minimum standards established by the

437 department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

438 Rulemaking Act.

439 (7) The department may revoke the cannabis production establishment agent

440 registration card of an individual who:

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

442 (b) is convicted of an offense that is a felony under state or federal law.

443 Section 11. Section **4-42-302** is enacted to read:

444 **4-42-302. Cannabis production establishment agents -- Criminal background**

445 **checks.**

446 (1) An individual applying for a cannabis production establishment agent registration

447 card under this chapter shall:

448 (a) submit to the department:

449 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and

450 (ii) a signed waiver in accordance with Subsection [53-10-108](#)(4) indicating that the

451 individual's fingerprints are being registered in the Federal Bureau of Investigation's Next

452 Generation Identification system's Rap Back Service; and

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

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

455 (ii) the Federal Bureau of Investigation.

456 (2) The Bureau of Criminal Identification shall:

457 (a) check the fingerprints submitted under Subsection (1) against the applicable state,

458 regional, and national criminal records databases, including the Federal Bureau of

459 Investigation's Next Generation Identification system;

- 460 (b) report the results of the background check to the department;
- 461 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by
- 462 future submissions to the local and regional criminal records databases, including latent prints;
- 463 (d) request that the fingerprints be retained in the Federal Bureau of Investigation's
- 464 Next Generation Identification system's Rap Back Service for search by future submissions to
- 465 national criminal records databases, including the Next Generation Identification system and
- 466 latent prints; and
- 467 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives
- 468 notifications for an individual with whom the entity maintains an authorizing relationship.

469 (3) The department shall:

470 (a) assess an individual who submits fingerprints, in accordance with this section, a fee

471 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of

472 Criminal Identification or other authorized agency provides under this section; and

473 (b) remit a fee collected under Subsection (3)(a) to the Bureau of Criminal

474 Identification.

475 Section 12. Section **4-42-303** is enacted to read:

476 **4-42-303. Cannabis production establishment agent registration card --**

477 **Rebuttable presumption.**

478 (1) An individual who has a cannabis production establishment agent registration card

479 shall carry the individual's cannabis production establishment agent registration card with the

480 individual at all times when:

481 (a) the individual is on the premises of a cannabis production establishment; and

482 (b) the individual is transporting cannabis or cannabis-based medicine between two

483 cannabis production establishments or transporting cannabis-based medicine between a

484 cannabis production establishment and a CBM dispensary.

485 (2) A cannabis production establishment agent registered with the department is guilty

486 of an infraction if the registered cannabis production establishment agent:

487 (a) (i) is on the premises of a cannabis production establishment where the individual is

488 registered as an agent; or

489 (ii) transports cannabis or cannabis-based medicine; and

490 (b) does not possess, on the registered cannabis production establishment agent's



491 person, a valid cannabis production establishment agent registration card.

492 (3) A registered cannabis production establishment agent who is guilty of an infraction  
493 under Subsection (2) is subject to a \$100 fine.

494 Section 13. Section **4-42-401** is enacted to read:

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

496 **4-42-401. Cannabis production establishment -- General operating requirements.**

497 (1) (a) A cannabis production establishment shall operate in accordance with the  
498 operating plan the cannabis production establishment provides to the department under Section  
499 4-42-203.

500 (b) A cannabis production establishment shall notify the department within 30 days of  
501 any change in the cannabis production establishment's operation plan.

502 (2) Except as provided in Subsection (3), a cannabis production establishment shall  
503 operate:

504 (a) in a facility that is accessible only by an individual with a valid cannabis production  
505 establishment agent registration card issued under Section 4-42-301; and

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

507 (3) A cannabis-based medicine production facility may allow the press, a visitor, or a  
508 contractor access to the cannabis production establishment if:

509 (a) the cannabis-based medicine production facility tracks and monitors the individual  
510 at all times while the individual is in the cannabis production establishment; and

511 (b) a record of the individual's access to the cannabis production establishment is  
512 maintained by the cannabis production establishment.

513 (4) A cannabis production establishment shall have:

514 (a) a single, secure public entrance;

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

516 (i) detects and records entry into the cannabis production establishment when the  
517 cannabis production establishment is closed; and

518 (ii) provides notice of an unauthorized entry to law enforcement; and

519 (c) a lock on any area where the cannabis production establishment stores cannabis or  
520 cannabis-based medicine.

521 (5) A cannabis production establishment may only transmit or accept payments for

522 cannabis-based medicine using a cannabis payment processor licensed under Section 7-26-201.

523 (6) The department shall establish structural standards for a cannabis production  
524 establishment by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
525 Rulemaking Act.

526 Section 14. Section **4-42-402** is enacted to read:

527 **4-42-402. Inspections.**

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

531 (2) The department may inspect the records and facility of a cannabis production  
532 establishment:

533 (a) as many as four times per year, scheduled or unscheduled; and

534 (b) if the department has reason to believe that the cannabis production establishment  
535 has violated the law, at any time, scheduled or unscheduled.

536 Section 15. Section **4-42-403** is enacted to read:

537 **4-42-403. Advertising.**

538 A cannabis production establishment may not advertise to the general public in any  
539 medium.

540 Section 16. Section **4-42-404** is enacted to read:

541 **4-42-404. Cannabis or cannabis-based medicine transportation.**

542 (1) An individual may not transport cannabis or cannabis-based medicine between two  
543 cannabis production establishments, or between a cannabis production establishment and a  
544 CBM dispensary unless the individual has a valid cannabis production establishment agent  
545 registration card or valid CBM dispensary agent registration card.

546 (2) An individual transporting cannabis-based medicine or cannabis shall keep a  
547 transportation record that includes:

548 (a) a bar code or identification number that links the cannabis or cannabis-based  
549 medicine to a related inventory control system;

550 (b) origin and destination information for any cannabis or cannabis-based medicine the  
551 individual is transporting; and

552 (c) a record of the departure and arrival time of the individual transporting the cannabis

553 or cannabis-based medicine.

554 (3) In addition to the requirements in Subsections (1) and (2), the department shall  
555 establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
556 Rulemaking Act, requirements for transporting cannabis or cannabis-based medicine related to  
557 safety for human cannabis-based medicine consumption.

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

560 (a) transports cannabis or cannabis-based medicine; and

561 (b) does not possess, on the registered cannabis production establishment agent's  
562 person or in the transport vehicle, a transportation record that complies with Subsection (2).

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

565 Section 17. Section **4-42-501** is enacted to read:

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

567 **4-42-501. Cannabis cultivation facility -- Operating requirements.**

568 (1) As used in this section, "low-THC cannabis" means cannabis that has a delta-9  
569 tetrahydrocannabinol concentration of less than 0.3% by dry weight.

570 (2) A cannabis cultivation facility shall cultivate cannabis indoors, in a facility  
571 equipped with a carbon filtration system for air output.

572 (3) A cannabis cultivation facility shall ensure that any cannabis growing at the  
573 cannabis cultivation facility is not visible from outside the cannabis cultivation facility.

574 (4) A cannabis cultivation facility shall use a unique identifier for:

575 (a) each batch of cannabis transferred to a cannabis processing facility; and

576 (b) each unique harvest of cannabis plants.

577 (5) If a cannabis cultivation facility cultivates cannabis other than low-THC cannabis,  
578 the cannabis cultivation facility shall cultivate the cannabis and low-THC cannabis in separate  
579 spaces with a physical barrier between the spaces.

580 (6) The department may establish human safety standards, by rule made in accordance  
581 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for a cannabis cultivation  
582 facility's:

583 (a) use of pesticides;

- 584 (b) use of fertilizers; and
- 585 (c) cultivation techniques.

586 Section 18. Section **4-42-601** is enacted to read:

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

588 **4-42-601. Cannabis processing facility -- Operating requirements.**

589 (1) A cannabis processing facility shall ensure that cannabis-based medicine that the  
590 cannabis processing facility sells or provides to a CBM dispensary complies with the  
591 requirements of this part.

592 (2) A cannabis processing facility shall operate in a facility with a carbon filtration  
593 system for air output.

594 Section 19. Section **4-42-602** is enacted to read:

595 **4-42-602. Cannabis-based medicine -- Product requirements.**

596 (1) A cannabis processing facility may only produce cannabis-based medicine in a  
597 medical dosage form that is:

- 598 (a) a tablet;
- 599 (b) a capsule;
- 600 (c) a concentrated oil;
- 601 (d) a trans-dermal preparation; or
- 602 (e) a sub-lingual preparation.

603 (2) The Controlled Substances Advisory Committee may recommend that the  
604 Legislature approve the use of an additional medical dosage form.

605 (3) A cannabis processing facility may not manufacture cannabis-based medicine by  
606 applying a cannabis agent to the surface of a food product.

607 Section 20. Section **4-42-603** is enacted to read:

608 **4-42-603. Cannabis-based medicine -- Labeling and packaging.**

609 (1) Cannabis-based medicine shall have a label that:

- 610 (a) clearly and unambiguously states that the cannabis-based medicine contains  
611 cannabis;
- 612 (b) clearly displays the cannabinoid profile of the cannabis-based medicine;
- 613 (c) has a unique batch identifier that identifies the unique manufacturing process when  
614 the cannabis-based medicine was manufactured;

615 (d) has a bar code or other identifier that allows the cannabis-based medicine to be  
616 tracked by an inventory control system and the electronic verification system; and

617 (e) contains information required by the department in accordance with Subsection (3).

618 (2) A cannabis processing facility shall package cannabis-based medicine in a  
619 container that:

620 (a) is tamper resistant and opaque; and

621 (b) complies with physical criteria required by the department in accordance with  
622 Subsection (3).

623 (3) The department shall establish cannabis-based medicine labeling and packaging  
624 standards by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
625 Rulemaking Act.

626 Section 21. Section **4-42-701** is enacted to read:

627 **Part 7. Independent Cannabis Testing Laboratory Operating Requirements**  
628 **4-42-701. Cannabis and cannabis-based medicine testing.**

629 (1) An independent cannabis testing laboratory shall, before cannabis-based medicine  
630 is offered for sale at a CBM dispensary, test the cannabis-based medicine as described in this  
631 section.

632 (2) An independent cannabis testing laboratory may not operate unless the independent  
633 cannabis testing laboratory is capable of accurately testing cannabis-based medicine as  
634 described in this section.

635 (3) An independent testing laboratory shall determine the cannabinoid profile of  
636 cannabis-based medicine.

637 (4) An independent cannabis testing laboratory shall determine if cannabis-based  
638 medicine contains, in an amount that is harmful to human health:

639 (a) mold;

640 (b) fungus;

641 (c) pesticides; or

642 (d) other microbial contaminants.

643 (5) For cannabis-based medicine that is manufactured using a process that involves  
644 extraction using hydrocarbons, an independent cannabis testing laboratory shall test the  
645 cannabis-based medicine for residual solvents.

646 (6) An independent cannabis testing laboratory shall test any cannabis that the  
647 independent cannabis testing laboratory receives from a cannabis cultivation facility using  
648 carbon stable isotope testing to determine:

649 (a) the origin of the cannabis;

650 (b) the conditions under which the cannabis was grown; and

651 (c) any other information required by the department under Subsection (7) about the  
652 cannabis that can be determined using stable isotope testing.

653 (7) The department may determine, by rule made in accordance with Title 63G,  
654 Chapter 3, Utah Administrative Rulemaking Act:

655 (a) the amount of substances described in Subsection (4) and the amount of residual  
656 solvents that are safe for human consumption;

657 (b) additional cannabis or cannabis-based medicine testing that an independent  
658 cannabis testing laboratory is required to perform; and

659 (c) minimum standards for an independent cannabis testing laboratory's testing  
660 methods and procedures.

661 Section 22. Section **4-42-702** is enacted to read:

662 **4-42-702. Reporting -- Inspections.**

663 (1) An independent cannabis testing laboratory shall notify the department if the  
664 independent cannabis testing laboratory determines that the results of a lab test indicate that a  
665 cannabis-based medicine batch:

666 (a) is unsafe for human consumption; or

667 (b) has a ratio of less than 10 grams of the cannabinoid cannabis-based medicine per  
668 each one gram of tetrahydrocannabinol.

669 (2) If the independent cannabis testing laboratory notifies the department of a  
670 cannabis-based medicine batch's test results under Subsection (1), the independent cannabis  
671 testing laboratory may not release the cannabis-based medicine batch to a CBM dispensary  
672 until the department has an opportunity to respond to the independent cannabis testing  
673 laboratory within a period of time, determined by the department.

674 (3) If the department determines that a cannabis-based medicine batch is unsafe for  
675 human consumption, the department may seize, embargo, and destroy a cannabis-based  
676 medicine batch in accordance with Section [4-42-801](#).

677 (4) The department shall establish, by rule made in accordance with Title 63G, Chapter  
678 3, Utah Administrative Rulemaking Act, the amount of time that an independent cannabis  
679 testing laboratory is required to hold a cannabis-based medicine batch under Subsection (2).

680 (5) The department may conduct a test to:

681 (a) to determine the accuracy of an independent cannabis testing laboratory's:

682 (i) cannabis-based medicine test results; or

683 (ii) analytical method; or

684 (b) validate an independent cannabis testing laboratory's testing methods.

685 Section 23. Section **4-42-801** is enacted to read:

686 **Part 8. Enforcement**

687 **4-42-801. Enforcement -- Fine -- Citation.**

688 (1) The department may, for a violation of the licensing provisions of this chapter by a  
689 person that is a cannabis production establishment or a cannabis production establishment  
690 agent:

691 (a) revoke the person's license;

692 (b) refuse to renew the person's license;

693 (c) assess the person an administrative penalty; or

694 (d) take any other appropriate administrative action.

695 (2) The department shall deposit an administrative penalty imposed under this section  
696 into the General Fund as a dedicated credit to be used by the department to administer and  
697 enforce this chapter.

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

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

703 (ii) the person prepared a cannabis or cannabis-based medicine batch in a manner, or  
704 such that the batch contains a substance, that poses a threat to human health.

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

707 (i) issue the person a citation in writing;

708 (ii) attempt to negotiate a stipulated settlement; or  
709 (iii) direct the person to appear before an adjudicative proceeding conducted under  
710 Title 63G, Chapter 4, Administrative Procedures Act.

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

713 (i) seize, embargo, or destroy a cannabis or cannabis-based medicine batch; and  
714 (ii) direct the person to appear before an adjudicative proceeding conducted under Title  
715 63G, Chapter 4, Administrative Procedures Act.

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

718 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to  
719 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance  
720 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

721 (b) order the person to cease and desist from the action that creates a violation.

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

724 (6) If within 20 calendar days after the day on which a department serves a citation for  
725 a violation of this chapter, the person that is the subject of the citation fails to request a hearing  
726 to contest the citation, the citation becomes the basis of the department's final order.

727 (7) The department may, for a person who fails to comply with a citation under this  
728 section:

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

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

733 Section 24. Section **4-42-802** is enacted to read:

734 **4-42-802. Report to the Legislature.**

735 The department shall report, each year before November 1, to the Health and Human  
736 Services Interim Committee, on the department's administration and enforcement of this  
737 chapter.

738 Section 25. Section **4-42-803** is enacted to read:



739 **4-42-803. Fees -- Deposit into Medical Cannabis Restricted Account.**

740 The department shall deposit fees the department collects under this chapter in the  
741 Medical Cannabis Restricted Account.

742 Section 26. Section **7-26-101** is enacted to read:

743 **CHAPTER 26. CANNABIS PAYMENT PROCESSOR**

744 **Part 1. General Provisions**

745 **7-26-101. Title.**

746 This chapter is known as "Cannabis Payment Processor."

747 Section 27. Section **7-26-102** is enacted to read:

748 **7-26-102. Definitions.**

749 As used in this chapter:

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

751 (2) "Cannabis-based medicine" means the same as that term is defined in Section  
752 [58-37-3.6](#).

753 (3) "Cannabis cultivation facility" means the same as that term is defined in Section  
754 [4-42-102](#).

755 (4) "Cannabis payment processor" means a person that facilitates payment:

756 (a) without using cash;

757 (b) electronically, in connection with the state electronic verification system;

758 (c) (i) by a cannabis production establishment:

759 (A) for cannabis, from a cannabis processing facility to a cannabis cultivation facility;

760 (B) for cannabis-based medicine testing, from a cannabis processing facility to an  
761 independent cannabis testing laboratory; or

762 (C) for cannabis-based medicine, from a CBM dispensary to a cannabis processing  
763 facility; or

764 (ii) by an individual with a medical cannabis card, for cannabis-based medicine, to a  
765 CBM dispensary.

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

767 (6) "Cannabis processing facility" means the same as that term is defined in Section  
768 [4-42-102](#).

769 (7) "Electronic verification system" means the same as that term is defined in Section

770 [26-58-102.](#)

771 Section 28. Section **7-26-201** is enacted to read:

772 **Part 2. Cannabis Payment Processor License**

773 **7-26-201. Cannabis payment processor -- License.**

774 (1) Subject to this chapter, the department shall issue a license to a person to operate as  
775 a cannabis payment processor.

776 (2) A person may not act as a cannabis payment processor without a license issued by  
777 the department under this section.

778 (3) An applicant for a cannabis payment processor license shall:

779 (a) submit to the department:

780 (i) the applicant's name, business address, and place of incorporation; and

781 (ii) the name of each owner, officer, director, board member, shareholder, agent,  
782 employee, or volunteer of the applicant; and

783 (b) present evidence to the department that:

784 (i) the applicant is capable of electronically receiving funds from, and distributing  
785 funds to:

786 (A) a cannabis production establishment;

787 (B) a CBM dispensary; and

788 (C) an individual with a medical cannabis card;

789 (ii) the applicant has a partnership, service agreement, or service contract with a  
790 federally-insured depository institution that agrees to clear cannabis-based medicine  
791 transactions; and

792 (iii) the applicant is able to interface with the electronic verification system to enable  
793 an individual with a medical cannabis card to:

794 (A) add funds, using a bank wire or a credit card, to an account with the applicant  
795 associated with the medical cannabis card; and

796 (B) use the medical cannabis card to pay for cannabis-based medicine at a CBM  
797 dispensary using the funds in the individual's account with the cannabis payment processor.

798 (4) A license issued under this section is valid for two years.

799 (5) The department may determine, by rule made in accordance with Title 63G,  
800 Chapter 3, Utah Administrative Rulemaking Act:

801 (a) any additional information an applicant for a cannabis payment processor is  
802 required to submit to the department; and

803 (b) procedural requirements for an applicant for a license under this chapter.

804 (6) An applicant for a cannabis payment processor license under this section may  
805 request that the department treat information that the applicant submits to the department as  
806 confidential under Section 7-1-802.

807 Section 29. Section 7-26-202 is enacted to read:

808 **7-26-202. Renewal -- Abandonment.**

809 (1) Except as provided in Subsection (2), the department shall renew a person's  
810 cannabis payment processor license every two years if, at the time of renewal:

811 (a) the person meets:

812 (i) the requirements of Section 7-26-201; and

813 (ii) demonstrates the criteria described in Subsection 7-26-203(2); and

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

816 (2) (a) The department may not renew a cannabis payment processor's license for a  
817 consecutive time unless the department publishes a notice, in a newspaper of general  
818 circulation for the geographic area in which the cannabis payment processor is located, one  
819 year before the day on which the cannabis payment processor's license expires, that includes:

820 (i) the name and location of the cannabis payment processor;

821 (ii) the day on which the license for the cannabis payment processor will expire; and

822 (iii) a solicitation for cannabis payment processor license applicants.

823 (b) If, after the department publishes the notice described in Subsection (2)(a), the  
824 department receives an application for a cannabis payment processor license from a new  
825 applicant and also receives an application for renewal from the existing cannabis production  
826 establishment, the department shall issue the license to the applicant that the department  
827 determines best meets the criteria established in Section 7-26-203.

828 (3) (a) If a person who is a licensed cannabis payment processor abandons the person's  
829 cannabis payment processor license, or has the person's license revoked, the department shall  
830 publish notice of an available license in the same manner as described in Subsection (2)(a).

831 (b) The department may establish criteria, in accordance with Title 63G, Chapter 3,

832 Utah Administrative Rulemaking Act, for what actions by a cannabis payment processor  
833 constitute abandonment of a cannabis payment processor license.

834 Section 30. Section **7-26-203** is enacted to read:

835 **7-26-203. Number of licenses -- Criteria for awarding a license.**

836 (1) The department may only issue one cannabis payment processor license under this  
837 chapter.

838 (2) The department shall evaluate an applicant for a cannabis payment processor  
839 license to determine to what extent the applicant has demonstrated:

840 (a) experience with:

841 (i) establishing and running a business in a related field;

842 (ii) operating a payment processing system;

843 (iii) complying with a regulatory environment; and

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

845 (b) connections to the local community;

846 (c) that the applicant will keep the cost of the applicant's products or services low; and

847 (d) that the applicant will maximize convenience, efficiency, and security for

848 processing cannabis-based medicine payments.

849 (3) After the department reviews an applicant's application under Section [7-26-201](#) and  
850 evaluates the application for the criteria described in Subsection (2), the department shall  
851 submit the department's findings and recommendations to the commissioner.

852 (4) After reviewing the findings and recommendations described in Subsection (3), the  
853 commissioner shall make a final determination that awards or denies a cannabis payment  
854 processor license to an applicant.

855 (5) In making a recommendation of which applicant to award a cannabis payment  
856 processor license under Subsection (1), the department shall consult, to the extent that the  
857 consultation involves compatibility and coordination of a cannabis payment processor licensee  
858 with other state cannabis-based medicine regulation, with:

859 (a) the executive director of the Department of Commerce or the executive director's  
860 designee;

861 (b) the chair of the State Tax Commission or the chair's designee;

862 (c) the chief information officer of the Department of Technology Services or the chief

863 information officer's designee;

864 (d) the executive director of the Department of Health or the executive director's  
865 designee;

866 (e) the commissioner of the Department of Agriculture and Food or the executive  
867 director's designee;

868 (f) the commissioner of the Department of Financial Institutions or the commissioner's  
869 designee; and

870 (g) the commissioner of the Department of Public Safety or the commissioner's  
871 designee.

872 (6) An applicant for which the department denies an application is entitled to judicial  
873 review under Section [7-1-714](#).

874 Section 31. Section **7-26-301** is enacted to read:

875 **Part 3. Operating Requirements**

876 **7-26-301. Operating requirements.**

877 (1) A cannabis payment processor may not accept or disburse cash in a transaction  
878 involving cannabis-based medicine.

879 (2) A cannabis payment processor may not act as a cannabis payment processor for a  
880 person unless the person is:

881 (a) an individual with a medical cannabis card issued by the Department of Health  
882 under Title 26, Chapter 58, Cannabis-Based Medicine Act; or

883 (b) a person who is licensed under:

884 (i) Title 4, Chapter 42, Cannabis Production Establishment License; or

885 (ii) Title 58, Chapter 86, CBM Dispensary License.

886 (3) A cannabis payment processor shall maintain interoperability with the electronic  
887 verification system.

888 Section 32. Section **7-26-401** is enacted to read:

889 **Part 4. Enforcement**

890 **7-26-401. Examination -- Administrative action.**

891 (1) The department may examine the records or activities of a cannabis payment  
892 processor at any time in order to determine if the cannabis payment processor is complying  
893 with this chapter.

- 894 (2) If the department determines that a person is acting as a cannabis payment  
 895 processor without a license issued under this section, the department may:  
 896 (a) order the person to cease and desist from acting as a cannabis payment processor;  
 897 and  
 898 (b) assess the person a fine in an amount determined by the department by rule made in  
 899 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.  
 900 (3) If the department determines that a person with a cannabis payment processor  
 901 license issued by the department has violated this chapter, the department may:  
 902 (a) order the person to cease and desist from the violation;  
 903 (b) assess the person a fine in an amount determined by the department by rule made in  
 904 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or  
 905 (c) revoke the person's license.

906 Section 33. Section **7-26-402** is enacted to read:

907 **7-26-402. Fees -- Deposit into Medical Cannabis Restricted Account.**

908 The department shall deposit fees the department collects under this chapter in the  
 909 Medical Cannabis Restricted Account.

910 Section 34. Section **26-58-101** is enacted to read:

911 **CHAPTER 58. CANNABIS-BASED MEDICINE ACT**

912 **Part 1. General Provisions**

913 **26-58-101. Title.**

914 This chapter is known as "Cannabis-Based Medicine Act."

915 Section 35. Section **26-58-102** is enacted to read:

916 **26-58-102. Definitions.**

917 As used in this chapter:

- 918 (1) "Cannabis-based medicine" means the same as that term is defined in Section  
 919 [58-37-3.6.](#)  
 920 (2) "CBM dispensary" means the same as that term is defined in Section [58-85-102.](#)  
 921 (3) "Cannabis payment processor" means the same as that term is defined in Section  
 922 [7-26-102.](#)  
 923 (4) "Designated caregiver" means an individual who a patient with a medical cannabis  
 924 card designates as the patient's caregiver under Section [26-58-202.](#)

925 (5) "Electronic verification system" means the system described in Section 26-58-104.

926 (6) "Expanded CBM" means the same as that term is defined in Section 58-37-3.6.

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

928 (8) "Medical cannabis card" means a card that is issued to an individual by the

929 Department of Health under Section 26-58-201.

930 (9) "Medical Cannabis Restricted Account" means the account created in Section

931 26-58-105.

932 (10) "Physician" means an individual who:

933 (a) is licensed to practice:

934 (i) medicine, under Title 58, Chapter 67, Utah Medical Practice Act; or

935 (ii) osteopathic medicine, under Title 58, Chapter 68, Utah Osteopathic Medical

936 Practice Act; and

937 (b) complies with Section 58-67-807 or 58-68-807.

938 (11) "Qualifying illness" means a condition described in Subsection 58-38a-203.1(1).

939 Section 36. Section **26-58-103** is enacted to read:

940 **26-58-103. Local ordinances.**

941 This chapter does not prohibit a political subdivision from enacting an ordinance, which

942 restricts the location of, or operating requirements of, a CBM dispensary, that is more

943 restrictive than this chapter.

944 Section 37. Section **26-58-104** is enacted to read:

945 **26-58-104. Electronic verification system.**

946 (1) The Department of Agriculture and Food, the Department of Health, the

947 Department of Public Safety, and the Division of Occupational and Professional Licensing:

948 (a) shall enter into a memorandum of understanding in order to determine the function

949 and operation of a state electronic verification system;

950 (b) shall direct the Department of Technology Services to work with a third party

951 provider to develop and maintain the electronic verification system; and

952 (c) shall coordinate with the Division of Purchasing under Title 63G, Chapter 6a, Utah

953 Procurement Code, to select a third party provider described in Subsection (1)(b).

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

955 (a) allow an individual to:

956 (i) apply, in the presence of a physician, to the Department of Health for a medical  
957 cannabis card; and  
958 (ii) designate up to two caregivers for the patient;  
959 (b) allow a designated caregiver to apply for a medical cannabis card;  
960 (c) allow a physician to electronically recommend treatment with cannabis-based  
961 medicine to a patient during a visit with the patient;  
962 (d) connect an individual's medical cannabis card to a database, and to an inventory  
963 control system used by a CBM dispensary, to track, in real time, for the individual's purchase of  
964 cannabis-based medicine:  
965 (i) the time and date of the purchase;  
966 (ii) the quantity and type of cannabis-based medicine purchased; and  
967 (iii) a cannabis production establishment or CBM dispensary associated with the  
968 cannabis-based medicine;  
969 (e) provide access to an entity described in Subsection (1) to the extent necessary for  
970 the entity to carry out the functions and responsibilities given to the entity under this chapter;  
971 (f) provide access to state or local law enforcement:  
972 (i) during a traffic stop; or  
973 (ii) after obtaining a warrant;  
974 (g) create a record each time the database is accessed that identifies the individual who  
975 accessed the database and the individual whose records were accessed have;  
976 (h) have the capability of interfacing with a cannabis payment processor to facilitate  
977 payment for cannabis-based medicine services; and  
978 (i) include an inventory control system for each licensed cannabis production  
979 establishment and each licensed CBM dispensary.  
980 (3) The Department of Health may release the data collected by the system under  
981 Subsection (2) for the purpose of conducting medical research, if the medical research is  
982 approved by an institutional review board associated with a university medical school.  
983 Section 38. Section **26-58-105** is enacted to read:  
984 **26-58-105. Medical Cannabis Restricted Account -- Creation.**  
985 (1) There is created in the General Fund a restricted account known as the "Medical  
986 Cannabis Restricted Account."



- 987           (2) The account created in this section is funded from:
- 988           (a) money deposited by the State Tax Commission under Title 59, Chapter 28, Medical
- 989 Cannabis Tax;
- 990           (b) money deposited into the account by the Department of Agriculture and Food under
- 991 Section [4-42-801](#);
- 992           (c) money deposited into the account by the department under Section [26-58-601](#);
- 993           (d) appropriations made to the account by the Legislature; and
- 994           (e) the interest described in Subsection (3).
- 995           (3) Interest earned on the account is deposited in the account.
- 996           (4) The money in the account may only be used to fund, upon appropriation:
- 997           (a) the cost of state regulation of cannabis-based medicine under:
- 998           (i) Title 4, Chapter 42, Cannabis Production Establishments; and
- 999           (ii) Title 7, Chapter 26, Cannabis Payment Processor;
- 1000           (iii) Title 26, Chapter 58, Medical Cannabis Act;
- 1001           (iv) Title 58, Chapter 86, CBM Dispensary License; and
- 1002           (v) Title 59, Chapter 28, Medical Cannabis Tax Act;
- 1003           (b) the cost to the attorney general for investigation and enforcement related to medical
- 1004 cannabis; and
- 1005           (c) cannabis abuse prevention and cannabis education programs developed by the state.
- 1006           (5) At the end of fiscal year 2018, the director of the Division of Finance shall transfer
- 1007 into the General Fund from the Medical Cannabis Restricted Account an amount equal to the
- 1008 General Fund appropriation in fiscal year 2016 and fiscal year 2017 to implement the
- 1009 provisions of this bill.

Section 39. Section **26-58-201** is enacted to read:

**Part 2. Medical Cannabis Card**

**26-58-201. Medical cannabis card -- Application -- Renewal.**

- 1013           (1) The department shall, within 45 days after an individual submits an application in
- 1014 compliance with this section, issue a medical cannabis card, via the electronic verification
- 1015 system described in Section [26-58-104](#), to an individual if the individual:
- 1016           (a) is at least 18 years old;
- 1017           (b) is a Utah resident;

1018 (c) submits to the department, via the electronic verification system, a recommendation  
1019 electronically signed by a physician that indicates that the individual:

1020 (i) (A) suffers from a qualifying illness, including the type of qualifying illness; and

1021 (B) may benefit from treatment with cannabis-based medicine; or

1022 (ii) qualifies for expanded CBM under Section [26-58-205](#);

1023 (d) pays the department a fee established by the department in accordance with Section  
1024 [63J-1-504](#); and

1025 (e) submits an application to the department, using the electronic verification system  
1026 that contains:

1027 (i) the individual's name, gender, age, and address; and

1028 (ii) a copy of the individual's photo identification.

1029 (2) An individual who applies for a medical cannabis card under Subsection (1) shall  
1030 fill out and submit the application described in Subsection (1):

1031 (a) online, in connection with the electronic verification system; and

1032 (b) with a physician, during an office visit with the physician.

1033 (3) A medical cannabis card that the department issues under Subsection (1) is valid  
1034 for one year.

1035 (4) The department may renew an individual's medical cannabis card if, at the time of  
1036 renewal, the individual meets the requirements of Subsection (1) or (2).

1037 (5) The department may revoke an individual's medical cannabis card if the individual  
1038 violates this chapter.

1039 Section 40. Section **26-58-202** is enacted to read:

1040 **26-58-202. Medical cannabis card -- Designated caregiver -- Registration --**

1041 **Renewal -- Revocation.**

1042 (1) An individual who holds a valid medical cannabis card under Section [26-58-201](#)  
1043 who a physician determines is unable to obtain cannabis-based medicine from a CBM  
1044 dispensary may register with the department, via the electronic verification system, up to two  
1045 individuals to serve as designated caregivers of the individual.

1046 (2) An individual registered as a designated caregiver of a designating patient under  
1047 this section may:

1048 (a) carry a valid medical cannabis card issued to the individual by the department with

1049 the designating patient's name and the designated caregiver's name; and

1050 (b) purchase and possess cannabis-based medicine, in accordance with this chapter, on  
1051 behalf of the designating patient.

1052 (3) An individual may serve as a designated caregiver under Subsection (1) if the  
1053 individual:

1054 (a) is at least 18 years old;

1055 (b) is a Utah resident;

1056 (c) submits an application to the department, online via the electronic verification  
1057 system, that includes:

1058 (i) the individual's name and address;

1059 (ii) a copy of the individual's photo identification; and

1060 (iii) any other information required by the department by rule made in accordance with  
1061 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1062 (d) pays, to the department, a fee, established by the department in accordance with  
1063 Section 63J-1-504, plus the cost of a criminal background check; and

1064 (e) complies with Section 26-58-203.

1065 (4) A medical cannabis card issued to a designated caregiver is valid for one year.

1066 (5) A medical cannabis card is renewable for a designated caregiver, if at the time of  
1067 renewal:

1068 (a) the individual described in Subsection (1) renews the designation of the caregiver;

1069 and

1070 (b) the designated caregiver meets the requirements of Subsection (3).

1071 (6) The department shall revoke or refuse to issue the registration of a designated  
1072 caregiver if the designated caregiver is convicted of a felony that is:

1073 (a) a crime of violence involving the use of force or violence against another person; or

1074 (b) a felony conviction of a state or federal law pertaining to controlled substances.

1075 Section 41. Section **26-58-203** is enacted to read:

1076 **26-58-203. Designated caregiver -- Criminal background check.**

1077 (1) An individual registered as a designated caregiver under Section 26-58-202 shall  
1078 submit to a criminal background check in accordance with Subsection (2).

1079 (2) An individual registered as a designated caregiver shall:

1080           (a) submit to the department:  
1081           (i) a fingerprint card in a form acceptable to the Department of Public Safety; and  
1082           (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the  
1083 individual's fingerprints are being registered in the Federal Bureau of Investigation's Next  
1084 Generation Identification system's Rap Back Service; and  
1085           (b) consent to a fingerprint background check by:  
1086           (i) the Utah Bureau of Criminal Identification; and  
1087           (ii) the Federal Bureau of Investigation.  
1088           (3) The Bureau of Criminal Identification shall:  
1089           (a) check the fingerprints submitted under Subsection (2) against the applicable state,  
1090 regional, and national criminal records databases, including the Federal Bureau of  
1091 Investigation's Next Generation Identification system;  
1092           (b) report the results of the background check to the department;  
1093           (c) maintain a separate file of fingerprints submitted under Subsection (2) for search by  
1094 future submissions to the local and regional criminal records databases, including latent prints;  
1095           (d) request that the fingerprints be retained in the Federal Bureau of Investigation's  
1096 Next Generation Identification system's Rap Back Service for search by future submissions to  
1097 national criminal records databases, including the Next Generation Identification system and  
1098 latent prints; and  
1099           (e) establish a privacy risk mitigation strategy to ensure that the entity only receives  
1100 notifications for an individual with whom the entity maintains an authorizing relationship.  
1101           (4) The department shall:  
1102           (a) assess an individual who submits fingerprints, in accordance with this section, a fee  
1103 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of  
1104 Criminal Identification or other authorized agency provides under this section; and  
1105           (b) remit a fee collected under Subsection (4)(a) to the Bureau of Criminal  
1106 Identification.  
1107           Section 42. Section **26-58-204** is enacted to read:  
1108           **26-58-204. Medical cannabis card -- Patient and designated caregiver**  
1109 **requirements.**  
1110           (1) An individual with a valid medical cannabis card who possesses cannabis-based

1111 medicine outside of the individual's residence shall:

1112 (a) carry, with the individual at all times, the individual's medical cannabis card;

1113 (b) carry, with the cannabis-based medicine or cannabis-based medicine product, a  
1114 label that identifies that the cannabis-based medicine was originally sold from a licensed CBM  
1115 dispensary, including the bar code or identification number that links the cannabis-based  
1116 medicine to the CBM dispensary's inventory control system; and

1117 (c) possess no more than a 30-day supply of cannabis-based medicine as established by  
1118 the recommendation of a physician for the individual's treatment.

1119 (2) An individual who has a valid medical cannabis card may only purchase  
1120 cannabis-based medicine via a cannabis payment processor licensed under Section [7-26-201](#).

1121 (3) An individual who has a valid medical cannabis card is guilty of an infraction if the  
1122 individual:

1123 (a) possesses cannabis-based medicine; and

1124 (b) (i) does not possess the individual's medical cannabis card on the individual's  
1125 person; or

1126 (ii) does not possess a label that complies with Subsection (1)(b).

1127 (4) An individual who is guilty of an infraction under Subsection (3) is subject to a  
1128 \$100 fine.

1129 Section 43. Section **26-58-205** is enacted to read:

1130 **26-58-205. Expanded CBM access -- Physician training --- Cannabis-based**  
1131 **medicine specialist.**

1132 (1) As used in this section:

1133 (a) "Cannabis-based medicine specialist" means a physician with a cannabis-based  
1134 medicine specialist certification issued by the division under Subsection (7).

1135 (b) "Division" means the Division of Occupational and Professional Licensing within  
1136 the Department of Commerce.

1137 (c) "Group 1 physician" means a physician who may recommend expanded CBM to a  
1138 patient under Subsection (4).

1139 (d) "Group 2 physician" means a physician who may recommend expanded CBM to a  
1140 patient under Subsection (5).

1141 (2) An individual with a medical cannabis card may not purchase expanded CBM at a

1142 CBM dispensary unless the individual's physician recommends expanded CBM to the  
1143 individual in compliance with this section.

1144 (3) A physician may not recommend expanded CBM to an individual except in  
1145 compliance with this section.

1146 (4) In addition to the requirements of this chapter, a physician with a group 1  
1147 certification from the division may recommend expanded CBM to a patient if:

1148 (a) (i) the physician is board certified in hematology or oncology; and

1149 (ii) the patient is being actively treated for a diagnosed malignancy or is being provided  
1150 palliative care for an incurable malignancy;

1151 (b) (i) the physician is a hospice director who, after a face-to-face evaluation with the  
1152 patient, determines that the patient has six months or less to live; and

1153 (ii) the patient is being actively treated by a licensed hospice care provider;

1154 (c) (i) the physician is an infectious disease specialist; and

1155 (ii) the patient is diagnosed with HIV- or AIDS-associated anorexia and wasting  
1156 syndrome; or

1157 (d) (i) the physician is a state-certified cannabis-based medicine specialist who is  
1158 board-certified in pain management, internal medicine, or pediatrics; and

1159 (ii) the patient is has an incurable, catastrophic, or rare condition.

1160 (5) In addition to the requirements of this chapter, a physician with a group 2  
1161 certification from the division may recommend expanded CBM to a patient if:

1162 (a) (i) the physician is board certified in neurology; and

1163 (ii) the patient is diagnosed with multiple sclerosis, epilepsy, ALS, or peripheral  
1164 neuropathy;

1165 (b) (i) the physician is board certified in infectious disease; and

1166 (ii) the patient is diagnosed with HIV- or AIDS-peripheral neuropathy;

1167 (c) (i) the physician is a board certified pain specialist; and

1168 (ii) the patient is diagnosed with chronic pain, failed back syndrome, or neuropathic  
1169 pain; or

1170 (d) (i) the physician is board certified in gastroenterology; and

1171 (ii) the patient is diagnosed with intractable nausea.

1172 (6) The division shall issue, to a physician who completes training in cannabis-based

1173 medicine developed by the division in coordination with the department and required by the  
1174 division by rule made in accordance with Title 63G Chapter 3, Utah Administrative  
1175 Rulemaking Act:

1176 (a) a group 1 certification; or

1177 (b) a group 2 certification.

1178 (7) (a) The division shall issue a cannabis-based medicine specialist certification to a  
1179 physician who completes training in cannabis-based medicine developed by the division in  
1180 coordination with the department and required by the division by rule made in accordance with  
1181 Title 63G Chapter 3, Utah Administrative Rulemaking Act; and

1182 (b) The division shall issue a cannabis-based medicine specialist certification to no  
1183 more than the greater of:

1184 (i) one physician per 200,000 people in the state; or

1185 (ii) two physicians in each health district as determined by the division.

1186 (8) A group 1 physician may recommend expanded CBM to a patient if the patient:

1187 (a) was referred to the group 1 physician by the patient's primary care physician; and

1188 (b) has a condition the treatment of which the group 1 physician specializes in.

1189 (9) A group 1 physician may recommend that a patient use expanded CBM with a  
1190 vaporizer.

1191 (10) A cannabis-based medicine specialist may recommend expanded CBM to, and the  
1192 department may issue a medical cannabis card to, a patient who is less than 18 years old if:

1193 (a) the cannabis-based medicine specialist is board certified in pediatrics; and

1194 (b) the patient has an incurable, catastrophic, or rare condition.

1195 (11) A group 2 physician may recommend expanded CBM to a patient if:

1196 (a) the patient was referred to the group 2 physician by the patient's primary care  
1197 physician; and

1198 (b) the group 2 physician recommends expanded CBM that is at least 50% cannabidiol  
1199 by weight.

1200 (12) If a physician recommends treatment with expanded CBM to a patient under this  
1201 section:

1202 (a) the physician shall submit the recommendation to the department via the electronic  
1203 verification system; and

1204 (b) the department shall:

1205 (i) designate, via the electronic verification system, that the patient is eligible to

1206 purchase expanded CBM; and

1207 (ii) issue the patient a unique type of medical cannabis card that:

1208 (A) indicates that the patient is eligible to purchase expanded CBM; and

1209 (B) is physically distinguishable from a medical cannabis card used by a patient who is

1210 not eligible for expanded CBM.

1211 Section 44. Section **26-58-206** is enacted to read:

1212 **26-58-206. Insurance coverage.**

1213 An insurance carrier, third-party administrator, or employer is not required to provide  
1214 reimbursement for treatment of an individual with cannabis-based medicine under this chapter.

1215 Section 45. Section **26-58-207** is enacted to read:

1216 **26-58-207. Report to the Legislature.**

1217 The department shall, before November 1 each year, report to the Health and Human

1218 Services Interim Committee on the department's administration and enforcement of this

1219 chapter.

1220 Section 46. Section **26-58-301** is enacted to read:

1221 **Part 3. Medical Cannabis-Based Medicine Research License**

1222 **26-58-301. Medical cannabis-based medicine research license.**

1223 (1) The department may issue a license to a higher education institution to conduct  
1224 medical research on cannabis-based medicine if the higher education institution submits to the  
1225 department:

1226 (a) the higher education institution's research plan; and

1227 (b) the name of an employee of the higher education institution who will supervise the  
1228 medical cannabis-based medicine research.

1229 (2) Notwithstanding the provisions of Title 58, Chapter 37, Utah Controlled  
1230 Substances Act, a higher education institution to which the department issues a medical  
1231 cannabis-based medicine research license under this chapter may:

1232 (a) purchase cannabis-based medicine from a person licensed under Title 58, Chapter  
1233 86, CBM Dispensary License;

1234 (b) possess cannabis-based medicine; or



1235 (c) provide cannabis-based medicine to a patient as part of a medical research study  
1236 approved by the department.

1237 (3) The department shall establish rules made in accordance with Title 63G, Chapter 3,  
1238 Utah Administrative Rulemaking Act, that provide:

1239 (a) eligibility criteria for a medical cannabis-based medicine research license; and

1240 (b) standards for an acceptable medical research study under Subsection (1)(a).

1241 Section 47. Section **26-58-401** is enacted to read:

1242 **26-58-401. Fees -- Deposit into Medical Cannabis Restricted Account.**

1243 The department shall deposit fees the department collects under this chapter in the  
1244 Medical Cannabis Restricted Account.

1245 Section 48. Section **41-6a-517** is amended to read:

1246 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
1247 **body -- Penalties -- Arrest without warrant.**

1248 (1) As used in this section:

1249 (a) "Controlled substance" has the same meaning as in Section 58-37-2.

1250 (b) "Practitioner" has the same meaning as in Section 58-37-2.

1251 (c) "Prescribe" has the same meaning as in Section 58-37-2.

1252 (d) "Prescription" has the same meaning as in Section 58-37-2.

1253 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not  
1254 operate or be in actual physical control of a motor vehicle within this state if the person has any  
1255 measurable controlled substance or metabolite of a controlled substance in the person's body.

1256 (3) It is an affirmative defense to prosecution under this section that the controlled  
1257 substance was:

1258 (a) involuntarily ingested by the accused;

1259 (b) prescribed by a practitioner for use by the accused; [or]

1260 (c) cannabis-based medicine recommended by a physician and the person holds a valid  
1261 medical cannabis card under Title 26, Chapter 58, Cannabis-Based Medicine Act; or

1262 [~~c~~] (d) otherwise legally ingested.

1263 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
1264 misdemeanor.

1265 (b) A person who violates this section is subject to conviction and sentencing under

1266 both this section and any applicable offense under Section 58-37-8.

1267 (5) A peace officer may, without a warrant, arrest a person for a violation of this  
1268 section when the officer has probable cause to believe the violation has occurred, although not  
1269 in the officer's presence, and if the officer has probable cause to believe that the violation was  
1270 committed by the person.

1271 (6) The Driver License Division shall, if the person is 21 years of age or older on the  
1272 date of arrest:

1273 (a) suspend, for a period of 120 days, the driver license of a person convicted under  
1274 Subsection (2) of an offense committed on or after July 1, 2009; or

1275 (b) revoke, for a period of two years, the driver license of a person if:

1276 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1277 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
1278 and within a period of 10 years after the date of the prior violation.

1279 (7) The Driver License Division shall, if the person is 19 years of age or older but  
1280 under 21 years of age on the date of arrest:

1281 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is  
1282 longer, the driver license of a person convicted under Subsection (2) of an offense committed  
1283 on or after July 1, 2011; or

1284 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is  
1285 longer, the driver license of a person if:

1286 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1287 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
1288 and within a period of 10 years after the date of the prior violation.

1289 (8) The Driver License Division shall, if the person is under 19 years of age on the date  
1290 of arrest:

1291 (a) suspend, until the person is 21 years of age, the driver license of a person convicted  
1292 under Subsection (2) of an offense committed on or after July 1, 2009; or

1293 (b) revoke, until the person is 21 years of age, the driver license of a person if:

1294 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

1295 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
1296 and within a period of 10 years after the date of the prior violation.

1297 (9) The Driver License Division shall subtract from any suspension or revocation  
1298 period the number of days for which a license was previously suspended under Section  
1299 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
1300 which the record of conviction is based.

1301 (10) The Driver License Division shall:

1302 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in  
1303 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was  
1304 committed prior to July 1, 2009; or

1305 (b) deny, suspend, or revoke the operator's license of a person for the denial,  
1306 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

1307 (i) the person was 20 years of age or older but under 21 years of age at the time of  
1308 arrest; and

1309 (ii) the conviction under Subsection (2) is for an offense that was committed on or after  
1310 July 1, 2009, and prior to July 1, 2011.

1311 (11) A court that reported a conviction of a violation of this section for a violation that  
1312 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension  
1313 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period  
1314 if the person:

1315 (a) completes at least six months of the license suspension;

1316 (b) completes a screening;

1317 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
1318 (11)(b);

1319 (d) completes substance abuse treatment if it is found appropriate by the assessment  
1320 under Subsection (11)(c);

1321 (e) completes an educational series if substance abuse treatment is not required by the  
1322 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

1323 (f) has not been convicted of a violation of any motor vehicle law in which the person  
1324 was involved as the operator of the vehicle during the suspension period imposed under  
1325 Subsection (7)(a) or (8)(a);

1326 (g) has complied with all the terms of the person's probation or all orders of the court if  
1327 not ordered to probation; and

1328 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the  
1329 person has not consumed a controlled substance not prescribed by a practitioner for use by the  
1330 person or unlawfully consumed alcohol during the suspension period imposed under  
1331 Subsection (7)(a) or (8)(a); or

1332 (ii) is under 18 years of age and has the person's parent or legal guardian provide an  
1333 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's  
1334 knowledge the person has not consumed a controlled substance not prescribed by a practitioner  
1335 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
1336 under Subsection (7)(a) or (8)(a).

1337 (12) If the court shortens a person's license suspension period in accordance with the  
1338 requirements of Subsection (11), the court shall forward the order shortening the person's  
1339 license suspension period prior to the completion of the suspension period imposed under  
1340 Subsection (7)(a) or (8)(a) to the Driver License Division.

1341 (13) (a) The court shall notify the Driver License Division if a person fails to:

1342 (i) complete all court ordered screening and assessment, educational series, and  
1343 substance abuse treatment; or

1344 (ii) pay all fines and fees, including fees for restitution and treatment costs.

1345 (b) Upon receiving the notification, the division shall suspend the person's driving  
1346 privilege in accordance with Subsections 53-3-221(2) and (3).

1347 (14) The court shall order supervised probation in accordance with Section 41-6a-507  
1348 for a person convicted under Subsection (2).

1349 Section 49. Section 53-1-106.5 is enacted to read:

1350 **53-1-106.5. Cannabis-Based Medicine Act -- Department duties.**

1351 In addition to the duties described in Section 53-1-106, the department shall provide  
1352 standards for the training of peace officers and law enforcement agencies in the use of the  
1353 electronic verification system as defined in Section 26-58-102.

1354 Section 50. Section 58-37-3.6 is enacted to read:

1355 **58-37-3.6. Exemption for possession or use of cannabis-based medicine.**

1356 (1) As used in this section:

1357 (a) "Cannabis-based medicine" means low-THC CBM or expanded CBM.

1358 (b) "Expanded CBM" means a product intended for human ingestion that

- 1359 (i) contains an extract or concentrate that is obtained from cannabis; and
- 1360 (ii) is prepared in a medicinal dosage form as required by Section [4-42-602](#).
- 1361 (c) "Low-THC cannabis-based medicine" or "Low-THC CBM" means a product
- 1362 intended for human ingestion that:
  - 1363 (i) contains an extract or concentrate that:
    - 1364 (A) is obtained from cannabis; and
    - 1365 (B) contains at least 10 grams of cannabidiol per one gram of tetrahydrocannabinol.
  - 1366 (ii) is composed of less than 5% tetrahydrocannabinol by weight;
  - 1367 (iii) is composed of at least 5% of cannabidiol by weight; and
  - 1368 (iv) is prepared in a medicinal dosage form as required by Section [4-42-602](#).
- 1369 (d) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.
- 1370 (e) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).
- 1371 (f) "Tetrahydrocannabinol" means a substance derived from cannabis-based medicine
- 1372 that meets the description in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).
- 1373 (2) Notwithstanding any other provision of this chapter:
  - 1374 (a) an individual who grows, possesses, sells, or offers to sell cannabis is not subject to
  - 1375 the penalties described in this title for the growth, possession, sale, or offer for sale of
  - 1376 marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession, sale,
  - 1377 or offer for sale of cannabis complies with:
    - 1378 (i) Title 4, Chapter 42, Cannabis Production Establishment License;
    - 1379 (ii) Title 26, Chapter 58, Cannabis-Based Medicine Act; and
    - 1380 (iii) Title 58, Chapter 86, CBM Dispensary License;
  - 1381 (b) an individual who grows, possesses, sells, or offers to sell cannabis-based medicine
  - 1382 is not subject to the penalties described in this title for the growth, possession, sale, or offer for
  - 1383 sale of marijuana or tetrahydrocannabinol to the extent that the individual's growth, possession,
  - 1384 sale, or offer for sale of cannabis-based medicine complies with:
    - 1385 (i) Title 4, Chapter 42, Cannabis Production Establishment License;
    - 1386 (ii) Title 26, Chapter 58, Cannabis-Based Medicine Act; and
    - 1387 (iii) Title 58, Chapter 86, CBM Dispensary License; and
  - 1388 (c) an individual who possesses, sells, or offers to sell cannabis-based medicine is not
  - 1389 subject to the penalties described in this title for the possession, sale, or offer for sale of

1390 marijuana or tetrahydrocannabinol drug paraphernalia to the extent that the individual's growth,  
1391 possession, sale, or offer for sale of cannabis-based medicine complies with:

1392 (i) Title 4, Chapter 42, Cannabis Production Establishment License;

1393 (ii) Title 26, Chapter 58, Cannabis-Based Medicine Act; and

1394 (iii) Title 58, Chapter 86, CBM Dispensary License.

1395 Section 51. Section **58-37f-204** is enacted to read:

1396 **58-37f-204. Controlled substance database and cannabis-based medicine.**

1397 (1) (a) The division shall establish a process for a CBM dispensary agent to submit, at  
1398 a specified time during each 24-hour period, the information required by this section.

1399 (b) A CBM dispensary shall comply with the process established by the division under  
1400 Subsection (1)(a).

1401 (2) A CBM dispensary shall, each time the CBM dispensary dispenses cannabis-based  
1402 medicine to an individual with a medical cannabis card, submit to the division the following  
1403 information:

1404 (a) the name of the physician who recommended the cannabis-based medicine and the  
1405 unique number identifying the recommendation;

1406 (b) the date of the recommendation;

1407 (c) the date the cannabis-based medicine was dispensed;

1408 (d) the name of the individual with the medical cannabis card;

1409 (e) positive identification of the individual who receives the cannabis-based medicine,  
1410 including the type of identification and any identifying numbers on the identification;

1411 (f) the amount of cannabis-based medicine dispensed;

1412 (g) the dosage, quantity, and frequency recommended by the physician;

1413 (h) the name of the CBM dispensary dispensing the cannabis-based medicine product;

1414 (i) the name of the CBM dispensary agent who dispensed the cannabis-based medicine  
1415 product; and

1416 (j) any other information required by the division under Subsection (8).

1417 (3) If an individual's medical cannabis-based medicine record is in the controlled  
1418 substance database:

1419 (a) the individual may obtain the record by requesting the record from the division in  
1420 writing; and

1421 (b) the individual may request, in writing, with the individual's postal address included,  
1422 that the division correct any incorrect information about the individual contained in the  
1423 database.

1424 (4) For a request described in Subsection (3), the division shall:

1425 (a) grant or deny the request no later than 30 days after the day on which the division  
1426 receives the request; and

1427 (b) notify the individual who submitted the request of the division's decision by mail  
1428 postmarked no later than 35 days after the day on which the division received the request.

1429 (5) If the division denies a request described in Subsection (3), or does not respond to  
1430 the request within the time period described in Subsection (4), the individual who submitted  
1431 the request may, no later than 60 days after the day on which the individual's initial request is  
1432 postmarked, submit an appeal to the Department of Commerce.

1433 (6) The division shall ensure that the database system records and maintains for  
1434 reference:

1435 (a) the identity of and a form of identification for each individual who requests  
1436 information from the database;

1437 (b) the information accessed by the individual described in Subsection (6)(a); and

1438 (c) the date and time the individual described in Subsection (6)(a) made the request.

1439 (7) A CBM dispensary agent may access the controlled substance database in the same  
1440 manner and for the same purpose as a pharmacist may access the database under Subsection  
1441 [58-37f-301\(2\)\(i\)](#).

1442 (8) The division shall establish, by rule made in accordance with Title 63G, Chapter 3,  
1443 Utah Administrative Rulemaking Act:

1444 (a) requirements for the form and manner of submission of information submitted to  
1445 the database under this section; and

1446 (b) for the purpose of collecting health data on medical cannabis-based medicine,  
1447 additional information that a CBM dispensary is required to submit to the controlled substance  
1448 database.

1449 Section 52. Section **58-38a-201** is amended to read:

1450 **58-38a-201. Controlled Substances Advisory Committee.**

1451 There is created within the Division of Occupational and Professional Licensing the

1452 Controlled Substances Advisory Committee. The committee consists of:

1453 (1) the director of the Department of Health or the director's designee;

1454 (2) the State Medical Examiner or the examiner's designee;

1455 (3) the commissioner of the Department of Public Safety or the commissioner's

1456 designee;

1457 (4) one physician who is a member of the Physicians Licensing Board and is

1458 designated by that board;

1459 (5) one pharmacist who is a member of the Utah State Board of Pharmacy and is

1460 designated by that board;

1461 [~~(6) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board~~

1462 ~~and is designated by that board;]~~

1463 [~~(7) one physician who is currently licensed and practicing in the state, to be appointed~~

1464 ~~by the governor;]~~

1465 [~~(8)~~ (6) one psychiatrist who is currently licensed and practicing in the state, to be

1466 appointed by the governor;

1467 [~~(9)~~ (7) one individual with expertise in substance abuse addiction, to be appointed by

1468 the governor;

1469 [~~(10)~~ (8) one representative from the Statewide Association of Prosecutors, to be

1470 designated by that association;

1471 [~~(11) one naturopathic physician who is currently licensed and practicing in the state,~~

1472 ~~to be appointed by the governor;]~~

1473 [~~(12)~~ (9) one advanced practice registered nurse who is currently licensed and

1474 practicing in this state, to be appointed by the governor; ~~and]~~

1475 (10) two medical research professionals with expertise in controlled substances,

1476 including one medical research professional who is affiliated with a research-based higher

1477 education institution;

1478 (11) one representative of the Utah Chiefs of Police Association; and

1479 [~~(13)~~ (12) one member of the public, to be appointed by the governor.

1480 Section 53. Section **58-38a-203** is amended to read:

1481 **58-38a-203. Duties of the committee.**

1482 (1) The committee serves as a consultative and advisory body to the Legislature



1483 regarding:

1484 (a) the movement of a controlled substance from one schedule or list to another;

1485 (b) the removal of a controlled substance from any schedule or list; [~~and~~]

1486 (c) the designation of a substance as a controlled substance and the placement of the

1487 substance in a designated schedule or list[-]; and

1488 (d) the designation of a medical condition as a qualified illness for treatment using

1489 cannabis-based medicine as described in Subsection 58-38a-203.1(1).

1490 (2) On or before September 30 of each year, the committee shall submit to the Health

1491 and Human Services Interim Committee a written report:

1492 (a) describing any substances recommended by the committee for scheduling,

1493 rescheduling, listing, or deletion from the schedules or list by the Legislature; [~~and~~]

1494 (b) containing the report described in Subsection 58-38a-203.1(1); and

1495 [~~(b)~~] (c) stating the reasons for the recommendation.

1496 (3) In advising the Legislature regarding the need to add, delete, relist, or reschedule a

1497 substance, the committee shall consider:

1498 (a) the actual or probable abuse of the substance, including:

1499 (i) the history and current pattern of abuse both in Utah and in other states;

1500 (ii) the scope, duration, and significance of abuse;

1501 (iii) the degree of actual or probable detriment to public health which may result from

1502 abuse of the substance; and

1503 (iv) the probable physical and social impact of widespread abuse of the substance;

1504 (b) the biomedical hazard of the substance, including:

1505 (i) its pharmacology, including the effects and modifiers of the effects of the substance;

1506 (ii) its toxicology, acute and chronic toxicity, interaction with other substances,

1507 whether controlled or not, and the degree to which it may cause psychological or physiological

1508 dependence; and

1509 (iii) the risk to public health and the particular susceptibility of segments of the

1510 population;

1511 (c) whether the substance is an immediate precursor, as defined in Section 58-37-2, of

1512 a substance that is currently a controlled substance;

1513 (d) the current state of scientific knowledge regarding the substance, including whether

- 1514 there is any acceptable means to safely use the substance under medical supervision;
- 1515 (e) the relationship between the use of the substance and criminal activity, including
- 1516 whether:
- 1517 (i) persons engaged in illicit trafficking of the substance are also engaged in other
- 1518 criminal activity;
- 1519 (ii) the nature and relative profitability of manufacturing or delivering the substance
- 1520 encourages illicit trafficking in the substance;
- 1521 (iii) the commission of other crimes is one of the recognized effects of abuse of the
- 1522 substance; and
- 1523 (iv) addiction to the substance relates to the commission of crimes to facilitate the
- 1524 continued use of the substance;
- 1525 (f) whether the substance has been scheduled by other states; and
- 1526 (g) whether the substance has any accepted medical use in treatment in the United
- 1527 States.

1528 (4) The committee's duties under this chapter do not include tobacco products as

1529 defined in Section 59-14-102 or alcoholic beverages as defined in Section 32B-1-102.

1530 Section 54. Section 58-38a-203.1 is enacted to read:

1531 **58-38a-203.1. Qualifying illness for treatment using medical cannabis-based**

1532 **medicine -- Committee duties -- Recommendation to Legislature.**

1533 (1) For the purposes of Title 26, Chapter 58, Medical Cannabidiol Act, the following

1534 conditions are considered a qualifying illness:

- 1535 (a) epilepsy or a similar condition that causes debilitating seizures;
- 1536 (b) Crohn's disease or a similar gastrointestinal disorder;
- 1537 (c) HIV, acquired immune deficiency syndrome or an autoimmune disorder;
- 1538 (d) multiple sclerosis or a similar condition that causes persistent and debilitating
- 1539 muscle spasms;
- 1540 (e) nausea and vomiting during chemotherapy;
- 1541 (f) muscle spasticity or a movement disorder;
- 1542 (g) pain conditions as follows:
- 1543 (i) complex regional pain syndrome;
- 1544 (ii) peripheral neuropathy caused by diabetes;

- 1545 (iii) post herpetic neuralgia;
- 1546 (iv) pain related to HIV;
- 1547 (v) pain related to cancer;
- 1548 (vi) pain occurring after and related to a stroke; and
- 1549 (vii) phantom limb pain; and
- 1550 (h) post-traumatic stress disorder related to military service.
- 1551 (2) On or before September 30 of each year, the committee shall:
- 1552 (a) review the list of conditions described in Subsection (1) to determine if, based on
- 1553 available medically relevant information, it is medically appropriate to add or remove a
- 1554 condition from the list; and
- 1555 (b) present the committee's recommendation to the Health and Human Services Interim
- 1556 Committee.
- 1557 Section 55. Section **58-67-807** is enacted to read:
- 1558 **58-67-807. Recommendation of cannabis-based medicine -- Registration with**
- 1559 **division and Department of Health.**
- 1560 (1) A physician may recommend the use of cannabis-based medicine to a patient in
- 1561 accordance with Title 26, Chapter 58, Cannabis-Based Medicine Act, if the physician:
- 1562 (a) registers with the division and the Department of Health as a physician who
- 1563 recommends cannabis-based medicine;
- 1564 (b) completes the training required under Subsection (3); and
- 1565 (c) complies with Section [26-58-205](#).
- 1566 (2) A physician who recommends cannabis-based medicine shall:
- 1567 (a) recommend cannabis-based medicine to no more than an amount of patients
- 1568 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,
- 1569 Utah Administrative Rulemaking Act;
- 1570 (b) consult the controlled substance database before recommending cannabis-based
- 1571 medicine to a patient to determine if the patient is abusing cannabis-based medicine;
- 1572 (c) report an adverse event experienced by a patient related to the patient's medical
- 1573 cannabis-based medicine use to the Department of Health; and
- 1574 (d) report other data on cannabis-based medicine required by Title 26, Chapter 58,
- 1575 Cannabis-Based Medicine Act.

1576 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter  
1577 3, Utah Administrative Rulemaking Act, training requirements for a physician that  
1578 recommends cannabis-based medicine.

1579 (b) The division shall include, in the training requirements the division establishes  
1580 under Subsection (3)(a), training on using caution when recommending cannabis-based  
1581 medicine to avoid patient cannabis-based medicine abuse.

1582 (4) It is not a breach of the applicable standard of care for a physician to recommend  
1583 treatment with cannabis-based medicine to an individual under this section and Title 26,  
1584 Chapter 58, Cannabis-Based Medicine Act.

1585 (5) A physician who recommends treatment with cannabis-based medicine or a  
1586 cannabis-based medicine product to an individual under this section and Title 26, Chapter 58,  
1587 Cannabis-Based Medicine Act, may not, solely based on that recommendation, be subject to:

1588 (a) civil liability;

1589 (b) criminal liability; or

1590 (c) licensure sanctions under this chapter.

1591 Section 56. Section **58-68-807** is enacted to read:

1592 **58-68-807. Recommendation of cannabis-based medicine -- Registration with**  
1593 **division and Department of Health.**

1594 (1) A physician may recommend the use of cannabis-based medicine to a patient in  
1595 accordance with Title 26, Chapter 58, Cannabis-Based Medicine Act, if the physician:

1596 (a) registers with the division and the Department of Health as a physician who  
1597 recommends cannabis-based medicine;

1598 (b) completes the training required under Subsection (3); and

1599 (c) complies with Section [26-58-205](#).

1600 (2) A physician who recommends cannabis-based medicine shall:

1601 (a) recommend cannabis-based medicine to no more than an amount of patients  
1602 determined by the Department of Health by rule made in accordance with Title 63G, Chapter 3,  
1603 Utah Administrative Rulemaking Act;

1604 (b) consult the controlled substance database before recommending cannabis-based  
1605 medicine to a patient to determine if the patient is abusing cannabis-based medicine;

1606 (c) report an adverse event experienced by a patient related to the patient's medical

1607 cannabis-based medicine use to the Department of Health; and

1608 (d) report other data on cannabis-based medicine required by Title 26, Chapter 58,  
1609 Cannabis-Based Medicine Act.

1610 (3) (a) The division shall establish by rule made in accordance with Title 63G, Chapter  
1611 3, Utah Administrative Rulemaking Act, training requirements for a physician that  
1612 recommends cannabis-based medicine.

1613 (b) The division shall include, in the training requirements the division establishes  
1614 under Subsection (3)(a), training on using caution when recommending cannabis-based  
1615 medicine to avoid patient cannabis-based medicine abuse.

1616 (4) It is not a breach of the applicable standard of care for a physician to recommend  
1617 treatment with cannabis-based medicine to an individual under this section and Title 26,  
1618 Chapter 58, Cannabis-Based Medicine Act.

1619 (5) A physician who recommends treatment with cannabis-based medicine or a  
1620 cannabis-based medicine product to an individual under this section and Title 26, Chapter 58,  
1621 Cannabis-Based Medicine Act, may not, solely based on that recommendation, be subject to:

1622 (a) civil liability;

1623 (b) criminal liability; or

1624 (c) licensure sanctions under this chapter.

1625 Section 57. Section **58-86-101** is enacted to read:

1626 **CHAPTER 86. CBM DISPENSARY LICENSE**

1627 **Part 1. General Provisions**

1628 **58-86-101. Title.**

1629 This chapter is known as "CBM Dispensary License."

1630 Section 58. Section **58-86-102** is enacted to read:

1631 **58-86-102. Definitions.**

1632 As used in this chapter:

1633 (1) "Cannabis-based medicine" means the same as that term is defined in Section  
1634 [58-37-3.6](#).

1635 (2) "Cannabis cultivation facility" means the same as that term is defined in Section  
1636 [4-42-102](#).

1637 (3) "CBM dispensary" means a person that:

- 1638 (a) sells cannabis-based medicine; or
- 1639 (b) purchases or possesses cannabis-based medicine with the intent to sell
- 1640 cannabis-based medicine.
- 1641 (4) "CBM dispensary agent" means an owner, officer, director, board member,
- 1642 shareholder, agent, employee or volunteer of a CBM dispensary.
- 1643 (5) "CBM dispensary agent registration card" means a registration card, issued by the
- 1644 division under Section 58-85-301, that authorizes an individual to be a CBM dispensary agent.
- 1645 (6) "cannabis payment processor" means the same as that term is defined in Section
- 1646 7-26-201.
- 1647 (7) "Cannabis production establishment" means the same as that term is defined in
- 1648 Section 4-42-102.
- 1649 (8) "Cannabis production establishment agent" means the same as that term is defined
- 1650 in Section 4-42-102.
- 1651 (9) "Cannabis production establishment agent registration card" means the same as that
- 1652 term is defined in Section 4-42-102.
- 1653 (10) "Cannabis" means the same as that term is defined in Section 58-37-3.6.
- 1654 (11) "Designated caregiver" means the same as that term is defined in Section
- 1655 26-58-102.
- 1656 (12) "Electronic verification system" means the system described in Section 26-58-104.
- 1657 (13) "Independent cannabis testing laboratory" means the same as that term is defined
- 1658 in Section 4-42-102.
- 1659 (14) "Inventory control system" means the system described in Section 4-42-103.
- 1660 (15) "Medical cannabis card" means the same as that term is defined in Section
- 1661 26-58-102.
- 1662 (16) "Physician" means the same as that term is defined in Section 26-58-102.

1663 Section 59. Section **58-86-201** is enacted to read:

1664 **Part 2. License and Eligibility**

1665 **58-86-201. CBM dispensary -- License -- Eligibility.**

- 1666 (1) A person may not operate as a CBM dispensary without a license from the division
- 1667 issued under this part.
- 1668 (2) Subject to the requirements of this part, the division shall, within 30 business days

1669 after receiving a complete application, issue a license to operate a CBM dispensary to a person  
1670 who submits to the division:

1671 (a) a proposed name, address, and physical location where the person will operate the  
1672 CBM dispensary;

1673 (b) a bond, as required by Section 58-86-205, for each license for which the person  
1674 applies;

1675 (c) evidence that the person:

1676 (i) can comply with the operating requirements for a CBM dispensary described in this  
1677 chapter;

1678 (ii) will implement an inventory control system at the CBM dispensary; and

1679 (iii) can obtain a business license and meet zoning requirements established by a  
1680 political subdivision;

1681 (c) an application fee, in an amount determined by the division in accordance with  
1682 Section 63J-1-504, that is necessary to cover the division's cost to implement this part; and

1683 (d) an operating plan that complies with Section 58-86-203.

1684 (3) If the division determines that a CBM dispensary is eligible for a license under this  
1685 section, the division shall charge the CBM dispensary an initial license fee in an amount  
1686 determined by the division in accordance with Section 63J-1-504.

1687 (4) The division may revoke a license under this chapter if the CBM dispensary is not  
1688 operational within one year of the issuance of the initial license.

1689 Section 60. Section **58-86-202** is enacted to read:

1690 **58-86-202. Renewal.**

1691 (1) Except as provided in Subsection (2), the division shall renew a person's license  
1692 under this part every two years if, at the time of renewal:

1693 (a) the person meets the requirements of Section 58-86-201; and

1694 (b) the person pays the division a license renewal fee in an amount determined by the  
1695 division in accordance with Section 63J-1-504.

1696 (2) (a) The division may not renew a CBM dispensary's license for a sixth consecutive  
1697 time unless the division publishes a notice, in a newspaper of general circulation for the  
1698 geographic area in which the CBM dispensary is located, one year before the day on which the  
1699 CBM dispensary's license expires, that includes:

1700           (i) the name and location of the CBM dispensary;  
1701           (ii) the day on which the license for the CBM dispensary will expire; and  
1702           (iii) a solicitation for CBM dispensary license applicants.  
1703           (b) If, after the division publishes the notice described in Subsection (2)(a), the division  
1704 receives an application for a CBM dispensary from a new applicant and also receives an  
1705 application for renewal from the existing CBM dispensary, the division shall issue the license  
1706 to the applicant that the division determines best meets the criteria established in Section  
1707 58-86-204.  
1708           (3) (a) If a licensed CBM dispensary abandons the CBM dispensary's license, the  
1709 division shall publish notice of an available license in the same manner as described in  
1710 Subsection (2)(a).  
1711           (b) The division may establish criteria, in accordance with Title 63G, Chapter 3, Utah  
1712 Administrative Rulemaking Act, for what actions by a CBM dispensary constitute  
1713 abandonment of a CBM dispensary license.  
1714           Section 61. Section **58-86-203** is enacted to read:  
1715           **58-86-203. Operating plan.**  
1716           (1) A person applying for a CBM dispensary license shall submit to the division a  
1717 proposed operating plan for the CBM dispensary.  
1718           (2) The operating plan described in Subsection (1) shall include:  
1719           (a) a description of the CBM dispensary's employee training standards;  
1720           (b) a security plan for the CBM dispensary;  
1721           (c) a plan to process payments through a cannabis payment processor licensed under  
1722 Section 7-26-201.  
1723           (d) the time period in which the person estimates the CBM dispensary will become  
1724 operational; and  
1725           (e) the products, and anticipated sources of the products, that a CBM dispensary plans  
1726 to sell.  
1727           Section 62. Section **58-86-204** is enacted to read:  
1728           **58-86-204. Maximum number of licenses.**  
1729           (1) The division may not issue more than five CBM dispensary licenses at any given  
1730 time.



1731 (2) If more than one applicant for a license meets the qualifications of this chapter for a  
1732 CBM dispensary, the division shall evaluate the applicants to determine which applicant has  
1733 best demonstrated:

1734 (a) experience with:

1735 (i) establishing and running a business in a related field;

1736 (ii) operating a secure inventory control system;

1737 (iii) complying with a regulatory environment; and

1738 (iv) training, evaluating, and monitoring employees;

1739 (b) connections to the local community; and

1740 (c) that the applicant will keep the cost of cannabis-based medicine low.

1741 Section 63. Section **58-86-205** is enacted to read:

1742 **58-86-205. Bond for a CBM dispensary license.**

1743 (1) A CBM dispensary licensed under Section [58-86-201](#) shall post a cash bond or  
1744 surety bond, payable to the division, in an amount equal to \$750,000.

1745 (2) A CBM dispensary licensed under Section [4-42-201](#) shall maintain the bond  
1746 described in Subsection (1) for as long as the CBM dispensary continues to operate.

1747 (3) The division shall require a bond a CBM dispensary posts under this section to be:

1748 (a) in a form approved by the attorney general; and

1749 (b) conditioned upon the CBM dispensary's compliance with this chapter.

1750 (4) If a bond described in Subsection (1) is canceled due to a CBM dispensary's  
1751 negligence, the division may assess the CBM dispensary a \$300 reinstatement fee.

1752 (5) A CBM dispensary may not withdraw any part of a bond posted under Subsection  
1753 (1):

1754 (a) during the period when the CBM dispensary's license is in effect; or

1755 (b) while a license revocation proceeding is pending against the CBM dispensary.

1756 (6) A CBM dispensary forfeits a bond posted under Subsection (1) if the CBM  
1757 dispensary's license is revoked.

1758 (7) The division may, without revoking a license, make a claim against a bond posted  
1759 by a CBM dispensary under Subsection (1) for money the CBM dispensary owes the division  
1760 under this chapter.

1761 Section 64. Section **58-86-301** is enacted to read:

1762 **Part 3. CBM Dispensary Agents**1763 **58-86-301. CBM dispensary agent -- Registration.**

1764 (1) An individual may not act as an owner, officer, director, board member,  
1765 shareholder, agent, or employee of a CBM dispensary unless the individual is registered by the  
1766 division as a CBM dispensary agent.

1767 (2) A physician may not act as a CBM dispensary agent.

1768 (3) The division shall, within 15 business days after receiving a complete application,  
1769 register and issue a CBM dispensary agent registration card to an individual who:

1770 (a) has not been convicted of an offense that is a felony under either state or federal  
1771 law;

1772 (b) provides to the division:

1773 (i) the individual's name and address; and

1774 (ii) the name and location of the licensed CBM dispensary where the individual will act  
1775 as a CBM dispensary agent;

1776 (c) pays a registration fee to the division, in an amount determined by the division in  
1777 accordance with Section [63J-1-504](#), that is necessary to cover the division's cost to implement  
1778 this chapter;

1779 (d) complies with the requirement for, and passes, a criminal background check  
1780 described in Section [58-86-302](#); and

1781 (e) demonstrates to the division that the individual has completed a training program  
1782 designated by the division under Subsection (4).

1783 (4) The division shall establish CBM dispensary agent training requirements by rule  
1784 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1785 (5) The division shall revoke or refuse to issue the CBM dispensary agent registration  
1786 card of an individual who:

1787 (a) violates the requirements of this chapter; or

1788 (b) is convicted of an offense that is a felony under state or federal law.

1789 Section 65. Section **58-86-302** is enacted to read:

1790 **58-86-302. CBM dispensary agents -- Criminal background checks.**

1791 (1) An individual applying for a CBM dispensary agent registration card under this  
1792 chapter shall:

- 1793 (a) submit to the division:
- 1794 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and
- 1795 (ii) a signed waiver in accordance with Subsection 53-10-108(4) indicating that the
- 1796 individual's fingerprints are being registered in the Federal Bureau of Investigation's Next
- 1797 Generation Identification system's Rap Back Service; and
- 1798 (b) consent to a fingerprint background check by:
- 1799 (i) the Utah Bureau of Criminal Identification; and
- 1800 (ii) the Federal Bureau of Investigation.
- 1801 (2) The Bureau of Criminal Identification shall:
- 1802 (a) check the fingerprints submitted under Subsection (1) against the applicable state,
- 1803 regional and national criminal records databases, including the Federal Bureau of
- 1804 Investigation's Next Generation Identification system;
- 1805 (b) report the results of the background check to the department;
- 1806 (c) maintain a separate file of fingerprints submitted under Subsection (1) for search by
- 1807 future submissions to the local and regional criminal records databases, including latent prints;
- 1808 (d) request that the fingerprints be retained in the Federal Bureau of Investigation's
- 1809 Next Generation Identification system's Rap Back Service for search by future submissions to
- 1810 national criminal records databases, including the Next Generation Identification system and
- 1811 latent prints; and
- 1812 (e) establish a privacy risk mitigation strategy to ensure that the entity only receives
- 1813 notifications for an individual with whom the entity maintains an authorizing relationship.
- 1814 (4) The division shall:
- 1815 (a) assess an individual who submits fingerprints, in accordance with this section, a fee
- 1816 that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of
- 1817 Criminal Identification or other authorized agency provides under this section; and
- 1818 (b) remit a fee collected under Subsection (4)(a) to the Bureau of Criminal
- 1819 Identification.
- 1820 Section 66. Section **58-86-303** is enacted to read:
- 1821 **58-86-303. CBM dispensary agent registration card -- Required to carry**
- 1822 **registration card.**
- 1823 (1) An individual who has a CBM dispensary agent registration card shall carry the

1824 individual's CBM dispensary agent registration card with the individual at all times when:

1825 (a) the individual is on the premises of a CBM dispensary; and

1826 (b) the individual is transporting cannabis or cannabis-based medicine between two  
1827 cannabis production establishments or transporting cannabis-based medicine between a  
1828 cannabis production establishment and a CBM dispensary.

1829 (2) A CBM dispensary agent registered with the department is guilty of an infraction if  
1830 the registered CBM dispensary agent:

1831 (a) (i) is on the premises of a CBM dispensary where the individual is registered as an  
1832 agent; or

1833 (ii) transports cannabis or cannabis-based medicine; and

1834 (b) does not possess, on the registered CBM dispensary agent's person, a valid CBM  
1835 dispensary agent registration card.

1836 (3) A registered CBM dispensary agent who is guilty of an infraction under Subsection  
1837 (3) is subject to a \$100 fine.

1838 Section 67. Section **58-86-401** is enacted to read:

1839 **Part 4. CBM Dispensary Operation Requirements**

1840 **58-86-401. Operating requirements -- General.**

1841 (1) (a) A CBM dispensary shall operate in accordance with the operating plan that the  
1842 CBM dispensary provides to the department under Section [58-86-203](#).

1843 (b) A CBM dispensary shall notify the department within 30 days of any change in the  
1844 CBM dispensary's operation plan.

1845 (2) Except as provided in Subsection (3), a CBM dispensary shall operate:

1846 (a) in a facility that is accessible only by an individual with a valid CBM dispensary  
1847 agent registration card issued under Section [58-86-301](#) or by an individual with a medical  
1848 cannabis card; and

1849 (b) at the physical address provided to the department under Section [58-86-201](#).

1850 (3) A cannabis-based medicine production facility may allow the press, a visitor, or a  
1851 contractor access to the CBM dispensary if:

1852 (a) the cannabis-based medicine production facility tracks and monitors the individual  
1853 at all times while the individual is in the CBM dispensary; and

1854 (b) a record of the individual's access to the CBM dispensary is maintained by the

1855 CBM dispensary.

1856 (4) A CBM dispensary may not operate without:

1857 (a) a security system with a backup power source in the event of a power outage to:

1858 (i) detect and record entry at all times the CBM dispensary is closed; and

1859 (ii) provide notice of unauthorized entry to local law enforcement;

1860 (b) a lock on any entrance to the area of the CBM dispensary where cannabis-based  
1861 medicine is stored; and

1862 (c) an inventory control system that complies with Section [4-42-104](#).

1863 (5) Except as provided in Subsection (6), a physician may not:

1864 (a) serve as a CBM dispensary agent; or

1865 (b) except online, advertise that the physician may or will recommend cannabis-based  
1866 medicine.

1867 (6) (a) A CBM dispensary shall employ an individual licensed as a pharmacist under  
1868 Title 58, Chapter 17b, Pharmacy Practice Act, to act as a consultant.

1869 (b) The individual described in Subsection (6)(a) shall:

1870 (i) review the records of each individual with a medical cannabis card who purchases  
1871 cannabis-based medicine from the CBM dispensary; and

1872 (ii) answer questions for an individual with a medical cannabis card.

1873 (7) A CBM dispensary may only transmit or accept payment for cannabis-based  
1874 medicine through a cannabis payment processor licensed under Section [7-26-201](#).

1875 (8) A CBM dispensary may not allow any individual to consume cannabis-based  
1876 medicine on the property or premises of the establishment.

1877 (9) A CBM dispensary may not sell cannabis-based medicine before January 1, 2017.

1878 (10) A CBM dispensary shall require any CBM dispensary agent to wear a white lab  
1879 coat at all times while the CBM dispensary agent is in the view of a customer at the CBM  
1880 dispensary

1881 Section 68. Section **58-86-402** is enacted to read:

1882 **58-86-402. Dispensing -- Amount a CBM dispensary may dispense -- Reporting --**  
1883 **Form of cannabis or cannabis product.**

1884 (1) A CBM dispensary may only sell, subject to this chapter:

1885 (a) cannabis-based medicine; or

1886 (b) educational materials related to the medical use of cannabis-based medicine.

1887 (2) A CBM dispensary may only sell cannabis-based medicine to an individual with a  
1888 medical cannabis card issued by the department.

1889 (3) A CBM dispensary may not dispense on behalf of any one individual with a  
1890 medical cannabis card, in any one 30-day period, an amount of cannabis-based medicine that  
1891 exceeds a 30-day supply of the dosage recommended by the individual's physician.

1892 (4) An individual with a medical cannabis card may not purchase more cannabis-based  
1893 medicine than the amounts designated in Subsection (3).

1894 (5) A designated caregiver designated by any one individual with a medical cannabis  
1895 card may not purchase, for the individual, an amount of cannabis-based medicine that exceeds  
1896 the amounts designated in Subsection (3).

1897 (6) A CBM dispensary shall:

1898 (a) submit a record to the electronic verification system of each time the CBM  
1899 dispensary dispenses cannabis-based medicine to an individual with a medical cannabis card;

1900 (b) access the electronic verification system before dispensing cannabis-based  
1901 medicine to an individual with a medical cannabis card in order to determine if the individual  
1902 has exceeded the amount of cannabis or cannabis products described in Subsection (3); and

1903 (c) comply with Section [58-37f-204](#).

1904 Section 69. Section **58-86-403** is enacted to read:

1905 **58-86-403. Product quality -- Labeling -- Packaging.**

1906 (1) A CBM dispensary may not sell or offer to sell cannabis-based medicine unless:

1907 (a) the amount of cannabis-based medicine is clearly and accurately stated on the  
1908 cannabis-based medicine packaging; and

1909 (b) the cannabis-based medicine is sealed in a tamper resistant, resealable container  
1910 with a label that includes a bar code or identification number that links the cannabis-based  
1911 medicine to the CBM dispensary's inventory control system.

1912 (2) A CBM dispensary may only sell cannabis-based medicine that has been inspected  
1913 by an independent cannabis testing laboratory in accordance with Section [4-42-701](#).

1914 Section 70. Section **58-86-404** is enacted to read:

1915 **58-86-404. Advertising.**

1916 (1) Except as provided in Subsection (2), a CBM dispensary may not advertise in any

1917 medium.

1918 (2) A CBM dispensary may advertise using a:

1919 (a) sign on the outside of the CBM dispensary that includes only the CBM dispensary's  
1920 name and hours of operation; and

1921 (b) a website that includes information about the location of the dispensary, products  
1922 and services available at the dispensary, and educational materials related to the use of  
1923 cannabis-based medicine.

1924 Section 71. Section **58-86-405** is enacted to read:

1925 **58-86-405. Inspections.**

1926 (1) The division shall inspect, in accordance with Subsection (2), a CBM dispensary's  
1927 facility and records in order to determine if the CBM dispensary complies with the  
1928 requirements of this chapter.

1929 (2) The division may inspect the records and facility of a CBM dispensary:

1930 (a) as many as four times per year, scheduled or unscheduled; and

1931 (b) if the division has reason to believe that the CBM dispensary has violated the law,  
1932 at any time, scheduled or unscheduled.

1933 Section 72. Section **58-86-406** is enacted to read:

1934 **58-86-406. Cannabis-based medicine transportation.**

1935 (1) An individual may not transport cannabis-based medicine unless the individual has  
1936 a valid:

1937 (a) cannabis production establishment agent registration card; or

1938 (b) CBM dispensary agent registration card.

1939 (2) An individual transporting cannabis-based medicine shall keep a transportation  
1940 record that includes:

1941 (a) a bar code or identification number that links the cannabis-based medicine to a  
1942 relevant inventory control system;

1943 (b) origin and destination information for any cannabis-based medicine the individual  
1944 is transporting; and

1945 (c) monitors the departure and arrival time of the individual transporting the  
1946 cannabis-based medicine.

1947 (3) In addition to the requirements in Subsections (1) and (2), the Department of

1948 Agriculture and Food may establish, by rule made in accordance with Title 63G, Chapter 3,  
1949 Utah Administrative Rulemaking Act, requirements for transporting cannabis-based medicine  
1950 related to human consumption safety.

1951 (4) A CBM dispensary agent registered with the department is guilty of an infraction if  
1952 the registered CBM dispensary agent:

1953 (a) transports cannabis or cannabis-based medicine; and

1954 (b) does not possess, on the registered CBM dispensary agent's person or in the  
1955 transport vehicle, a transportation record that complies with Subsection (2).

1956 (5) A registered CBM dispensary agent who is guilty of an infraction under Subsection  
1957 (3) is subject to a \$100 fine.

1958 Section 73. Section **58-86-501** is enacted to read:

1959 **Part 5. Enforcement**

1960 **58-86-501. Enforcement -- Fine -- Citation.**

1961 (1) The division may, for a violation of this chapter by a person who is a CBM  
1962 dispensary or CBM dispensary agent:

1963 (a) revoke the person's license;

1964 (b) refuse to renew the person's license;

1965 (c) assess the person an administrative penalty; or

1966 (d) take any other appropriate administrative action.

1967 (2) The division shall deposit an administrative penalty imposed under this section into  
1968 the General Fund as a dedicated credit to be used by the division to administer and enforce this  
1969 chapter.

1970 (3) The division may, for a person subject to an uncontested citation, a stipulated  
1971 settlement, or a finding of a violation in an adjudicative proceeding under this section:

1972 (a) assess the person a fine, established in accordance with Section [63J-1-504](#), of up to  
1973 \$5,000 per violation, in accordance with a fine schedule established by rule made in accordance  
1974 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1975 (b) order the person to cease and desist from the action that creates a violation.

1976 (4) The division may not revoke a CBM dispensary's license via a citation.

1977 (5) If within 20 calendar days after the day on which a division serves a citation for a  
1978 violation of this chapter, the person that is the subject of the citation fails to request a hearing



1979 to contest the citation, the citation becomes the basis of the division's final order.

1980 (6) The division may, for a person who fails to comply with a citation under this  
1981 section:

1982 (a) refuse to issue or renew the person's license or CBM dispensary agent registration  
1983 card; or

1984 (b) suspend, revoke, or place on probation the person's license or CBM dispensary  
1985 agent registration card.

1986 Section 74. Section **58-86-502** is enacted to read:

1987 **58-86-502. Fees -- Deposit into Medical Cannabis Restricted Account.**

1988 The division shall deposit fees the division collects under this chapter in the Medical  
1989 Cannabis Restricted Account.

1990 Section 75. Section **59-12-104.7** is enacted to read:

1991 **59-12-104.7. Exemption from sales tax for medical cannabis.**

1992 (1) As used in this section:

1993 (a) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

1994 (b) "Cannabis-based medicine" means the same as that term is defined in Section  
1995 [58-37-3.6](#).

1996 (c) "CBM dispensary" means the same as that term is defined in Section [26-58-102](#).

1997 (2) In addition to the exemptions described in Section [59-12-104](#), the sale, by a  
1998 licensed CBM dispensary, of cannabis-based medicine is not subject to the taxes imposed by  
1999 this chapter.

2000 Section 76. Section **59-28-101** is enacted to read:

2001 **CHAPTER 28. MEDICAL CANNABIS TAX ACT**

2002 **59-28-101. Title.**

2003 This chapter is known as the "Medical Cannabis Tax Act."

2004 Section 77. Section **59-28-102** is enacted to read:

2005 **59-28-102. Definitions.**

2006 As used in this chapter:

2007 (1) "Cannabis" means the same as that term is defined in Section [58-37-3.6](#).

2008 (2) "Cannabis-based medicine" means the same as that term is defined in Section  
2009 [58-37-3.6](#).

2010 (3) "CBM dispensary" means the same as that term is defined in Section [26-58-102](#).

2011 (4) "Medical Cannabis Restricted Account" means the account created in Section  
2012 [26-58-105](#).

2013 Section 78. Section **59-28-103** is enacted to read:

2014 **59-28-103. Imposition of tax -- Rate.**

2015 There is imposed a tax on the retail purchaser of cannabis-based medicine at a CBM  
2016 dispensary in the state, in an amount equal to 4.70% of amounts paid or charged for the  
2017 cannabis-based medicine.

2018 Section 79. Section **59-28-104** is enacted to read:

2019 **59-28-104. Collection of tax.**

2020 A CBM dispensary shall:

2021 (1) collect the tax imposed by Section [59-28-103](#) from a cannabis-based medicine  
2022 purchaser; and

2023 (2) pay the tax collected under Subsection (1):

2024 (a) to the commission quarterly on or before the last day of the month immediately  
2025 following the last day of the previous quarter; and

2026 (b) using a form prescribed by the commission.

2027 Section 80. Section **59-28-105** is enacted to read:

2028 **59-28-105. Deposit of tax revenue.**

2029 The commission shall deposit revenues generated by the tax imposed by this chapter  
2030 into the Medical Cannabis Restricted Account.

2031 Section 81. Section **59-28-106** is enacted to read:

2032 **59-28-106. Records.**

2033 (1) A CBM dispensary shall maintain any record typically deemed necessary to  
2034 determine the amount of tax that the CBM dispensary is required to remit to the commission  
2035 under this chapter.

2036 (2) The commission may require a CBM dispensary to keep any record the commission  
2037 reasonably considers necessary to constitute sufficient evidence of the amount of tax the CBM  
2038 dispensary is required to remit to the commission under this chapter:

2039 (a) by notice served upon the CBM dispensary; or

2040 (b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

2041 Rulemaking Act.

2042 (3) Upon notice by the commission, a CBM dispensary shall open the CBM  
2043 dispensary's records for examination by the commission.

2044 Section 82. Section **59-28-107** is enacted to read:

2045 **59-28-107. Rulemaking authority.**

2046 (1) Except as provided in Subsection (2), the commission may make rules in  
2047 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

2048 (a) implement the tax imposed by this chapter; and

2049 (b) enforce payment of the tax imposed by this chapter.

2050 Section 83. Section **59-28-108** is enacted to read:

2051 **59-28-108. Penalties and interest.**

2052 A CBM dispensary that fails to comply with any provision of this chapter is subject to  
2053 penalties and interest as provided in Sections [59-1-401](#) and [59-1-402](#).

2054 Section 84. Section **62A-4a-202.1** is amended to read:

2055 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**  
2056 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**  
2057 **emergency placement.**

2058 (1) A peace officer or child welfare worker may not:

2059 (a) enter the home of a child who is not under the jurisdiction of the court, remove a  
2060 child from the child's home or school, or take a child into protective custody unless authorized  
2061 under Subsection [78A-6-106\(2\)](#); or

2062 (b) remove a child from the child's home or take a child into custody under this section  
2063 solely on the basis of:

2064 (i) educational neglect, truancy, or failure to comply with a court order to attend  
2065 school[-]; or

2066 (ii) the possession or use of a cannabis product or a medical cannabis device in the  
2067 home, if the use and possession of the cannabis product or medical cannabis device is in  
2068 compliance with Title 26, Chapter 58, Medical Cannabis Act.

2069 (2) A child welfare worker within the division may take action under Subsection (1)  
2070 accompanied by a peace officer, or without a peace officer when a peace officer is not  
2071 reasonably available.

2072 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child  
2073 into protective custody, the child welfare worker shall also determine whether there are  
2074 services available that, if provided to a parent or guardian of the child, would eliminate the  
2075 need to remove the child from the custody of the child's parent or guardian.

2076 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be  
2077 utilized.

2078 (c) In determining whether the services described in Subsection (3)(a) are reasonably  
2079 available, and in making reasonable efforts to provide those services, the child's health, safety,  
2080 and welfare shall be the child welfare worker's paramount concern.

2081 (4) (a) A child removed or taken into custody under this section may not be placed or  
2082 kept in a secure detention facility pending court proceedings unless the child is detainable  
2083 based on guidelines promulgated by the Division of Juvenile Justice Services.

2084 (b) A child removed from the custody of the child's parent or guardian but who does  
2085 not require physical restriction shall be given temporary care in:

2086 (i) a shelter facility; or

2087 (ii) an emergency placement in accordance with Section [62A-4a-209](#).

2088 (c) When making a placement under Subsection (4)(b), the Division of Child and  
2089 Family Services shall give priority to a placement with a noncustodial parent, relative, or  
2090 friend, in accordance with Section [62A-4a-209](#).

2091 (d) If the child is not placed with a noncustodial parent, a relative, or a designated  
2092 friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor  
2093 explaining why a different placement was in the child's best interest.

2094 (5) When a child is removed from the child's home or school or taken into protective  
2095 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

2096 (a) the parent's rights under this part, including the right to be present and participate in  
2097 any court proceeding relating to the child's case;

2098 (b) that it may be in the parent's best interest to contact an attorney and that, if the  
2099 parent cannot afford an attorney, the court will appoint one;

2100 (c) the name and contact information of a division employee the parent may contact  
2101 with questions;

2102 (d) resources that are available to the parent, including:

- 2103 (i) mental health resources;
- 2104 (ii) substance abuse resources; and
- 2105 (iii) parenting classes; and
- 2106 (e) any other information considered relevant by the division.
- 2107 (6) The pamphlet or flier described in Subsection (5) shall be:
- 2108 (a) evaluated periodically for its effectiveness at conveying necessary information and
- 2109 revised accordingly;
- 2110 (b) written in simple, easy-to-understand language; and
- 2111 (c) available in English and other languages as the division determines to be
- 2112 appropriate and necessary.
- 2113 Section 85. Section **63I-1-258** is amended to read:
- 2114 **63I-1-258. Repeal dates, Title 58.**
- 2115 (1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is
- 2116 repealed July 1, 2026.
- 2117 (2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.
- 2118 (3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.
- 2119 (4) Section [58-37-4.3](#) is repealed July 1, 2016.
- 2120 (5) Section [58-38a-203.1](#) is repealed July 1, 2017.
- 2121 [~~5~~] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1,
- 2122 2023.
- 2123 [~~6~~] (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing
- 2124 Act, is repealed July 1, 2019.
- 2125 [~~7~~] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1,
- 2126 2025.
- 2127 [~~8~~] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is
- 2128 repealed July 1, 2023.
- 2129 [~~9~~] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1,
- 2130 2024.
- 2131 [~~10~~] (11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed
- 2132 July 1, 2026.
- 2133 [~~11~~] (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

2134 Section 86. Section 78A-6-508 is amended to read:

2135 **78A-6-508. Evidence of grounds for termination.**

2136 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
2137 evidence of abandonment that the parent or parents:

2138 (a) although having legal custody of the child, have surrendered physical custody of the  
2139 child, and for a period of six months following the surrender have not manifested to the child  
2140 or to the person having the physical custody of the child a firm intention to resume physical  
2141 custody or to make arrangements for the care of the child;

2142 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
2143 months;

2144 (c) failed to have shown the normal interest of a natural parent, without just cause; or

2145 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

2146 (2) In determining whether a parent or parents are unfit or have neglected a child the  
2147 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

2148 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the  
2149 parent unable to care for the immediate and continuing physical or emotional needs of the child  
2150 for extended periods of time;

2151 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
2152 nature;

2153 (c) habitual or excessive use of intoxicating liquors, controlled substances, or  
2154 dangerous drugs that render the parent unable to care for the child;

2155 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
2156 shelter, education, or other care necessary for the child's physical, mental, and emotional health  
2157 and development by a parent or parents who are capable of providing that care;

2158 (e) whether the parent is incarcerated as a result of conviction of a felony, and the  
2159 sentence is of such length that the child will be deprived of a normal home for more than one  
2160 year;

2161 (f) a history of violent behavior; or

2162 (g) whether the parent has intentionally exposed the child to pornography or material  
2163 harmful to a minor, as defined in Section 76-10-1201.

2164 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent

2165 because of the parent's possession or consumption of a cannabis product or a medical cannabis  
2166 device, in accordance with Title 26, Chapter 58, Medical Cannabis Act.

2167 ~~[(3)]~~ (4) A parent who, legitimately practicing the parent's religious beliefs, does not  
2168 provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
2169 parent.

2170 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful  
2171 or unfit because of a health care decision made for a child by the child's parent unless the state  
2172 or other party to the proceeding shows, by clear and convincing evidence, that the health care  
2173 decision is not reasonable and informed.

2174 (b) Nothing in Subsection ~~[(4)]~~ (5)(a) may prohibit a parent from exercising the right to  
2175 obtain a second health care opinion.

2176 ~~[(5)]~~ (6) If a child has been placed in the custody of the division and the parent or  
2177 parents fail to comply substantially with the terms and conditions of a plan within six months  
2178 after the date on which the child was placed or the plan was commenced, whichever occurs  
2179 later, that failure to comply is evidence of failure of parental adjustment.

2180 ~~[(6)]~~ (7) The following circumstances constitute prima facie evidence of unfitness:

2181 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any  
2182 child, due to known or substantiated abuse or neglect by the parent or parents;

2183 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to  
2184 indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
2185 child's physical, mental, or emotional health and development;

2186 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement  
2187 of the child;

2188 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to  
2189 commit murder or manslaughter of a child or child abuse homicide; or

2190 (e) the parent intentionally, knowingly, or recklessly causes the death of another parent  
2191 of the child, without legal justification.

2192 Section 87. **Effective date.**

2193 This bill takes effect on July 1, 2016.