

HB3001S06 compared with HB3001

~~deleted text~~ shows text that was in HB3001 but was deleted in HB3001S06.

Inserted text shows text that was not in HB3001 but was inserted into HB3001S06.

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Representative Gregory H. Hughes proposes the following substitute bill:

UTAH MEDICAL CANNABIS ACT

2018 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill provides for the cultivation, processing, medical recommendation, and patient use of medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for licensing and regulation of a cannabis cultivation facility, a cannabis processing facility, an independent cannabis testing laboratory, and a medical cannabis pharmacy;
- ▶ provides for security and tracking of medical cannabis and a medical cannabis product from cultivation to use to ensure safety and chemical content;
- ▶ requires certain labeling and childproof packaging of medical cannabis and a

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medical cannabis product;

- ▶ requires the Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Department of Technology Services to create an electronic verification system to facilitate recommendation, dispensing, and record-keeping for medical cannabis transactions;
- ▶ allows physicians, osteopathic physicians, advanced practice registered nurses, and physician assistants to recommend medical cannabis;
- ▶ allows an individual with a qualifying condition to obtain a medical cannabis patient card on the recommendation of a certain medical professional to gain access to medical cannabis;
- ▶ allows a patient to designate a caregiver to assist with accessing medical cannabis;
- ▶ provides for a parent or legal guardian to obtain a medical cannabis guardian card for an eligible minor patient and for the minor patient to concurrently receive a provisional patient card;
- ▶ provides certain state employment discrimination protection for an individual who lawfully uses medical cannabis;
- ▶ limits the form and amount of medical cannabis available to a patient at one time;
- ▶ prohibits a minor from entering a medical cannabis pharmacy;
- ▶ requires the Department of Health to establish the state central fill medical cannabis pharmacy;
- ▶ provides for a process of state central fill shipment of medical cannabis and cannabis product to a local health department for patient retrieval;
- ▶ creates certain enterprise funds;
- ▶ imposes criminal penalties for improperly giving or selling medical cannabis;
- ▶ decriminalizes certain conduct for certain individuals before the medical cannabis card program and medical cannabis pharmacies are operational;
- ▶ creates protections from state prosecution for the lawful possession, use, and sale of medical cannabis;
- ▶ exempts medical cannabis and medical cannabis products from sales tax;
- ▶ prohibits a court from considering the lawful use of medical cannabis in a custody proceeding;

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- ▶ repeals superfluous sections related to authorized use of cannabis or a cannabis product;
- ▶ provides a severability clause;
- ▶ re-enacts language that the voter initiative repealed by implication through use of outdated code; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-41-102, as last amended by Laws of Utah 2018, Chapters 227 and 452

7-1-401, as last amended by Laws of Utah 2018, Chapter 446

10-9a-104, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

17-27a-104, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

26-61-202, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last amended by Laws of Utah 2018, Chapter 110

26-65-102 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

26-65-103 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

30-3-10, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

34A-2-418, as last amended by Laws of Utah 2016, Chapter 242

41-6a-517 (Superseded 07/01/19), as last amended by Laws of Utah 2017, Chapter 446

41-6a-517 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapter 452

49-11-1401, as last amended by Laws of Utah 2018, Chapter 61

53-1-106.5, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-17b-302, as last amended by Laws of Utah 2014, Chapter 72

58-17b-310, as enacted by Laws of Utah 2004, Chapter 280

58-17b-502, as last amended by Laws of Utah 2018, Chapter 295

58-31b-305, as last amended by Laws of Utah 2014, Chapter 316

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58-31b-502, as last amended by Laws of Utah 2016, Chapter 127

58-37-3.6 (Superseded 07/01/19), as last amended by Laws of Utah 2018, Chapters 333 and 446

58-37-3.6 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapters 333, 446, and 452

58-37-3.7, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-37-3.8, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-37-3.9, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018

58-37f-203 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapters 123 and 452

58-67-304, as last amended by Laws of Utah 2018, Chapters 282 and 318

58-67-502, as last amended by Laws of Utah 2017, Chapter 299

58-68-304, as last amended by Laws of Utah 2018, Chapter 318

58-68-502, as last amended by Laws of Utah 2017, Chapter 299

58-70a-303, as last amended by Laws of Utah 2001, Chapter 268

58-70a-503, as last amended by Laws of Utah 2017, Chapter 309

58-85-102, as last amended by Laws of Utah 2018, Chapter 333

58-85-104, as last amended by Laws of Utah 2018, Chapter 333

58-85-105, as last amended by Laws of Utah 2018, Chapter 333

62A-4a-202.1, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018

63I-1-226, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last amended by Laws of Utah 2018, Chapters 180, 281, 384, 430, and 468

63I-1-258, as amended by Statewide Initiative -- Proposition 2, Nov. 6, 2018 and last amended by Laws of Utah 2018, Chapter 399

67-19-33, as last amended by Laws of Utah 2006, Chapter 139

78A-6-508 (Superseded 07/01/19), as last amended by Laws of Utah 2014, Chapter 409

78A-6-508 (Effective 07/01/19), as last amended by Laws of Utah 2018, Chapter 452

ENACTS:

4-41a-104, Utah Code Annotated 1953

4-41a-105, Utah Code Annotated 1953

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4-41a-106, Utah Code Annotated 1953
4-41a-405, Utah Code Annotated 1953
26-36d-101, Utah Code Annotated 1953
26-36d-102, Utah Code Annotated 1953
26-36d-103, Utah Code Annotated 1953
26-36d-201, Utah Code Annotated 1953
26-36d-202, Utah Code Annotated 1953
26-36d-203, Utah Code Annotated 1953
26-36d-204, Utah Code Annotated 1953
26-36d-205, Utah Code Annotated 1953
26-36d-206, Utah Code Annotated 1953
26-36d-207, Utah Code Annotated 1953
26-36d-208, Utah Code Annotated 1953
26-61a-108, Utah Code Annotated 1953
26-61a-110, Utah Code Annotated 1953
26-61a-112, Utah Code Annotated 1953
26-61a-113, Utah Code Annotated 1953
26-61a-114, Utah Code Annotated 1953
26-61a-205, Utah Code Annotated 1953
26-61a-403, Utah Code Annotated 1953
26-61a-503, Utah Code Annotated 1953
26-61a-601, Utah Code Annotated 1953
26-61a-602, Utah Code Annotated 1953
26-61a-603, Utah Code Annotated 1953
26-61a-604, Utah Code Annotated 1953
26-61a-605, Utah Code Annotated 1953
26-61a-606, Utah Code Annotated 1953
26-61a-607, Utah Code Annotated 1953
26-61a-608, Utah Code Annotated 1953
26-61a-609, Utah Code Annotated 1953
26-61a-610, Utah Code Annotated 1953

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26-61a-611, Utah Code Annotated 1953
26-61a-701, Utah Code Annotated 1953
58-20b-101, Utah Code Annotated 1953
58-20b-102, Utah Code Annotated 1953
58-20b-201, Utah Code Annotated 1953
58-20b-301, Utah Code Annotated 1953
58-20b-302, Utah Code Annotated 1953
58-20b-303, Utah Code Annotated 1953
58-20b-304, Utah Code Annotated 1953
58-20b-305, Utah Code Annotated 1953
58-20b-401, Utah Code Annotated 1953
58-20b-501, Utah Code Annotated 1953
59-12-104.10, Utah Code Annotated 1953
62A-3-322, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

4-41a-101, (Renumbered from 4-41b-101, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
4-41a-102, (Renumbered from 4-41b-102, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
4-41a-103, (Renumbered from 4-41b-103, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
4-41a-201, (Renumbered from 4-41b-201, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
4-41a-202, (Renumbered from 4-41b-302, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
4-41a-203, (Renumbered from 4-41b-202, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
4-41a-204, (Renumbered from 4-41b-203, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
4-41a-205, (Renumbered from 4-41b-204, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

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- 4-41a-301**, (Renumbered from 4-41b-301, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-302**, (Renumbered from 4-41b-303, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-401**, (Renumbered from 4-41b-401, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-402**, (Renumbered from 4-41b-402, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-403**, (Renumbered from 4-41b-403, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-404**, (Renumbered from 4-41b-404, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-406**, (Renumbered from 4-41b-405, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-501**, (Renumbered from 4-41b-501, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-502**, (Renumbered from 4-41b-502, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-601**, (Renumbered from 4-41b-601, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-602**, (Renumbered from 4-41b-602, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-603**, (Renumbered from 4-41b-603, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-701**, (Renumbered from 4-41b-701, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-702**, (Renumbered from 4-41b-702, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-801**, (Renumbered from 4-41b-801, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 4-41a-802**, (Renumbered from 4-41b-802, as enacted by Statewide Initiative --

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- Proposition 2, Nov. 6, 2018)
- 26-61a-101**, (Renumbered from 26-60b-101, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-102**, (Renumbered from 26-60b-102, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-103**, (Renumbered from 26-60b-103, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-104**, (Renumbered from 26-60b-105, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-105**, (Renumbered from 26-60b-106, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-106**, (Renumbered from 26-60b-107, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-107**, (Renumbered from 26-60b-108, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-109**, (Renumbered from 26-60b-109, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-111**, (Renumbered from 26-60b-110, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-201**, (Renumbered from 26-60b-201, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-202**, (Renumbered from 26-60b-202, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-203**, (Renumbered from 26-60b-203, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-204**, (Renumbered from 26-60b-204, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-301**, (Renumbered from 26-60b-301, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)
- 26-61a-302**, (Renumbered from 26-60b-402, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

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- 26-61a-303**, (Renumbered from 26-60b-302, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-304**, (Renumbered from 26-60b-303, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-305**, (Renumbered from 26-60b-304, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-401**, (Renumbered from 26-60b-401, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-402**, (Renumbered from 26-60b-403, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-501**, (Renumbered from 26-60b-501, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-502**, (Renumbered from 26-60b-502, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-504**, (Renumbered from 26-60b-503, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-505**, (Renumbered from 26-60b-504, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-506**, (Renumbered from 26-60b-505, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-507**, (Renumbered from 26-60b-506, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-702**, (Renumbered from 26-60b-601, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)
- 26-61a-703**, (Renumbered from 26-60b-602, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018)

REPEALS:

- 4-41-201**, as enacted by Laws of Utah 2018, Chapter 446
- 4-41-202**, as enacted by Laws of Utah 2018, Chapter 446
- 4-41-203**, as enacted by Laws of Utah 2018, Chapter 446
- 4-41-301**, as enacted by Laws of Utah 2018, Chapter 446

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- 4-41-302**, as enacted by Laws of Utah 2018, Chapter 446
- 4-41-303**, as enacted by Laws of Utah 2018, Chapter 446
- 4-41-304**, as enacted by Laws of Utah 2018, Chapter 446
- 4-41b-104**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 4-43-101 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-102 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-201 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-202 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-203 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-301 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-401 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-402 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-501 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-502 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-503 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-601 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-602 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-701 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-702 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-703 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 4-43-801 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 26-60b-104**, as enacted by Statewide Initiative -- Proposition 2, Nov. 6, 2018
- 58-67-808 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 58-68-808 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 58-85-103.5**, as enacted by Laws of Utah 2018, Chapter 333
- 58-88-101 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 58-88-102 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 58-88-103 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 58-88-104 (Effective 07/01/19)**, as enacted by Laws of Utah 2018, Chapter 452
- 59-12-104.7 (Repealed 01/01/19)**, as repealed by Laws of Utah 2018, Second Special Session, Chapter 6

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59-12-104.9 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-101 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-102 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-103 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-104 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-105 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-106 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-107 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

59-29-108 (Effective 07/01/19), as enacted by Laws of Utah 2018, Chapter 452

Utah Code Sections Affected by Revisor Instructions:

4-41a-106, Utah Code Annotated 1953

4-41a-201, Utah Code Annotated 1953

4-41a-301, (Renumbered from 4-41b-301, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

4-41a-401, (Renumbered from 4-41b-401, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-114, Utah Code Annotated 1953

26-61a-202, (Renumbered from 26-60b-202, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-301, (Renumbered from 26-60b-301, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-401, (Renumbered from 26-60b-401, as enacted by Statewide Initiative --
Proposition 2, Nov. 6, 2018)

26-61a-602, Utah Code Annotated 1953

26-61a-606, Utah Code Annotated 1953

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

Section 1. Section **4-41-102** is amended to read:

4-41-102. Definitions.

[For purposes of] As used in this chapter:

(1) "Agricultural pilot program" means a program to study the growth, cultivation, or

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marketing of industrial hemp.

(2) "Cannabidiol product" means a chemical compound extracted from a hemp product that:

(a) is processed into a medicinal dosage form; and

(b) contains less than 0.3% tetrahydrocannabinol by dry weight [~~before processing and no more than a 10:1 ratio of cannabidiol to tetrahydrocannabinol after processing~~].

(3) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

(4) "Industrial hemp certificate" means a certificate issued by the department to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

(5) "Industrial hemp license" means a license issued by the department to a person for the purpose of participating in a research pilot program.

(6) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(7) "Licensee" means an individual or business entity possessing a license issued by the department under this chapter to grow, cultivate, process, or market industrial hemp or an industrial hemp product.

(8) "Medicinal dosage form" means [~~the same as that term is defined in Section 26-65-102.~~];

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a sublingual preparation;

(e) a topical preparation;

(f) a transdermal preparation;

(g) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(h) other preparations that the department approves.

(9) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

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(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

(10) "Research pilot program" means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

Section 2. Section ~~4-41a-101~~, which is renumbered from Section 4-41b-101 is renumbered and amended to read:

CHAPTER 41a. CANNABIS PRODUCTION ESTABLISHMENTS

Part 1. General Provisions.

~~[4-41b-101].~~ 4-41a-101. Title.

~~[(+)]~~ This chapter is known as "Cannabis Production Establishments."

Section 3. Section ~~4-41a-102~~, which is renumbered from Section 4-41b-102 is renumbered and amended to read:

~~[4-41b-102].~~ 4-41a-102. Definitions.

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section ~~[58-37-3.9]~~ 26-61a-102.

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis [production establishments] cultivation facility or to a cannabis [dispensaries] processing facility.

(3) "Cannabis cultivation facility agent" means an individual who:

(a) is an [owner, officer, director, board member,] employee[, or volunteer] of a cannabis cultivation facility[-]; and

(b) holds a valid cannabis production establishment agent registration card.

~~[(4) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.-]~~

~~[(5) "Cannabis dispensary agent" means the same as that term is defined in Section 26-60b-102.-]~~

~~[(6)]~~ (4) "Cannabis processing facility" means a person that:

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(a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabidiol Act;

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

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis [~~dispensary~~] pharmacy or the state central fill medical cannabis pharmacy.

~~[(7)]~~ (5) "Cannabis processing facility agent" means an individual who:

(a) is an [~~owner, officer, director, board member,~~] employee[~~, or volunteer~~] of a cannabis processing facility[~~;~~]; and

(b) holds a valid cannabis production establishment agent registration card.

~~[(8)]~~ (6) "Cannabis product" means the same as that term is defined in Section [~~58-37-3-9~~] 26-61a-102.

~~[(9)]~~ (7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

~~[(10)]~~ (8) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

~~[(11)]~~ (9) "Cannabis production establishment agent registration card" means a registration card[~~, issued by~~] that the department[~~;~~] issues that:

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

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

~~[(12)]~~ (10) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.

(11) "Department" means the Department of Agriculture and Food.

(12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

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

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(a) conducts a chemical or other analysis of cannabis or a cannabis product; or
(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an [owner, officer, director, board member,] employee[, or volunteer] of an independent cannabis testing laboratory[.]; and

(b) holds a valid cannabis production establishment agent registration card.

(15) "Inventory control system" means ~~[the]~~ a system described in Section ~~[4-41b-103]~~ 4-41a-103.

(16) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

~~[(16)]~~ (17) "Medical cannabis card" means the same as that term is defined in Section [26-60b-102] 26-61a-102.

(18) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(19) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

~~[(17) "Medical Cannabis Restricted Account" means the account created in Section 26-60b-109.]~~

(20) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

(21) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

~~[(18) "Physician"]~~ (22) "Qualified medical provider" means the same as that term is defined in Section [26-60b-107] 26-61a-102.

(23) "Qualified Production Enterprise ~~{Account}~~Fund" means the ~~{account}~~fund created in Section 4-41a-104.

(24) "State central fill agent" means the same as that term is defined in Section 26-61a-102.

(25) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(26) "State central fill shipment" means the same as that term is defined in Section

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26-61a-102.

~~[(19)] (27)~~ "State electronic verification system" means the system described in Section ~~[26-60b-103]~~ 26-61a-103.

(28) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(29) "Total composite tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

Section 4. Section **4-41a-103**, which is renumbered from Section 4-41b-103 is renumbered and amended to read:

~~[4-41b-103].~~ **4-41a-103. Inventory control system.**

(1) ~~[A]~~ Each cannabis production establishment [and a], each medical cannabis [dispensary] pharmacy, and the state central fill medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

(2) ~~[An]~~ A cannabis production establishment, a medical cannabis pharmacy, and the state central fill medical cannabis pharmacy shall ensure that the inventory control system [shall track] maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall[;] and has a root ball[;] until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card[; ~~(3) An inventory control system shall store~~];

(b) maintains in real time a record of the amount of cannabis and cannabis products in the ~~[cannabis production establishment's or cannabis dispensary's] possession[; (4) An inventory control system shall include]~~ of the establishment or pharmacy;

(c) includes a video recording system that:

~~[(a)]~~ (i) tracks all handling and processing of cannabis or a cannabis product in the ~~[cannabis production] establishment or [cannabis dispensary] pharmacy;~~

~~[(b)]~~ (ii) is tamper proof; ~~[and (c) is capable of storing]~~

(iii) stores a video record for at least 45 days~~[(5) An inventory control system installed in a cannabis production establishment or cannabis dispensary shall maintain]; and~~

(d) preserves compatibility with the state electronic verification system described in Section 26-61a-103.

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~~[(6)]~~ (3) A cannabis production establishment ~~[or], a medical~~ cannabis ~~[dispensary]~~ pharmacy, and the state central fill medical cannabis pharmacy shall allow the department or the Department of Health access to the cannabis production establishment's ~~[or], medical~~ cannabis ~~[dispensary's]~~ pharmacy's, or state central fill medical cannabis pharmacy's inventory control system ~~[during an inspection]~~ at any time.

~~[(7)]~~ (4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

Section 5. Section **4-41a-104** is enacted to read:

4-41a-104. Qualified Production Enterprise Fund -- Creation -- Revenue neutrality.

(1) There is created an enterprise fund known as the "Qualified Production Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the Qualified Production Enterprise Fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's implementation of this chapter.

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

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Section 6. Section **4-41a-105** is enacted to read:

4-41a-105. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 7. Section **4-41a-106** is enacted to read:

4-41a-106. Severability clause.

(1) If a final decision of a court of competent jurisdiction holds invalid any provision

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of this title or this bill or the application of any provision of this title or this bill to any person or circumstance, the remaining provisions of this title and this bill remain effective without the invalidated provision or application.

(2) The provisions of this title and this bill are severable.

Section 8. Section ~~4-41a-201~~, which is renumbered from Section 4-41b-201 is renumbered and amended to read:

Part 2. Cannabis Production Establishment

~~[4-41b-201]~~. 4-41a-201. Cannabis production establishment -- License.

(1) A person may not operate a cannabis production establishment without a license ~~[issued by]~~ that the department issues under this chapter.

(2) (a) Subject to Subsections (6) ~~[and]~~, (7), and (8), and to Section ~~[4-41b-204]~~ 4-41a-205, the department shall, ~~[within 90 days after receiving a complete application]~~ in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a cannabis production establishment to ~~[a person who]~~ an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

~~[(a)]~~ (i) a proposed name and address, located in a zone described in Subsection 4-41a-406(1)(a) or (b), where the [person] applicant will operate the cannabis production establishment that is not within [600] 1,000 feet of a community location or within [300] 600 feet of an area zoned [exclusively] primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit;

~~[(b)]~~ (ii) the name and address of any individual who has:

(A) a financial or voting interest of [two percent] 2% or greater in the proposed cannabis production establishment; or [who has]

(B) the power to direct or cause the management or control of a proposed [medical] cannabis production establishment;

~~[(c)]~~ (iii) an operating plan that:

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(A) complies with Section ~~[4-41b-203 and that]~~ 4-41a-204;

(B) includes operating procedures ~~[to]~~ that comply with ~~[the requirements of]~~ this chapter and ~~[with]~~ any ~~[laws adopted by]~~ law the municipality or county ~~[that are]~~ in which the person is located adopts that is consistent with Section ~~[4-41b-405]~~ 4-41a-406; and

(C) the department approves;

~~[(d)]~~ (iv) ~~[financial statements demonstrating that the person possesses a minimum of]~~ evidence that the applicant has obtained and maintains a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) ~~[\$500,000 in liquid assets available]~~ \$250,000 for each cannabis cultivation facility for which the ~~[person]~~ applicant applies; or ~~[a minimum of \$100,000]~~

(B) ~~[in liquid assets available]~~ \$50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the ~~[person]~~ applicant applies;

~~[(e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis production establishment is in compliance with the restrictions;]~~

~~[(f)]~~ (v) if the municipality or county where the proposed cannabis production establishment would be located requires a local land use permit ~~[or license]~~, a copy of the applicant's approved application for the local land use permit ~~[or license]~~; and

~~[(g)]~~ (vi) an application fee ~~[established by]~~ in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504~~[- that is necessary to cover the department's cost to implement this chapter]~~.

(3) If the department ~~[determines that a cannabis production establishment is eligible]~~ approves an application for a license under this section~~[-]~~;

(a) the applicant shall pay the department ~~[shall charge the cannabis establishment]~~ an initial license fee in an amount ~~[determined by]~~ that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504~~[-]~~; and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection ~~[(5)]~~ (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

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~~(5)~~ (b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

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

(a) ~~[that]~~ holds a license or has an ownership interest in a medical cannabis ~~[dispensary]~~ pharmacy, a cannabis processing facility, or a cannabis cultivation facility ~~[in the state]~~;

(b) ~~[that]~~ has an owner, officer, director, or employee whose ~~[immediate]~~ family member holds a license or has an ownership interest in a medical cannabis ~~[dispensary]~~ pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) ~~[who]~~ proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis ~~[dispensary]~~ pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual ~~[who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant]~~ described in Subsection (2)(b)(ii):

(a) has been convicted ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal law~~;~~ or of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is ~~[less]~~ younger than 21 years ~~[of age]~~ old.

(8) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:

(a) shall consult with the Department of Health regarding the applicant if the license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and

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(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (8).

~~[(8)]~~ (9) The department may revoke a license under this part:

(a) if the cannabis production establishment ~~[is]~~ does not ~~[operating]~~ begin cannabis production operations within one year ~~[of the issuance of]~~ after the day on which the department issues the initial license~~[-]~~;

(b) after the cannabis production establishment makes the same violation of this chapter three times; or

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

~~[(9)]~~ (10) The department shall deposit the proceeds of a fee ~~[imposed by]~~ that the department imposes under this section ~~[in]~~ into the ~~[Medical Cannabis Restricted~~ Account ~~] Qualified Production Enterprise~~ ~~[Account]~~ Fund.

~~[(10)]~~ (11) The department shall begin accepting applications under this part ~~[no later than]~~ on or before January 1, 2020.

(12) The department's authority to issue a license under this section is plenary and is not subject to review.

Section 9. Section ~~4-41a-202~~, which is renumbered from Section 4-41b-302 is renumbered and amended to read:

~~[4-41b-302].~~ **4-41a-202. Cannabis production establishment owners and directors -- Criminal background checks.**

(1) Each applicant for a license as a cannabis production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of ~~[two percent]~~ 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the ~~[department, and]~~ Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next

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Generation Identification System's Rap Back Service; and

~~[(b)]~~ (c) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

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

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 10. Section ~~4-41b-202~~, which is renumbered from Section 4-41b-202 is renumbered and amended to read:

~~[4-41b-202].~~ 4-41a-203. Renewal.

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~~[(1)]~~ The department shall renew a ~~[person's]~~ license issued under Section ~~[4-41b-201]~~ 4-41a-201 every ~~[two years,]~~ year if, at the time of renewal:

~~[(a)]~~ (1) the ~~[person]~~ licensee meets the requirements of Section ~~[4-41b-201]~~ 4-41a-201; ~~[and]~~

~~[(b)]~~ (2) the ~~[person]~~ licensee pays the department a license renewal fee in an amount ~~[determined by]~~ that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504~~[-];~~ and

(3) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

Section 11. Section ~~4-41a-204~~, which is renumbered from Section 4-41b-203 is renumbered and amended to read:

~~[4-41b-203].~~ **4-41a-204. Operating plan.**

(1) A person applying for a cannabis production ~~[facility]~~ establishment license or license renewal shall submit to the department for the department's review a proposed ~~[operation]~~ operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

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

(i) each officer, director, ~~[or]~~ and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

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

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a ~~[plan to make]~~ description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

~~[(f)]~~ (g) for a cannabis cultivation facility, the information described in Subsection (2);

~~[(g)]~~ (h) for a cannabis processing facility, the information described in Subsection (3);

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and

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

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan ~~[shall include the cannabis cultivation]~~ includes the facility's intended:

(i) cannabis cultivation practices, including the ~~[cannabis cultivation]~~ facility's intended pesticide use~~[-]~~ and fertilizer use~~[-]~~; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation[-] and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c) or (d):

(i) a cannabis cultivation facility that cultivates cannabis indoors may not:

(A) use more than 100,000 square feet for cultivation; or

(B) hang, suspend, stack or otherwise position plants above other plants to cultivate more plants through use of vertical space; and

(ii) a cannabis cultivation facility that cultivates cannabis outdoors may not use more than four acres for cultivation.

(c) (i) Each licensee may annually apply to the department for authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.

(ii) The department may, after conducting a review as described in Subsection 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

(i) the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation; and

(ii) notwithstanding Subsection (2)(b), the department may allocate the remaining difference in acreage or square footage under cultivation to another licensee.

(3) A cannabis processing facility's operating plan shall include the ~~[cannabis processing]~~ facility's intended cannabis processing practices, including the cannabis processing facility's intended ~~[offered variety of cannabis product, cannabinoid extraction method, cannabinoid extraction equipment, processing equipment, processing techniques, and sanitation and food safety procedures.]:~~

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- (a) offered variety of cannabis product;
- (b) cannabinoid extraction method;
- (c) cannabinoid extraction equipment;
- (d) processing equipment;
- (e) processing techniques; and
- (f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the ~~[independent cannabis testing]~~ laboratory's intended:

- (a) cannabis and cannabis product testing capability ~~[and]~~;
- (b) cannabis and cannabis product testing equipment~~[-]~~; and
- (c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

Section 12. Section ~~4-41a-205~~, which is renumbered from Section 4-41b-204 is renumbered and amended to read:

~~[4-41b-204].~~ **4-41a-205. Number of licenses -- Cannabis cultivation facilities.**

(1) Except as ~~[otherwise]~~ provided in Subsection ~~[(2)]~~ (2)(a), the department may not issue ~~[not]~~ more than ~~[15]~~ 10 licenses to operate a cannabis cultivation ~~[facilities]~~ facility.

(2) (a) ~~[After January 1, 2022, the]~~ The department may issue ~~[additional]~~ up to five licenses to operate a cannabis cultivation ~~[facilities]~~ facility in addition to the 10 licenses described in Subsection (1) if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for ~~[medical]~~ cannabis in a medicinal dosage form and ~~[medical]~~ cannabis products in a medicinal dosage form, that each additional ~~[licenses are needed]~~ license is necessary to provide an adequate supply, quality, or variety of ~~[medical]~~ cannabis in a medicinal dosage form and ~~[medical]~~ cannabis products in a medicinal dosage form to medical cannabis ~~[card holders in Utah]~~ cardholders.

(b) If the recipient of one of the initial 10 licenses described in Subsection (1) ceases operations or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than ~~[there are]~~ the number of available

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licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

- (a) experience with establishing and successfully operating a business that involves:
 - (i) complying with a regulatory environment[;];
 - (ii) tracking inventory[;]; and
 - (iii) training, evaluating, and monitoring employees;
 - (b) an operating plan that will best ensure the safety and security of patrons and the community;
 - (c) positive connections to the local community; and
 - (d) the extent to which the applicant can reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products [~~for patients~~] in a medicinal dosage form.
- (4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 13. Section ~~4-41a-301~~, which is renumbered from Section 4-41b-301 is renumbered and amended to read:

Part 3. Cannabis Production Establishments Agents

~~[4-41b-301]~~. **4-41a-301. Cannabis production establishment agent --**
Registration.

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual [~~is registered by the department~~] as a cannabis production establishment agent.

(2) [~~A physician~~] The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent[;], have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

- (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
- (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

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(d) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis [dispensary] pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after [receiving] the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to [an individual who] the prospective agent if the cannabis production establishment:

~~[(a)]~~ (i) provides to the department:

(A) the [individual's] prospective agent's name and address [and];

(B) the name and location of a licensed cannabis production establishment where the [individual] prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

~~[(b)]~~ (ii) pays a fee to the department[;] in an amount [determined by] that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504[; that is necessary to cover the department's cost to implement this part].

(b) Each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

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

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

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(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d) to the Bureau of Criminal Identification.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

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

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard [developed by] that the department develops; or

(b) [with a third party] a third-party certification standard [designated by] that the department designates by rule [made], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) The department shall ensure that the certification standard described in Subsection (6) [shall include] includes training:

(a) in Utah medical cannabis law;

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

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(c) for a cannabis processing facility agent, in cannabis processing, ~~[food]~~ manufacturing safety procedures for items for human consumption, and sanitation best practices; and

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

(8) ~~[The department may revoke or refuse to issue the]~~ For an individual who holds or applies for a cannabis production establishment agent registration card [of an individual who]:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; ~~[or]~~ and

(b) the department shall revoke or refuse to issue the card if the individual is convicted ~~[of an offense that is a felony]~~ under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 14. Section ~~4-41a-302~~, which is renumbered from Section 4-41b-303 is renumbered and amended to read:

~~[4-41b-303]~~. **4-41a-302. Cannabis production establishment agent registration card -- Rebuttable presumption.**

(1) A cannabis production establishment agent ~~[who is registered with]~~ whom the

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department registers under Section ~~[4-41b-301]~~ 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the ~~[individual]~~ agent at all times when:

- (a) the ~~[individual]~~ agent is on the premises of a cannabis production establishment where the ~~[individual]~~ agent is ~~[a cannabis production establishment agent]~~ registered; ~~[and]~~
- (b) the ~~[individual]~~ agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:
 - (i) two cannabis production establishments; or ~~[between]~~
 - (ii) a cannabis production establishment and:
 - (A) a medical cannabis ~~[dispensary]~~ pharmacy; or
 - (B) the state central fill medical cannabis pharmacy; and
- (c) if the cannabis production establishment agent is an agent of a cannabis cultivating facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.

(2) If ~~[an individual]~~ a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, [a] cannabis product, or [a] medical cannabis device [at a cannabis production establishment, or transporting cannabis, a cannabis product, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device] in compliance with Subsection (1):

- (a) there is a rebuttable presumption that the ~~[individual]~~ agent possesses the cannabis, cannabis product, or medical cannabis device legally; and
- (b) a law enforcement officer does not have probable cause, based solely on the ~~[individual's]~~ agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) (a) ~~[An individual]~~ A cannabis production establishment agent who [violates] fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:

- (i) for a first or second offense in a two-year period:

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~~[(a)]~~ (A) guilty of an infraction; and

~~[(b)]~~ (B) [is] subject to a \$100 fine[-]; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 15. Section ~~4-41a-401~~, which is renumbered from Section 4-41b-401 is renumbered and amended to read:

Part 4. General Cannabis Production Establishment Operating Requirements

~~[4-41b-401].~~ **4-41a-401. Cannabis production establishment -- General operating requirements.**

(1) (a) A cannabis production establishment shall operate in accordance with the operating plan ~~[provided to the department under Section 4-41b-203]~~ described in Sections 4-41a-201 and 4-41a-204.

(b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.

(c) (i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.

(ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:

(A) review a change notification described in Subsection (1)(b);

(B) identify for the cannabis production establishment each point of noncompliance

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between the new operating plan and this chapter;

(C) provide an opportunity for the cannabis production establishment to address each identified point of noncompliance; and

(D) suspend or revoke a license if the cannabis production establishment fails to cure the noncompliance.

(2) A cannabis production establishment shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section [~~4-41b-301~~] 4-41a-301; and

(b) at the physical address provided to the department under Section [~~4-41b-201~~] 4-41a-201.

(3) A cannabis production establishment may not employ [~~any person~~] an individual who is younger than 21 years [~~of age~~] old.

(4) A cannabis production establishment [~~shall conduct a background check into the criminal history of every person who will become an agent of the cannabis production establishment and~~] may not employ [~~any person~~] an individual who has been convicted, [~~of an offense that is a felony~~] under [~~either~~] state or federal law[~~;~~], of:

(a) a felony; or

(b) after the effective date of this bill, a misdemeanor for drug distribution.

(5) A cannabis production establishment may authorize an individual who is at least 18 years old and is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment:

(a) tracks and monitors the individual at all times while the individual is at the cannabis production establishment; and

(b) maintains a record of the individual's access, including arrival and departure.

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

(a) a single, secure public entrance;

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

(i) detects and records entry into the cannabis production establishment; and

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

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(c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

Section 16. Section ~~4-41a-402~~, which is renumbered from Section 4-41b-402 is renumbered and amended to read:

~~[4-41b-402]~~. **4-41a-402. Inspections.**

(1) The department may inspect the records and facility of a cannabis production establishment at any time ~~[in order]~~ during business hours to determine if the cannabis production establishment complies with ~~[the requirements of]~~ this chapter.

(2) (a) An inspection under this section may include:

(i) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(ii) questioning of any relevant individual;

(iii) observation of an independent cannabis testing laboratory's methods, standards, practices, and procedures;

(iv) the taking of a specimen of cannabis or cannabis products sufficient for testing purposes; or

(v) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(b) Notwithstanding Section 4-41a-404, an authorized department employee may possess and transport a specimen of cannabis or cannabis products for testing described in Subsection (2)(a).

(3) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(4) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

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(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 17. Section ~~4-41a-403~~, which is renumbered from Section 4-41b-403 is renumbered and amended to read:

~~[4-41b-403].~~ **4-41a-403. Advertising.**

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

(2) Notwithstanding Subsection (1), a cannabis production establishment may advertise an employment [opportunities] opportunity at the cannabis production facility.

Section 18. Section ~~4-41a-404~~, which is renumbered from Section 4-41b-404 is renumbered and amended to read:

~~[4-41b-404].~~ **4-41a-404. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) ~~[Except for an individual with a valid medical cannabis card pursuant to Title 26, Chapter 60b, Medical Cannabis Act, an individual]~~

(a) Only the following individuals may [not] transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device [unless the individual is] under this chapter:

~~[(a)]~~ (i) a registered cannabis production establishment agent; or

~~[(b)]~~ (ii) [a registered cannabis dispensary agent.] a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis cultivating facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card ~~[pursuant to]~~ under Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act, [an individual] who is transporting [cannabis, a cannabis product, or] a medical cannabis [device] treatment shall possess a transportation manifest that:

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

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

(c) [~~indicates~~] identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish~~;~~ by rule [~~made~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that [~~are related to safety for human~~] the cannabis [~~or~~], cannabis product [~~consumption~~], or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis cultivation facility and:

(A) another cannabis cultivation facility; or

(B) a cannabis processing facility; and

(ii) between a cannabis processing facility and:

(A) another cannabis processing facility;

(B) an independent cannabis testing laboratory; or

(C) a medical cannabis pharmacy.

(4) (a) [~~An individual who transports cannabis, a cannabis product, or a medical cannabis device~~] It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section [~~is~~].

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

~~(a)~~ (i) guilty of an infraction; and

~~(b)~~ (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

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(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

Section 19. Section ~~4-41a-405~~ is enacted to read:

4-41a-405. Excess and disposal.

(1) As used in this section, "medical cannabis waste" means waste and unused material from the cultivation and production of medical cannabis.

(2) A cannabis production establishment shall:

(a) render medical cannabis waste unusable and unrecognizable before transporting the medical cannabis waste from the cannabis production establishment; and

(b) dispose of medical cannabis waste in accordance with:

(i) federal and state laws, rules, and regulations related to hazardous waste;

(ii) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(iii) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(iv) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An individual may not transport or dispose of medical cannabis waste other than as provided in this section.

Section 20. Section ~~4-41a-406~~, which is renumbered from Section ~~4-41b-405~~ is renumbered and amended to read:

~~[4-41b-405].~~ **4-41a-406. Local control.**

~~(1) [A municipality or county may not enact a zoning ordinance that prohibits a cannabis production establishment from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis production establishment possesses, grows, manufactures, or sells cannabis.]~~

(a) If a municipality's or county's zoning ordinances provide for an industrial zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone.

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(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone.

(2) (a) A municipality or county may not deny or revoke a land use permit [~~or license~~] to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates [~~a~~] federal law [~~of~~] regarding the [~~United States~~] legal status of cannabis.

(b) A municipality or county may not deny or revoke a business license to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis.

Section 21. Section ~~4-41a-501~~, which is renumbered from Section 4-41b-501 is renumbered and amended to read:

Part 5. Cannabis Cultivation Facility Operating Requirements.

~~[4-41b-501].~~ 4-41a-501. Cannabis cultivation facility -- Operating requirements.

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible [~~at~~] from the ground level of the cannabis cultivation facility perimeter.

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

(a) beginning at the time a cannabis plant is [~~8~~] eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis [~~transferred~~] the facility transfers to a medical cannabis [~~dispensary~~] pharmacy, the state central fill medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) [~~disposal of~~] any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

Section 22. Section ~~4-41a-502~~, which is renumbered from Section 4-41b-502 is renumbered and amended to read:

~~[4-41b-502].~~ 4-41a-502. Cannabis -- Labeling and child-resistant

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packaging.

For any cannabis that a cannabis cultivation facility cultivates or otherwise produces and subsequently ships to another cannabis production establishment, the facility shall:

(1) [~~Cannabis shall have a~~] label the cannabis with a label that[:(a)] has a unique batch identification number that is connected to the inventory control system; and [(b) does not display images, words, or phrases that are intended to appeal to children. (2) A cannabis cultivation facility shall]

(2) package the cannabis in a container that is:

(a) [~~is~~] tamper evident; and

(b) [~~is~~] not appealing to children. [~~or similar to a candy container;~~]

[(c) is opaque; and]

[(d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.]

Section 23. Section ~~4-41a-601~~, which is renumbered from Section 4-41b-601 is renumbered and amended to read:

Part 6. Cannabis Processing Facility Operating Requirements.

~~[4-41b-601].~~ **4-41a-601. Cannabis processing facility -- Operating requirements -- General.**

[(1)] A cannabis processing facility shall ensure that a cannabis product [~~sold by~~] the cannabis processing facility sells complies with the requirements of this part.

[(2)] If a cannabis processing facility extracts cannabinoids from cannabis using a hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a blast hood and shall use a system to reclaim solvents.]

Section 24. Section ~~4-41a-602~~, which is renumbered from Section 4-41b-602 is renumbered and amended to read:

~~[4-41b-602].~~ **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

(1) [~~A~~] For any cannabis product that a cannabis processing facility processes or produces, the facility shall [~~have a~~]:

(a) label the cannabis product with a label that:

[(a)] (i) clearly and unambiguously states that the cannabis product contains cannabis;

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~~[(b)]~~ (ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the ~~[cannabis product]~~ labeled container;

~~[(c)]~~ (iii) has a unique identification number that:

~~[(i)]~~ (A) is connected to the inventory control system; and

~~[(ii)]~~ (B) identifies the unique cannabis product manufacturing process ~~[by which]~~ the cannabis processing facility used to manufacture the cannabis product ~~[was manufactured]~~;

~~[(d)]~~ (iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

~~[(e)]~~ (v) does not display ~~[images, words, or phrases]~~ an image, word, or phrase that ~~[are intended to appeal]~~ the facility knows or should know appeals to children; and

~~[(f)]~~ (vi) discloses ~~[ingredients]~~ each active or potentially active ingredient, in order of prominence, and possible ~~[allergens:]~~ allergen; and

~~[(2)]~~ (b) ~~[A cannabis processing facility shall]~~ package [a] the cannabis product in a medicinal dosage form in a container that:

~~[(a)]~~ (i) except for a blister pack, is tamper evident and tamper resistant;

~~[(b)]~~ (ii) does not appeal to children;

(iii) ~~[is not appealing to children or similar to]~~ does not mimic a candy container;

~~[(c)]~~ (iv) except for a blister pack, is opaque; ~~[and]~~

~~[(d)]~~ (v) complies with child-resistant effectiveness standards ~~[established by]~~ that the United States Consumer Product Safety Commission~~[-]~~ establishes; and

(vi) includes a warning label that states: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."

(2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

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(3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a standard labeling format that:

(a) complies with the requirements of this section; and

(b) ensures inclusion of a pharmacy label.

Section 25. Section ~~4-41a-603~~, which is renumbered from Section 4-41b-603 is renumbered and amended to read:

~~[4-41b-603].~~ **4-41a-603. Cannabis product -- Product quality.**

(1) A cannabis processing facility may not produce a cannabis product in a physical form that:

(a) ~~[is intended to appeal]~~ the facility knows or should know appeals to children; ~~[or]~~

(b) is designed to mimic or could be mistaken for ~~[an existing]~~ a candy product~~[-]; or~~

(c) for a product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children.

~~[(2) A cannabis processing facility may not manufacture a cannabis product by applying a cannabis agent only to the surface of a pre-manufactured food product that is not produced by the cannabis processing facility.]~~

~~[(3)]~~ (2) A cannabis product may vary in the cannabis product's labeled ~~[cannabis]~~ cannabinoid profile by up to ~~[15%]~~ 10% of the indicated amount of a given cannabinoid, by weight.

~~[(4)]~~ (3) The department shall adopt~~[-]~~ by rule ~~[made]~~, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for ~~[manufacture]~~ the manufacturing of cannabis products that are consistent~~[-, to the extent possible,]~~ with ~~[rules for similar products that do not contain]~~ best practices for the use of cannabis.

Section 26. Section ~~4-41a-701~~, which is renumbered from Section 4-41b-701 is renumbered and amended to read:

Part 7. Independent Cannabis Testing Laboratories.

~~[4-41b-701].~~ **4-41a-701. Cannabis and cannabis product testing.**

(1) ~~[No]~~ A medical cannabis pharmacy and the state central fill medical cannabis pharmacy may not offer any cannabis or cannabis product ~~[may be offered]~~ for sale ~~[at a cannabis dispensary]~~ unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product ~~[has been tested by an independent~~

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~~cannabis testing laboratory]~~ to determine:

(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and

(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;

(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and

(c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain ~~[an unhealthy]~~ a level of a residual solvent that is not safe for human consumption.

(2) ~~[The department may determine, by]~~ By rule [made], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(i) may determine the amount of [a] any substance described in [Subsection (1)] Subsections (1)(b) and (c) that is safe for human consumption[-]; and

(ii) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment.

(3) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(4) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(5) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 27. Section ~~4-41a-702~~, which is renumbered from Section 4-41b-702 is renumbered and amended to read:

~~[4-41b-702]~~. **4-41a-702. Reporting -- Inspections -- Seizure by the department.**

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(1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human ~~[consumption, the independent cannabis testing laboratory shall]~~ use:

(a) the independent cannabis testing laboratory shall:

~~[(a)]~~ (i) report the results and the cannabis or cannabis product batch to:

~~[(i)]~~ (A) the department; and

~~[(ii)]~~ (B) the cannabis production establishment that prepared the cannabis or cannabis product batch; and

~~[(b)]~~ (ii) retain possession of the cannabis or cannabis product batch for ~~[one week]~~ two weeks in order to investigate the cause of the defective batch and to make a determination; and

~~[(c)]~~ (b) ~~[allow]~~ the cannabis production establishment that prepared the cannabis or cannabis product batch ~~[to]~~ may appeal the determination described in Subsection ~~[(1)(b)]~~ (1)(a)(ii) to the department.

(2) If ~~[, under Subsection (1)(b),]~~ the department determines, under Subsection (1)(a)(ii) or following an appeal under Subsection (1)(b), that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy, in the same manner as a cannabis production establishment under Section 4-41a-405, the cannabis or cannabis product batch.

(3) If an independent cannabis testing laboratory determines that the results of a lab test indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more than 10% from the amounts the label indicates, the cannabis processing facility may not sell the cannabis or cannabis product batch unless the facility replaces the incorrect label with a label that correctly indicates the cannabinoid content.

Section 28. Section **4-41a-801**, which is renumbered from Section 4-41b-801 is renumbered and amended to read:

~~[4-41b-801].~~ **4-41a-801. Enforcement -- Fine -- Citation.**

(1) ~~[The department may, for a violation of this chapter by]~~ If a person that is a cannabis production establishment or a cannabis production establishment agent violates this chapter, the department may:

(a) revoke the person's license or cannabis production establishment agent registration

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card;

(b) ~~[refuse]~~ decline to renew the person's license or cannabis production establishment agent registration card; or

(c) assess the person an administrative penalty that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The department shall deposit an administrative penalty imposed under this section ~~[in the general fund]~~ into the General Fund.

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

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

(ii) the person produced cannabis or a cannabis product batch that contains a substance, other than cannabis, that poses a significant threat to human health.

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

(i) issue the person a written administrative citation;

(ii) attempt to negotiate a stipulated settlement;

(iii) seize, embargo, or destroy the cannabis or cannabis product batch; ~~[and]~~

(iv) order the person to cease and desist from the action that creates a violation; and

~~[(iv)]~~ (v) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section~~[(a)],~~ for a fine amount not already specified in law, assess the person, who is not an individual, a fine~~;~~ established in accordance with Section 63J-1-504, of up to \$5,000 per violation, in accordance with a fine schedule ~~[established by]~~ that the department establishes by rule ~~[made]~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~;~~ or.

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

(5) The department may not revoke a cannabis production establishment's license without first ~~[direct]~~ directing the cannabis production establishment to appear before an

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adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

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

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

(8) ~~[If the department makes a final determination under this section that]~~

(a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual [violated]:

(i) violates a provision of this chapter, the individual is:

(A) guilty of an infraction[-]; and

(B) subject to a \$100 fine; or

(ii) intentionally or knowingly violates a provision of this chapter or violates this chapter three or more times, the individual is:

(A) guilty of a class B misdemeanor; and

(B) subject to a \$1,000 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

(9) Nothing in this section prohibits the department from referring potential criminal activity to law enforcement.

Section 29. Section ~~4-41a-802~~, which is renumbered from Section 4-41b-802 is renumbered and amended to read:

~~[4-41b-802].~~ **4-41a-802. Report.**

(1) ~~[The]~~ At or before the November interim meeting each year, the department shall report [annually] to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications [received;] that the department

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receives under this chapter:

(b) the number of each type of cannabis production facility [~~licensed~~] that the department licenses in each county~~;~~];

(c) the amount of cannabis [~~grown by~~] that licensees~~;~~ grow;

(d) the amount of cannabis [~~manufactured~~] that licensees manufacture into cannabis products [~~by licensees~~];

(e) the number of licenses [~~revoked~~] the department revokes under this chapter; and

(f) the expenses incurred and revenues generated [~~from the medical cannabis program~~] under this chapter.

(2) The department may not include personally identifying information in the report described in this section.

Section 30. Section **7-1-401** is amended to read:

7-1-401. Fees payable to commissioner.

(1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

(a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately preceding the date on which the annual fee is due under Section 7-1-402; and

(b) at the following rates:

(i) on the first \$5,000,000 of these assets, the greater of:

(A) 65 cents per \$1,000; or

(B) \$500;

(ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;

(iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;

(iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;

(v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;

(vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and

(vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.

(2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

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(3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).

(4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

(a) an annual fee of \$500; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(5) Any person or institution under the jurisdiction of the department that does not pay a fee under Subsections (1) through (4) shall pay:

(a) an annual fee of \$200; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-704, 7-1-713, 7-5-3, or 7-18a-202[~~; or 7-26-201~~] shall pay:

(a) (i) a filing fee of \$500 if on the day on which the application or request is filed the person:

(A) is a person with authority to transact business as[~~;~~(~~H~~)] a depository institution[~~;~~(~~H~~)]~~],~~ a trust company[~~;~~], or [~~(H)~~] any other person described in Section 7-1-501 as being subject to the jurisdiction of the department; and

(B) has total assets in an amount less than \$5,000,000; or

(ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

(b) all reasonable expenses incurred in processing the application.

(7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55 per hour:

(i) for each examiner; and

(ii) per hour worked.

(b) For an examination of a branch or office of a financial institution located outside of this state, in addition to the per diem assessment under this Subsection (7), the institution shall pay all reasonable travel, lodging, and other expenses incurred by each examiner while conducting the examination.

(8) In addition to a fee under Subsection (5), a person registering under Section

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7-23-201 or 7-24-201 shall pay an original registration fee of \$300.

(9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter 25, Money Transmitter Act, shall pay an original license fee of \$300.

Section 31. Section ~~10-9a-104~~ is amended to read:

10-9a-104. Stricter requirements.

(1) Except as provided in Subsection (2), a municipality may enact ~~[an ordinance]~~ a land use regulation imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose ~~[stricter requirements or higher standards than are required by:]~~

~~[(a) Section 4-41b-405;]~~

~~[(b) Section 10-9a-305;]~~

~~[(c) Section 10-9a-514; and]~~

~~[(d) Section 26-60b-506.]~~ a requirement or standard that conflicts with a provisions of this chapter, other state law, or federal law.

Section 32. Section ~~17-27a-104~~ is amended to read:

17-27a-104. Stricter requirements or higher standards.

(1) Except as provided in Subsection (2), a county may enact ~~[an ordinance]~~ a land use regulation imposing stricter requirements or higher standards than are required by this chapter.

(2) A county may not impose ~~[stricter requirements or higher standards than are required by:]~~

~~[(a) Section 4-41b-405;]~~

~~[(b) Section 17-27a-305;]~~

~~[(c) Section 17-27a-513; and]~~

~~[(d) Section 26-60b-506.]~~ a requirement or standard that conflicts with a provision of this chapter, other state law, or federal law.

Section 33. Section ~~26-36d-101~~ is enacted to read:

CHAPTER 36d. HOSPITAL PROVIDER ASSESSMENT ACT.

Part 1. General Provisions.

26-36d-101. Title.

This chapter is known as the "Hospital Provider Assessment Act."

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Section 34. Section **26-36d-102** is enacted to read:

26-36d-102. Legislative findings.

(1) The Legislature finds that there is an important state purpose to improve the access of Medicaid patients to quality care in Utah hospitals because of continuous decreases in state revenues and increases in enrollment under the Utah Medicaid program.

(2) The Legislature finds that in order to improve this access to those persons described in Subsection (1):

(a) the rates paid to Utah hospitals shall be adequate to encourage and support improved access; and

(b) adequate funding shall be provided to increase the rates paid to Utah hospitals providing services pursuant to the Utah Medicaid program.

Section 35. Section **26-36d-103** is enacted to read:

26-36d-103. Definitions.

As used in this chapter:

(1) "Accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26-18-405.

(2) "Assessment" means the Medicaid hospital provider assessment established by this chapter.

(3) "Discharges" means the number of total hospital discharges reported on worksheet S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for the applicable assessment year.

(4) "Division" means the Division of Health Care Financing of the department.

(5) "Hospital":

(a) means a privately owned:

(i) general acute hospital operating in the state as defined in Section 26-21-2; and

(ii) specialty hospital operating in the state, which shall include a privately owned hospital whose inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

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(C) chemical dependency; or

(D) long-term acute care services; and

(b) does not include:

(i) a human services program, as defined in Section 62A-2-101;

(ii) a hospital owned by the federal government, including the Veterans Administration

Hospital; or

(iii) a hospital that is owned by the state government, a state agency, or a political subdivision of the state, including:

(A) a state-owned teaching hospital; and

(B) the Utah State Hospital.

(6) "Medicare cost report" means CMS-2552-96 or CMS-2552-10, the cost report for electronic filing of hospitals.

(7) "State plan amendment" means a change or update to the state Medicaid plan.

Section 36. Section **26-36d-201** is enacted to read:

Part 2. Application of Chapter.

26-36d-201. Application of chapter.

(1) Other than for the imposition of the assessment described in this chapter, nothing in this chapter shall affect the nonprofit or tax exempt status of any nonprofit charitable, religious, or educational health care provider under:

(a) Section 501(c), as amended, of the Internal Revenue Code;

(b) other applicable federal law;

(c) any state law;

(d) any ad valorem property taxes;

(e) any sales or use taxes; or

(f) any other taxes, fees, or assessments, whether imposed or sought to be imposed by the state or any political subdivision, county, municipality, district, authority, or any agency or department thereof.

(2) All assessments paid under this chapter may be included as an allowable cost of a hospital for purposes of any applicable Medicaid reimbursement formula.

(3) This chapter does not authorize a political subdivision of the state to:

(a) license a hospital for revenue;

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(b) impose a tax or assessment upon hospitals; or

(c) impose a tax or assessment measured by the income or earnings of a hospital.

Section 37. Section **26-36d-202** is enacted to read:

26-36d-202. Assessment, collection, and payment of hospital provider assessment.

(1) A uniform, broad based, assessment is imposed on each hospital as defined in Subsection 26-36d-103(5)(a):

(a) in the amount designated in Section 26-36d-203; and

(b) in accordance with Section 26-36d-204.

(2) (a) The assessment imposed by this chapter is due and payable on a quarterly basis in accordance with Section 26-36d-204.

(b) The collecting agent for this assessment is the department which is vested with the administration and enforcement of this chapter, including the right to adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(i) implement and enforce the provisions of this act; and

(ii) audit records of a facility:

(A) that is subject to the assessment imposed by this chapter; and

(B) does not file a Medicare cost report.

(c) The department shall forward proceeds from the assessment imposed by this chapter to the state treasurer for deposit in the expendable special revenue fund as specified in Section 26-36d-207.

(3) The department may, by rule, extend the time for paying the assessment.

Section 38. Section **26-36d-203** is enacted to read:

26-36d-203. Calculation of assessment.

(1) (a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Section 26-36d-205 that is needed to support capitated rates for accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to

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all assessed hospitals.

(d) The annual uniform assessment rate may not generate more than:

(i) \$1,000,000 to offset Medicaid mandatory expenditures; and

(ii) the non-federal share to seed amounts needed to support capitated rates for accountable care organizations as provided for in Subsection (1)(b).

(2) (a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare Cost Report contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file. The hospital's discharge data will be derived as follows:

(i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2009, and June 30, 2010;

(ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2010, and June 30, 2011;

(iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2011, and June 30, 2012;

(iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2012, and June 30, 2013; and

(v) for each subsequent state fiscal year, the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

(b) If a hospital's fiscal year Medicare Cost Report is not contained in the Centers for Medicare and Medicaid Services' Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare Cost Report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare Cost Report:

(i) the hospital shall submit to the division its applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's

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records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this chapter.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 39. Section **26-36d-204** is enacted to read:

26-36d-204. Quarterly notice -- Collection.

Quarterly assessments imposed by this chapter shall be paid to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

Section 40. Section **26-36d-205** is enacted to read:

26-36d-205. Medicaid hospital adjustment under accountable care organization rates.

To preserve and improve access to hospital services, the division shall, for accountable care organization rates effective on or after April 1, 2013, incorporate an annualized amount equal to \$154,000,000 into the accountable care organization rate structure calculation consistent with the certified actuarial rate range.

Section 41. Section **26-36d-206** is enacted to read:

26-36d-206. Penalties and interest.

(1) A facility that fails to pay any assessment or file a return as required under this chapter, within the time required by this chapter, shall pay, in addition to the assessment, penalties and interest established by the department.

(2) (a) Consistent with Subsection (2)(b), the department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish reasonable penalties and interest for the violations described in Subsection (1).

(b) If a hospital fails to timely pay the full amount of a quarterly assessment, the

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department shall add to the assessment:

(i) a penalty equal to 5% of the quarterly amount not paid on or before the due date;

and

(ii) on the last day of each quarter after the due date until the assessed amount and the penalty imposed under Subsection (2)(b)(i) are paid in full, an additional 5% penalty on:

(A) any unpaid quarterly assessment; and

(B) any unpaid penalty assessment.

(c) Upon making a record of its actions, and upon reasonable cause shown, the division may waive, reduce, or compromise any of the penalties imposed under this part.

Section 42. Section **26-36d-207** is enacted to read:

26-36d-207. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under this chapter;

(b) any interest and penalties levied with the administration of this chapter; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection 26-36d-203(1)(d) for accountable care organizations; and

(b) to reimburse money collected by the division from a hospital through a mistake made under this chapter.

Section 43. Section **26-36d-208** is enacted to read:

26-36d-208. Repeal of assessment.

(1) The repeal of the assessment imposed by this chapter shall occur upon the certification by the executive director of the department that the sooner of the following has occurred:

(a) the effective date of any action by Congress that would disqualify the assessment imposed by this chapter from counting toward state Medicaid funds available to be used to determine the federal financial participation;

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(b) the effective date of any decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government that has the effect of:

(i) disqualifying the assessment from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creating for any reason a failure of the state to use the assessments for the Medicaid program as described in this chapter;

(c) the effective date of:

(i) an appropriation for any state fiscal year from the General Fund for hospital payments under the state Medicaid program that is less than the amount appropriated for state fiscal year 2012;

(ii) the annual revenues of the state General Fund budget return to the level that was appropriated for fiscal year 2008;

(iii) a division change in rules that reduces any of the following below July 1, 2011 payments:

(A) aggregate hospital inpatient payments;

(B) adjustment payment rates; or

(C) any cost settlement protocol; or

(iv) a division change in rules that reduces the aggregate outpatient payments below July 1, 2011 payments; and

(d) the sunset of this chapter in accordance with Section 63I-1-226.

(2) If the assessment is repealed under Subsection (1), money in the fund that was derived from assessments imposed by this chapter, before the determination made under Subsection (1), shall be disbursed under Section 26-36d-205 to the extent federal matching is not reduced due to the impermissibility of the assessments. Any funds remaining in the special revenue fund shall be refunded to the hospitals in proportion to the amount paid by each hospital.

Section 44. Section **26-61-202** is amended to read:

26-61-202. Cannabinoid Product Board -- Duties.

(1) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

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- (a) was conducted under a study approved by an IRB; or
- (b) was conducted or approved by the federal government.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms; [~~and~~]

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments[-]; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product[-];

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products; and

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products.

(4) The board shall submit the guidelines described in Subsection (3) to:

- (a) the director of the Division of Occupational and Professional Licensing; and
- (b) the Health and Human Services Interim Committee.

(5) The board shall report the board's findings before November 1 of each year to the Health and Human Services Interim Committee.

(6) Guidelines [~~developed pursuant to~~] that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted [~~pursuant to~~] under Title 4, Chapter [~~41b~~] 41a, Cannabis Production [~~Establishment~~]

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Establishments, or Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act.

Section 45. Section **26-61a-101**, which is renumbered from Section 26-60b-101 is renumbered and amended to read:

CHAPTER 61a. UTAH MEDICAL CANNABIS ACT.

Part 1. General Provisions.

~~[26-60b-101].~~ **26-61a-101.** Title.

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

Section 46. Section **26-61a-102**, which is renumbered from Section 26-60b-102 is renumbered and amended to read:

~~[26-60b-102].~~ **26-61a-102.** Definitions.

As used in this chapter:

(1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.

(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.

~~[(1)]~~ (3) "Cannabis" means ~~[the same as that term is defined in Section 58-37-3.9]~~ marijuana.

~~[(2)]~~ (4) "Cannabis cultivation facility" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~[(3)]~~ "Cannabis dispensary" means a person that:

~~[(a)]~~ acquires or intends to acquire cannabis or a cannabis product from a cannabis production establishment and acquires or intends to acquire a medical cannabis device;

~~[(b)]~~ possesses cannabis, a cannabis product, or a medical cannabis device; and

~~[(c)]~~ sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.]

~~[(4)]~~ "Cannabis dispensary agent" means an owner, officer, director, board member, employee, or volunteer of a cannabis dispensary.]

~~[(5)]~~ "Cannabis dispensary agent registration card" means a registration card issued by the department that authorizes an individual to act as a cannabis dispensary agent.]

~~[(6)]~~ (5) "Cannabis processing facility" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~[(7)]~~ (6) "Cannabis product" means ~~[the same as that term is defined in Section~~

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~~58-37-3-9~~] a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

~~(8)~~ (7) "Cannabis production establishment agent" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~(9)~~ (8) "Cannabis production establishment agent registration card" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~(10)~~ (9) "Community location" means a public or private school, a church, a public library, a public playground, or a public park. ~~(10)~~

~~(9)~~ (10) "Department" means the Department of Health.

~~(11)~~ ~~(10)~~ "Designated caregiver" means an individual:

(a) whom ~~[a patient]~~ an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(b) who registers with the department under Section ~~[26-60b-202]~~ 26-61a-202.

~~(11)~~ (12) "Dosing parameters" means quantity, routes, and frequency of administration for a recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

~~(12)~~ (13) "Independent cannabis testing laboratory" means the same as that term is defined in Section ~~[4-41b-102]~~ 4-41a-102.

~~(13)~~ (14) "Inventory control system" means the system described in Section ~~[4-41b-103]~~ 4-41a-103.

~~(14)~~ (15) "Local health department" means the same as that term is defined in Section 26A-1-102.

~~(15)~~ (16) "Local health department distribution agent" means an agent designated and registered to distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.

~~(16)~~ (17) "Marijuana" means the same as that term is defined in Section 58-37-2.

~~(17)~~ (18) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

~~(14)~~ ~~(18)~~ (19) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

~~(19)~~ (20) "Medical cannabis cardholder" means a holder of a medical cannabis card.

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(~~20~~21) "Medical cannabis caregiver card" means an official card ~~[issued by]~~ that:

(a) the department issues to an individual [with a qualifying illness, or the individual's] whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver [under this chapter, that]; and

(b) is connected to the electronic verification system.

~~[(15)]~~ (~~21~~22) (a) "Medical cannabis device" means ~~[the same as that term is defined in Section 58-37-3.9.]~~ a device that an individual uses to ingest cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(~~22~~23) "Medical cannabis guardian card" means an official card that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(~~23~~24) "Medical cannabis patient card" means an official card that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(~~24~~25) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

(~~25~~26) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

(~~26~~27) "Medical cannabis pharmacy agent registration card" means a registration

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card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(~~f27~~28) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

~~[(16) "Medical Cannabis Restricted Account" means the account created in Section 26-60b-109;]~~

(~~f28~~29) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following in single dosage form with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) for use only after the individual's qualifying condition has failed to substantially respond to at least two other forms described in this Subsection (~~f28~~29)(a)(i), a resin or wax;

(ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

(A) containing a specific and consistent weight that does not exceed one gram and that varies by no more than 10% from the stated weight; and

(B) labeled with a barcode that provides information connected to an inventory control system and the individual blister's content and weight; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the blister pack described in Subsection (~~f28~~29)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (~~f28~~29)(a)(ii).

(c) "Medicinal dosage form" does not include:

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(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection (~~{28}~~{29})(b); or

(ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

(~~{29}~~{30}) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

(~~{30}~~{31}) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

(~~{17}~~) (~~{31}~~{32}) [~~"Physician"~~] "Qualified medical provider" means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section [26-60b-107] 26-61a-106.

(~~{32}~~{33}) "Qualified Distribution Enterprise ~~{Account}~~Fund" means the enterprise ~~{account}~~fund created in Section 26-61a-110.

(~~{33}~~{34}) "Qualified Patient Enterprise ~~{Account}~~Fund" means the enterprise ~~{account}~~fund created in Section 26-61a-109.

(~~{18}~~) (~~{34}~~{35}) "Qualifying [~~illness~~] condition" means a condition described in Section [26-60b-105] 26-61a-104.

(~~{35}~~{36}) "State central fill agent" means an employee of the state central fill medical cannabis pharmacy that the department registers in accordance with Section 26-61a-602.

(~~{36}~~{37}) "State central fill medical cannabis pharmacy" means the central fill pharmacy that the department creates in accordance with Section 26-61a-601.

(~~{37}~~{38}) "State central fill medical provider" means a physician or pharmacist that the state central fill medical cannabis pharmacy employs to consult with medical cannabis cardholders in accordance with Section 26-61a-601.

(~~{38}~~{39}) "State central fill shipment" means a shipment of cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state central fill medical cannabis pharmacy prepares and ships for distribution to a medical

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cannabis cardholder in a local health department.

~~[(19)]~~ ~~(~~39~~;40)~~ "State electronic verification system" means the system described in Section ~~[26-60b-103]~~ 26-61a-103.

Section 47. Section **26-61a-103**, which is renumbered from Section 26-60b-103 is renumbered and amended to read:

~~[26-60b-103].~~ **26-61a-103. Electronic verification system.**

(1) The Department of Agriculture and Food, the ~~[Department of Health]~~ department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of ~~[an]~~ the state electronic verification system in accordance with Subsection (2);

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

(c) select a third-party provider ~~[described in]~~ who meets the requirements contained in the request for proposals issued under Subsection (1)(b).

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1) [shall]:

(a) ~~[allow]~~ allows an individual, with the individual's [physician] qualified medical provider in the [physician's] qualified medical provider's office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

~~[(b)]~~ (ii) [allow a physician to] electronically recommend, during a visit with a patient, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal

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dosage form and optionally recommend dosing parameters;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) for the qualified medical provider who originally recommended a medical cannabis treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

(B) for a qualified medical provider who did not originally recommend the medical cannabis treatment, during a face-to-face visit with a patient; and

(iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;

~~(c)~~ (d) ~~connect~~ connects with:

(i) an inventory control system ~~[used by a cannabis dispensary]~~ that a medical cannabis pharmacy and the state central fill medical cannabis pharmacy use to track[;] in real time[;] and [to] archive [for no more than 60 days, purchase history] purchases of any cannabis [or a] in a medicinal dosage form, cannabis product [by a] in a medicinal dosage form, or medical cannabis [card holder] device, including:

(A) the time and date of [the] each purchase[;];

(B) the quantity and type of cannabis [or], cannabis product, or medical cannabis device purchased[; and];

(C) any cannabis production establishment ~~[and cannabis dispensary], any medical cannabis pharmacy, or the state central fill medical cannabis pharmacy~~ associated with the cannabis [or], cannabis product[;], or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

~~(d)~~ (e) ~~provide~~ provides access to:

(i) the ~~[Department of Health and the Department of Agriculture and Food]~~ department to the extent necessary to carry out the ~~[Department of Health's and the Department of~~

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~~Agriculture and Food's~~ department's functions and responsibilities under this chapter ~~[and]~~:

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter ~~[4Hb]~~ 41a, Cannabis Production ~~[Establishment]~~ Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;

(f) provides access to and interaction with the state central fill medical cannabis pharmacy, state central fill agents, and local health department distribution agents, to facilitate the state central fill shipment process;

~~(e)~~ (g) ~~[provide]~~ provides access to state or local law enforcement;

(i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is ~~[complying]~~ in compliance with state medical cannabis law~~[-]~~; or

(ii) after obtaining a warrant; and

~~(f)~~ (h) ~~[create]~~ creates a record each time a person accesses the database that identifies the person who ~~[accessed]~~ accesses the database and the individual whose records ~~[are accessed; and]~~ the person accesses.

~~(g)(9) be operational no later than March 1, 2020.]~~

(3) The ~~[Department of Health]~~ department may release de-identified data ~~[collected by]~~ that the system collects for the purpose of:

(a) conducting medical research; and [for]

(b) providing the report required by Section ~~[26-60b-602]~~ 26-61a-703.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as

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described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(5) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(6) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (7) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.

(e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information on the patient with the patient.

Section 48. Section **26-61a-104**, which is renumbered from Section 26-60b-105 is

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renumbered and amended to read:

~~[26-60b-105]~~. 26-61a-104. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

~~[(+)]~~ (2) For the purposes of this chapter, each of the following conditions [are considered] is a qualifying [illness] condition:

~~(a) HIV[;] or acquired immune deficiency syndrome [or an autoimmune disorder];~~

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer[;];

~~(e) cachexia[; or a condition manifest by physical wasting;];~~

(f) persistent nausea[; or malnutrition associated with chronic disease] that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

~~[(e)]~~ (g) Crohn's disease[;] or ulcerative colitis[; or a similar gastrointestinal disorder];

~~[(f)]~~ (h) epilepsy or [a similar condition that causes] debilitating seizures;

~~[(g)]~~ (i) multiple sclerosis or [a similar condition that causes] persistent and debilitating muscle spasms;

~~[(h)]~~ (j) post-traumatic stress disorder[;] that **is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:**

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of

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the patient, by a ~~psychiatrist, psychologist, or clinical social worker who:~~

~~(A) is licensed;~~

~~(B) is} provider who is:~~

(A) a licensed board-eligible or board-certified psychiatrist; ~~and~~

~~(C) (B) has} a licensed psychologist with a doctorate-level degree;~~

(C) a licensed clinical social worker with a doctorate-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing speciality and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);

~~(k)~~ (k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

~~(n)~~ (n) a rare condition or disease that:

(i) affects less than 200,000 ~~persons~~ individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

~~(o)~~ (o) ~~chronic or debilitating~~ pain ~~in an individual, if~~ lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) ~~[a physician determines that the individual is at risk of becoming chemically dependent on, or overdosing on, opiate-based pain medication]~~ conventional medications other than opioids or opiates; or

(ii) ~~[a physician determines that the individual is allergic to opiates or is otherwise medically unable to use opiates.]~~ physical interventions; and

~~(2)~~ (p) ~~[In addition to the conditions described in Subsection (1),]~~ a condition ~~[approved]~~ that the compassionate use board approves under Section [26-60b-106, in] 26-61a-105, on an individual, [on a] case-by-case basis[; is considered a qualifying illness for

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~~the purposes of this chapter].~~

Section 49. Section **26-61a-105**, which is renumbered from Section 26-60b-106 is renumbered and amended to read:

~~[26-60b-106].~~ **26-61a-105. Compassionate use board.**

(1) ~~(a)~~ The department shall establish a ~~[Compassionate Use Board]~~ compassionate use board consisting of:

~~[(a)]~~ ~~(i)~~ ~~[five physicians]~~ seven qualified medical providers that the executive director appoints:

~~(A)~~ who are knowledgeable about the medicinal use of cannabis ~~[and];~~

~~(B)~~ who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

~~(C)~~ whom [certified by] the appropriate board certifies in [one of] the [following specialties:] specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, ~~[and]~~ or gastroenterology; and

~~[(b)]~~ ~~(ii)~~ as a nonvoting member and the chair of the board, the executive director [of the Department of Health] or the director's designee [as a non-voting member].

~~(b)~~ In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) ~~[Two of]~~ Of the members of the board that the executive director first [appointed] appoints:

~~(i)~~ three shall serve ~~[for a]~~ an initial term of ~~[three]~~ two years; and ~~[two of]~~

~~(ii)~~ the remaining members ~~[of the board first appointed]~~ shall serve ~~[for a]~~ an initial term of four years.

~~(b)~~ After ~~[the first members' terms expire, members of the board shall serve for a]~~ an initial term ~~[of]~~ described in Subsection (2)(a) expires:

~~(i)~~ each term is four years; and ~~[shall be]~~

~~(ii)~~ each board member is eligible for reappointment.

~~(c)~~ ~~[Any]~~ A member of the board may serve until a successor is appointed.

~~[(d)]~~ ~~The director of the Department of Health or the director's designee shall serve as the chair of the board.]~~

(3) ~~[A]~~ Four members constitute a quorum of the ~~[Compassionate Use Board shall~~

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~~consist of three members]~~ compassionate use board.

(4) A member of the board may ~~[not]~~ receive:

(a) compensation or benefits for the member's service~~[-but may receive]; and~~

(b) per diem and travel expenses in accordance with Section 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The ~~[Compassionate Use Board]~~ compassionate use board shall:

(a) review and recommend ~~[to the]~~ for department approval ~~[for]~~ an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual ~~[offers, in the board's discretion, satisfactory evidence that the individual suffers from a]~~ for an intractable condition that:

(A) substantially impairs the individual's quality of life ~~[and is intractable]; and~~

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

~~[(ii)]~~ (iii) the board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it [is] may be in the best [interest] interests of the [patient] individual to allow the~~[-compassionate]~~ use of medical cannabis;

(b) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly~~[-unless no petitions are pending, or]; and~~

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

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review during the board's regular schedule, as often as necessary;

(c) complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days [of receipt] after the day on which the board received the petition; and

(d) report, before November 1 of each year, to the Health and Human Services Interim Committee^[7]:

(i) the number of compassionate use ~~[approvals]~~ recommendations the board issued during the past year; and

(ii) the types of conditions for which the board approved compassionate use.

(6) (a) (i) The department shall review any compassionate use ~~[approved by]~~ for which the board recommends approval under ~~[this section]~~ Subsection (5)(c) to determine ~~[if]~~ whether the board properly exercised the board's discretion under this section.

~~[(7)]~~ (ii) If the department determines that the board properly ~~[approved an individual for compassionate use under this section]~~ exercised the board's discretion in recommending approval under Subsection (5)(c), the department shall:

(A) issue ~~[a]~~ the relevant medical cannabis card^[7]; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the board's recommendation for denial under Subsection (5)(c) was arbitrary or capricious:

(A) the department shall notify the board of the department's determination; and

(B) the board shall reconsider the board's refusal to recommend approval under this section.

(c) In reviewing the board's recommendation for approval or denial under Subsection (5)(c) in accordance with this Subsection (6), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

~~[(8)]~~ (7) Any individually identifiable health information contained in a petition ~~[received]~~ that the board or department receives under this section ~~[shall be]~~ is a protected

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record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

~~[(9)] (8) The [Compassionate Use Board may recommend]~~ compassionate use board shall annually report the board's activity to the [Health and Human Services Interim Committee:]

~~[(a) a condition to designate as a qualifying illness under Section 26-60b-105; or]~~

~~[(b) a condition to remove as a qualifying illness under Section 26-60b-105]~~

Cannabinoid Product Board created in Section 26-61-201.

Section 50. Section ~~26-61a-106~~, which is renumbered from Section 26-60b-107 is renumbered and amended to read:

~~[26-60b-107].~~ **26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.**

(1) ~~[For the purposes of this chapter, a physician means an]~~ An individual~~[, other than a veterinarian, who]~~ may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and [who]

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled [substances:] substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

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Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with section 63J-1-504; and

(B) does not exceed \$300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider or a state central fill medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis ~~cultivation facility~~ production establishment or a medical cannabis pharmacy.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical

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Practice Act, the Physicians Licensing Board;

(C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
and

(D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

~~[(2) A physician may recommend cannabis if the physician recommends cannabis to no more than 20% of the physician's patients at any given time.]~~

(4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may not recommend a medical cannabis treatment to more than 175 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

~~[(3)]~~ (b) Except as provided in Subsection (4)(c), [A physician] a qualified medical provider may recommend a medical cannabis treatment to [greater than 20% of the physician's patients] up to 300 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the [physician is certified, by the] appropriate American medical board[, in one of the following specialties:] has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative [care;

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~~physiatry]~~ medicine, physical medicine and rehabilitation, rheumatology, or psychiatry[-]; or

(ii) a licensed business employs or contracts the qualified medical provider for the specific purpose of providing hospice and palliative care.

(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for authorization to exceed the limit described in Subsection (4)(b) by graduating increments of 100 patients per authorization, not to exceed three authorizations.

(ii) The Division of Occupational and Professional Licensing shall grant the authorization described in Subsection (4)(c)(i) if:

(A) the petitioning qualified medical provider pays a \$100 fee;

(B) the division performs a review that includes the qualified medical provider's medical cannabis recommendation activity in the state electronic verification system, relevant information related to patient demand, and any patient medical records that the division determines would assist in the division's review; and

(C) after the review described in this Subsection (4)(c)(ii), the division determines that granting the authorization would not adversely affect public safety, adversely concentrate the overall patient population among too few qualified medical providers, or adversely concentrate the use of medical cannabis among the provider's patients.

~~[(4)]~~ (5) A [physician] qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a [physician-patient] qualified medical provider-patient relationship after the [physician] qualifying medical provider has completed and documented in the patient's medical record a [full] thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

~~[(5)]~~ (6) (a) Except as provided in Subsection [(5)(b)] (6)(b), a [physician-eligible to recommend cannabis or a cannabis product under this section] qualified medical provider may not advertise that the [physician] qualified medical provider recommends medical cannabis [or a cannabis product] treatment.

(b) [A physician may advertise via] For purposes of Subsection (6)(a), the communication of the following, through a website [that displays only] does not constitute advertising:

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(i) a green cross;

~~[(ii) the location and hours of operation of the physician's office;]~~

~~[(iii)]~~ (ii) a qualifying ~~[illness]~~ condition that the ~~[physician]~~ qualified medical provider treats; ~~[and]~~ or

~~[(iv)]~~ (iii) a scientific study ~~[regarding]~~ medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with section 63J-1-504; and

(B) does not exceed \$50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

Section 51. Section ~~26-61a-107~~, which is renumbered from Section 26-60b-108 is renumbered and amended to read:

~~[26-60b-108].~~ **26-61a-107. Standard of care -- Physicians and pharmacists**

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not liable -- No private right of action.

~~[A physician who recommends treatment with cannabis or a cannabis product to an individual in accordance with this chapter may not, based on the recommendation, be subject to]~~

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil [liability,] or criminal liability[;]; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act [or], Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

(A) has the authority to write a prescription; and

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider or a state central fill medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy or the state central fill medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

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(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

Section 52. Section **26-61a-108** is enacted to read:

26-61a-108. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a medical cannabis pharmacy on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult

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with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 53. Section ~~26-61a-109~~, which is renumbered from Section 26-60b-109 is renumbered and amended to read:

~~[26-60b-109].~~ **26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.**

(1) There is created [~~in the General Fund a restricted account~~] an enterprise fund known as the [~~"Medical Cannabis Restricted Account."~~] "Qualified Patient Enterprise Fund."

(2) The [~~account~~] fund created in this section is funded from:

~~[(a) money deposited into the account by the Department of Agriculture and Food under Title 4, Chapter 41b, Cannabis Production Establishments;]~~

~~[(b)]~~ (a) money [~~deposited~~] the department deposits into the [~~account by the department~~] fund under this chapter;

~~[(c)]~~ (b) appropriations [~~made~~] the Legislature makes to the [~~account by the Legislature~~] fund; and

~~[(d)]~~ (c) the interest described in Subsection (3).

(3) Interest earned on the [~~account is~~] fund shall be deposited [~~in~~] into the [~~account~~] fund.

(4) [~~Money~~] The department may only use money in the [~~account may only be used~~] fund to fund the [~~state medical cannabis program, including Title 26, Chapter 60b, Medical Cannabis Act and Title 4, Chapter 41b, Cannabis Production Establishments~~] department's responsibilities under this chapter, except for the responsibilities described in Subsection 26-61a-110(4).

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 54. Section **26-61a-110** is enacted to read:

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26-61a-110. Qualified Distribution Enterprise Fund -- Creation.

(1) There is created an enterprise fund known as the "Qualified Distribution Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund from the operation of the state central fill medical cannabis pharmacy under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the operation of the state central fill medical cannabis pharmacy.

Section 55. Section **26-61a-111**, which is renumbered from Section 26-60b-110 is renumbered and amended to read:

~~[26-60b-110].~~ **26-61a-111. Nondiscrimination for medical care or government employment.**

(1) For purposes of medical care, including an organ [and] or tissue [transplants, the use of cannabis by a patient who holds] transplant, a [medical cannabis card] patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

~~[(2) No landlord may refuse to lease to and may not otherwise penalize a person solely for the person's status as a medical cannabis card holder, unless failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law.]~~

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of opioids and opiates.

(b) Subsection (2)(a) does not apply where application would jeopardize federal

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funding for the employee's position.

Section 56. Section **26-61a-112** is enacted to read:

26-61a-112. No insurance requirement.

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

Section 57. Section **26-61a-113** is enacted to read:

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

(1) Nothing in this chapter prohibits an individual:

(a) with a valid hemp extract registration card that the department issues under Section 26-56-103 from possessing, administering, or using hemp extract in accordance with Section 58-37-4.3; or

(b) from purchasing, selling, possessing, or using a cannabidiol product in accordance with Section 4-41-402.

(2) Nothing in this chapter restricts or otherwise affects the prescription, distribution, or dispensing of a product that the United States Food and Drug Administration has approved.

Section 58. Section **26-61a-114** is enacted to read:

26-61a-114. Severability clause.

(1) If any provision of this title or this bill or the application of any provision of this title or this bill to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remaining provisions of this title and this bill remain effective without the invalidated provision or application.

(2) The provisions of this title and this bill are severable.

Section 59. Section **26-61a-201**, which is renumbered from Section 26-60b-201 is renumbered and amended to read:

Part 2. Medical Cannabis Card Registration.

~~[26-60b-201].~~ **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.**

(1) ~~[The Department of Health shall, no later than]~~ On or before March 1, 2020, ~~[and] the department shall,~~ within 15 days after ~~[an individual]~~ the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in ~~[compliance]~~ accordance with this section[;] or Section 26-61a-202:

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(a) issue a medical cannabis patient card to an individual [who complies with this section.] described in Subsection (2)(a);

(b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(c) issue a provisional patient card to a minor described in Subsection (2)(c); and

(d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(2) (a) An individual is eligible for a medical cannabis patient card if:

[~~(a)~~] (i) (A) the individual is at least [~~18~~] 21 years old[~~;~~]; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;

(ii) the individual is a Utah resident[~~, and treatment with medical cannabis has been recommended by~~];

(iii) the individual's [~~physician under~~] qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4); [~~or~~]

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) [~~the individual~~] An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor[~~, the individual is at least 18 years old, the individual is a Utah resident, and treatment with~~] for whom the minor's qualified medical provider recommends a medical cannabis [~~has been recommended by the minor's physician under Subsection (4)] treatment, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;~~

(D) the individual signs an acknowledgment stating that the individual received the

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information described in Subsection (8);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) the minor's parent or legal guardian petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b).

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(3) (a) An individual who is eligible for a medical cannabis card [~~under~~] described in Subsection [~~(2)~~] (2)(a) or (b) shall submit an application for a medical cannabis card to the department [~~via~~]:

(i) through an electronic application connected to the state electronic verification system[~~;~~];

(ii) with the recommending [~~physician~~] qualified medical provider while in the recommending [~~physician's~~] qualified medical provider's office[~~;~~]; and [~~that includes~~]

(iii) with information including:

(A) the [~~individual's~~] applicant's name, gender, age, and address[~~;~~];

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(B) the number of the applicant's valid form of identification that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and

(B) any adult who is 21 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment, including in the event of an emergency medical condition under Subsection 26-61a-204(2).

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

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(4) ~~[A physician who recommends treatment with]~~ To recommend a medical cannabis treatment to [an individual or minor] a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use; and

~~[(a)]~~ (b) state in the [physician's] qualified medical provider's recommendation that the [individual] patient:

(i) suffers from a qualifying [illness] condition, including the type of qualifying [illness;] condition; and [that the individual]

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form. [; and]

~~[(b) before recommending cannabis or a cannabis product, look up the individual in the controlled substance database created in Section 58-37f-201.]~~

(5) (a) ~~[A]~~ Except as provided in Subsection (5)(b), a medical cannabis card [issued by] that the department issues under this section is valid for the lesser of:

(i) an amount of time [determined by] that the [physician] qualified medical provider determines; or

(ii) (A) for the first issuance, 30 days; or

(B) for a renewal, six months.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the

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medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the compassionate use board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

~~[(6)] (7) (a) [An individual who has been issued a medical cannabis card]~~ A cardholder under this section [may: (a)] shall carry [a] the cardholder's valid medical cannabis card with the patient's name[;].

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess[~~and~~] or transport, in accordance with

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this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device[;].

~~[(c)] (iii) [use or assist with the use of medical cannabis or medical cannabis products to treat]~~ To address the qualifying [illness or symptoms associated with the qualifying illness of the person for whom medical cannabis has been recommended] condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

~~[(d)] (c) If neither a licensed medical cannabis pharmacy nor the state central fill medical cannabis pharmacy is operating within the state after January 1, 2021[, if a licensed cannabis dispensary is not operating within 100 miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants for personal medical use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.] a cardholder under this section is not subject to prosecution for the possession of:~~

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in

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Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

~~[(7)]~~ (9) The department may establish procedures~~[;]~~ by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the ~~[medical cannabis card]~~ application and issuance provisions of this section.

~~[(8)]~~ (10) (a) A person may submit, to the department~~[;]~~ a request to conduct a medical research study using medical cannabis cardholder data ~~[contained in]~~ that the state electronic verification system contains.

(b) The department shall review a request ~~[submitted under]~~ described in Subsection ~~[(8)(a)]~~ (10)(a) to determine ~~[if]~~ whether the medical research study is valid.

(c) If the department ~~[determines]~~ makes a determination under Subsection (10)(b) that the medical research study is valid ~~[under Subsection (8)(b)]~~, the department shall notify ~~[a]~~ each relevant ~~[medical cannabis]~~ cardholder asking for the ~~[medical cannabis]~~ cardholder's ~~[participation]~~ consent to participate in the study.

(d) The department may release, for the purposes of a study described in this Subsection (10), information about a ~~[medical cannabis]~~ cardholder under this section who consents to ~~[participation]~~ participate under Subsection ~~[(8)(c)]~~ (10)(c).

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

Section 60. Section **26-61a-202**, which is renumbered from Section 26-60b-202 is renumbered and amended to read:

~~[26-60b-202].~~ **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.**

(1) ~~[An individual]~~ A cardholder described in Section 26-61a-201 may designate up to two individuals to serve as a designated ~~[caregivers]~~ caregiver for the ~~[individual]~~ cardholder if~~[:]~~

~~[(a) the individual has a valid medical cannabis card under Section 26-60b-201; and]~~

~~[(b) a physician]~~ a qualified medical provider determines that, due to physical difficulty or undue hardship, the ~~[individual]~~ cardholder needs assistance to obtain the medical cannabis ~~[or a cannabis product from a cannabis dispensary]~~ treatment that the qualified medical provider recommends.

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(2) An individual ~~[registered]~~ that the department registers as a designated caregiver under this section:

(a) ~~may~~ ~~[-(a)]~~ carry a valid medical cannabis caregiver card ~~[with the designating patient's name and the designated caregiver's name];~~

(b) ~~[purchase, possess, and transport,]~~ in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating ~~[patient]~~ medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

~~[(c)]~~ (d) may accept reimbursement from the designating ~~[patient]~~ medical cannabis cardholder for direct costs ~~[incurred by]~~ the designated caregiver incurs for assisting with the designating ~~[patient's]~~ cardholder's medicinal use of cannabis; and

~~[(d)]~~ (e) ~~[after January 1, 2021,]~~ if neither a licensed medical cannabis ~~[dispensary]~~ pharmacy nor the state central fill medical cannabis pharmacy is ~~[not]~~ operating within ~~[100 miles of the designating patient's primary residence, assist the designating patient with growing up to six cannabis plants for personal medicinal use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.]~~ the state after January 1, 2021, is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(3) (a) The department shall~~[-];~~:

(i) within ~~[30]~~ 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to ~~[an individual designated as a caregiver under Subsection (1) and who complies with this section.]~~ the applicant if the

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applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis [~~card as a designated~~] caregiver card if the individual:

(a) is at least [~~18~~] 21 years old;

(b) is a Utah resident;

(c) pays[;] to the department[;] a fee [~~established by~~] in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of [a] the criminal background check [required by] described in Section [26-60b-203; and] 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

~~[(d)]~~ (e) has not been convicted of [an] a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence [imposed was completed seven] two or more years [earlier] before the day on which the individual submits the application.

(5) An [~~individual who is~~] eligible applicant for a medical cannabis caregiver card [~~as a designated caregiver~~] shall:

(a) submit an application for a medical cannabis caregiver card to the department [via] through an electronic application connected to the state electronic verification system; and [shall include the individual's]

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address [and];

(ii) the name, gender, age, and address of the [patient that] cardholder described in Section 26-61a-201 who designated the [individual under Subsection (1)-] applicant; and

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(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) ~~[A]~~ Except as provided in Subsection (6)(b), a medical cannabis caregiver card [issued by] that the department issues under this section is valid for the lesser of:

(a) an amount of time [determined by the physician, by the patient, or 6 months:] that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

~~(7) [A medical cannabis card is renewable for a designated caregiver if, at the time of renewal:]~~

~~[(a) the individual with a medical cannabis card described in Subsection (1) renews the caregiver's designation; and]~~

~~[(b) the]~~

(a) If a designated caregiver meets the requirements of Subsection (4)[:], the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

~~[(8) A designated caregiver may not charge an individual a fee to act as the individual's designated caregiver or for services provided.]~~

~~[(9)]~~ (8) The ~~[Department of Health]~~ department may revoke a ~~[designated caregiver's]~~ medical cannabis caregiver card if the ~~[individual]~~ designated caregiver:

(a) violates this chapter; or

(b) is convicted ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal law of:

(i) a felony; or

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(ii) after the effective date of this bill, a misdemeanor for drug distribution.

Section 61. Section **26-61a-203**, which is renumbered from Section 26-60b-203 is renumbered and amended to read:

~~[26-60b-203].~~ **26-61a-203. Designated caregiver -- Guardian -- Criminal background check.**

(1) ~~[An individual registered as a designated caregiver]~~ Each applicant for a medical cannabis guardian card under Section [26-60b-202] 26-61a-201 or a medical cannabis caregiver card under Section 26-61a-202 shall:

~~(a) submit [to a criminal background check in accordance with Subsection (2).(2) Each designated caregiver shall]~~ to the department, at the time of application:

~~[(a)] (i) [submit, to the department,]~~ a fingerprint card in a form acceptable to the ~~[department and the]~~ Department of Public Safety; and

~~(ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and~~

(b) consent to a fingerprint background check by:

(i) the ~~[Utah]~~ Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

~~[(3)] (2) The [Department of Public Safety]~~ Bureau of Criminal Identification shall:

~~(a) [complete a Federal Bureau of Investigation Criminal Background Check for each designated caregiver]~~ check the fingerprints the applicant submits under Subsection [(2) and] (1)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

~~(b) report the results of the background check to the department[-];~~

~~(c) maintain a separate file of fingerprints that applicants submit under Subsection (1)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;~~

~~(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and~~

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(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 62. Section **26-61a-204**, which is renumbered from Section 26-60b-204 is renumbered and amended to read:

~~[26-60b-204].~~ **26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.**

(1) (a) ~~[An individual who has a]~~ A medical cannabis [card and] cardholder who possesses cannabis in a medicinal dosage form or a cannabis product ~~[outside of]~~ in a medicinal dosage form that the [individual's residence] cardholder purchased under this chapter shall:

~~[(a)]~~ (i) carry ~~[, with the individual]~~ at all times~~;~~ the ~~[individual's]~~ cardholder's medical cannabis card;

~~[(b)]~~ (ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a medicinal dosage form, a label that identifies that the cannabis or cannabis product:

(A) was [originally] sold from a licensed medical cannabis [dispensary and] pharmacy or the state central fill medical cannabis pharmacy; and

(B) includes an identification number that links the cannabis or cannabis product to the inventory control system; and

~~[(c)]~~ (iii) possess not more than ~~[four ounces]~~:

(A) 113 grams of unprocessed cannabis; or

(B) an amount of cannabis product that contains 20 [or fewer] grams of total composite tetrahydrocannabinol [or cannabidiol].

(b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

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(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) A medical cannabis cardholder who possesses between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a fine of \$1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

~~[(a)]~~ (b) Except as described in Subsection [(2)(b), an individual who has] (2)(c), a medical cannabis [card] patient cardholder or a provisional patient cardholder may not use, in public view, cannabis or a cannabis product [in public view].

~~[(b)]~~ (c) [An] In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use [cannabis or a cannabis product], and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view [in the event of a medical emergency], cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(3) If [an individual] a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

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

(b) [a law enforcement officer does not have] there is no probable cause, based solely

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on the ~~[individual's]~~ cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the ~~[individual]~~ cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) ~~[holds]~~ is a valid medical cannabis ~~[card]~~ cardholder, the law enforcement officer:

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

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

~~[(5) An individual who possesses cannabis, a cannabis product, or a medical cannabis device in violation of Subsection (1)(a) or Subsection 1(b) is guilty of an infraction and subject to a \$100 fine.]~~

Section 63. Section **26-61a-205** is enacted to read:

26-61a-205. Lost or stolen medical cannabis card.

(1) If a medical cannabis card is lost or stolen, the medical cannabis cardholder shall report the lost or stolen card to the department.

(2) Upon receiving the report described in Subsection (1), the department shall designate the medical cannabis card as lost or stolen in the state electronic verification system.

(3) A medical cannabis pharmacy agent or a local health department distribution agent may confiscate a medical cannabis card that is designated as lost or stolen in accordance with Subsection (2) if an individual presents the card at the relevant medical cannabis pharmacy or local health department.

(4) To request a new medical cannabis card, the medical cannabis cardholder described

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in Subsection (1) shall:

(a) complete a form that the department designates; and

(b) pay a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 64. Section **26-61a-301**, which is renumbered from Section 26-60b-301 is renumbered and amended to read:

Part 3. Medical Cannabis Pharmacy License.

~~[26-60b-301].~~ **26-61a-301.** **Medical cannabis pharmacy -- License --**

Eligibility.

(1) A person may not operate as a medical cannabis [~~dispensary~~] pharmacy without a license [~~issued by~~] that the department [~~issued~~] issues under this part.

(2) ~~(a)~~ Subject to [~~Subsections (5)]~~ Subsections (4) and (5) and to Section [~~26-60b-304]~~ 26-61a-305, the department shall, [~~within 90 business days after receiving a complete application]~~ in accordance with Title 63G, Chapter 6a, Utah Procurement Code, issue a license to operate a medical cannabis [~~dispensary~~] pharmacy to [~~a person who]~~ an applicant who is eligible for a license under this section.

~~(b)~~ An applicant is eligible for a license under this section if the applicant submits to the department:

~~[(a)]~~ (i) subject to Subsection (2)(c), a proposed name and address where the [~~person]~~ applicant will operate the medical cannabis [~~dispensary~~] pharmacy [~~that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area];~~

~~[(b)]~~ (ii) the name and address of [~~any~~] an individual who:

(A) has a financial or voting interest of [~~two percent]~~ 2% or greater in the proposed medical cannabis [~~dispensary~~] pharmacy; or [~~who]~~

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

~~[(c)]~~ (iii) [~~financial statements demonstrating that the person possesses a minimum of \$250,000 in liquid assets available]~~ evidence that the applicant has obtained and maintains a

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performance bond that a surety authorized to transact surety business in the state issues in an amount of at least \$125,000 for each application [submitted] that the applicant submits to the department;

~~[(d)]~~ (iv) an operating plan that:

(A) complies with Section ~~[26-60b-303]~~ 26-61a-304; and ~~[that]~~

(B) includes operating procedures to comply with the operating requirements for a medical cannabis [dispensary] pharmacy described in this chapter and with ~~[any laws adopted by the municipality]~~ a relevant municipal or county law that ~~[are]~~ is consistent with Section ~~[26-60b-506]~~ 26-61a-507;

~~[(e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis dispensary is in compliance with the restrictions;]~~

~~[(f)]~~ (v) if the municipality or county where the proposed medical cannabis [dispensary] pharmacy would be located requires a local land use permit [or license], a copy of the person's approved application for the local land use permit [or license]; and

~~[(g)]~~ (vi) an application fee ~~[established by]~~ in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504 [that is necessary to cover the department's cost to implement this part;].

(c) (i) A person may not locate a medical cannabis pharmacy in or within 600 feet of an area that the relevant municipality or county has zoned as primarily residential.

(ii) An applicant for a license under this section shall provide evidence of compliance with the proximity requirement described in Subsection (2)(c)(i).

(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a permitted use in all zoning districts within a municipality or county.

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

~~[(4)]~~ (3) If the department determines that ~~[a cannabis dispensary]~~ an applicant is eligible for a license under this section, the department shall:

(a) charge the ~~[cannabis dispensary]~~ applicant an initial license fee in an amount ~~[determined by]~~ that, subject to Subsection 26-61a-109(5), the department sets in accordance

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with Section 63J-1-504~~[-];~~ and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

~~[(5)] (4)~~ The department may not issue a license to operate a medical cannabis ~~[dispensary]~~ pharmacy to an applicant if ~~[any]~~ an individual ~~[who has a financial or voter interest of two percent or greater in the cannabis dispensary applicant or who has power to direct or cause the management or control of the applicant]~~ described in Subsection (2)(b)(ii):

(a) has been convicted ~~[of an offense that is a felony]~~ under ~~[either]~~ state or federal law~~[-or]~~ of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is ~~[less]~~ younger than 21 years ~~[of age]~~ old.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabidiol Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant;
and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5).

(6) The department may revoke a license under this part if:

(a) the medical cannabis ~~[dispensary is not operating]~~ pharmacy does not begin operations within one year ~~[of the issuance of]~~ after the day on which the department issues the initial license[-];

(b) the medical cannabis pharmacy makes the same violation of this chapter three times; or

(c) an individual described in Subsection (2)(a)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(7) The department shall deposit the proceeds of a fee imposed by this section in the ~~[Medical Cannabis Restricted]~~ Qualified Patient Enterprise Account.

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(8) The department shall begin accepting applications under this part [~~no later than~~] on or before March 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

Section 65. Section **26-61a-302**, which is renumbered from Section 26-60b-402 is renumbered and amended to read:

~~[26-60b-402].~~ **26-61a-302.** **Medical cannabis pharmacy owners and directors -- Criminal background checks.**

(1) Each applicant for a license as a medical cannabis pharmacy shall submit, at the time of application, from each individual who has a financial or voting interest of [~~two percent~~] 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the [~~department, and~~] Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

~~[(b)]~~ (c) consent to a fingerprint background check by:

(i) the [Utah] Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

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

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

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(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 66. Section **26-61a-303**, which is renumbered from Section 26-60b-302 is renumbered and amended to read:

~~[26-60b-302].~~ **26-61a-303. Renewal.**

(1) ~~[Except as provided in Subsection (3), the]~~ The department shall renew a ~~[person's]~~ license under this part every ~~[two years]~~ year if, at the time of renewal:

(a) the ~~[person]~~ licensee meets the requirements of Section ~~[26-60b-301]~~ 26-61a-301; and

(b) the ~~[person]~~ licensee pays the department a license renewal fee in an amount ~~[determined by]~~ that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(2) (a) If a licensed medical cannabis ~~[dispensary]~~ pharmacy abandons the medical cannabis ~~[dispensary's]~~ pharmacy's license, the department shall publish notice of an available license;

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis ~~[dispensary]~~ pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63F-1-701.

(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with

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Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[for what actions by a]~~ to identify the medical cannabis [dispensary] pharmacy actions that constitute abandonment of a medical cannabis [dispensary] pharmacy license.

Section 67. Section **26-61a-304**, which is renumbered from Section 26-60b-303 is renumbered and amended to read:

~~[26-60b-303].~~ **26-61a-304. Operating plan.**

~~[(1)]~~ A person applying for a medical cannabis [dispensary] pharmacy license shall submit to the department a proposed operation plan for the medical cannabis [dispensary] pharmacy that complies with this section and that includes:

~~[(a)]~~ (1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

~~[(b)]~~ (2) a description of the credentials and experience of:

~~[(i)]~~ (a) each officer, director, or owner of the proposed medical cannabis [dispensary] pharmacy; and

~~[(ii)]~~ (b) any highly skilled or experienced prospective employee;

~~[(c)]~~ (3) the medical cannabis [dispensary's] pharmacy's employee training standards;

~~[(d)]~~ (4) a security plan; ~~[and]~~

~~[(e)]~~ (5) a description of the medical cannabis [dispensary's] pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system[-]; and

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis.

Section 68. Section **26-61a-305**, which is renumbered from Section 26-60b-304 is renumbered and amended to read:

~~[26-60b-304].~~ **26-61a-305. Maximum number of licenses.**

(1) (a) ~~[The]~~ Except as provided in Subsection (1)(b), the department may not issue more than [the greater of, in each county in the state:] seven medical cannabis pharmacy licenses.

~~[(a)] one cannabis dispensary license; or]~~

~~[(b)] an amount of cannabis dispensary licenses equal to the number of residents in the county divided by 150,000, rounded up to the nearest greater whole number.]~~

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(b) (i) In addition to the licenses described in Subsection (1)(a), the department shall issue an eighth license if the state central fill medical cannabis pharmacy:

(A) is not operational by January 1, 2021; or

(B) ceases operations after January 1, 2021.

(ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the department shall issue a ninth license if the state central fill medical cannabis pharmacy:

(A) is not operational by July 1, 2021; or

(B) ceases operations after July 1, 2021.

(iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii), the department shall issue a tenth license if the state central fill medical cannabis pharmacy:

(A) is not operational by January 1, 2022; or

(B) ceases operations after January 1, 2022.

(iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and (iii), if a final order of a court enjoins or invalidates the operation of the state central fill medical cannabis pharmacy.

(2) If there are more qualified applicants than there are available licenses for medical cannabis [dispensaries] pharmacies, the department shall:

(a) evaluate [the applicants] each applicant and award the license to the applicant that best demonstrates:

~~(a)~~ (i) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

~~(b)~~ (ii) an operating plan that will best ensure the safety and security of patrons and the community;

~~(c)~~ (iii) positive connections to the local community;

~~(d)~~ (iv) the suitability of the proposed location and [its] the location's accessibility for qualifying patients; and

~~(e)~~ (v) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients[-]; and

(b) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

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(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

Section 69. Section ~~26-61a-401~~, which is renumbered from Section 26-60b-401 is renumbered and amended to read:

Part 4. Medical Cannabis Pharmacy Agents

~~[26-60b-401]~~. 26-61a-401. Medical cannabis pharmacy agent --

Registration.

(1) An individual may not serve as a medical cannabis [dispensary] pharmacy agent of a medical cannabis [dispensary] pharmacy unless ~~[the individual is registered by]~~ the department registers the individual as a medical cannabis [dispensary] pharmacy agent.

(2) ~~[A physician]~~ Except as provided in Section 26-61a-403, the following individuals, regardless of the individual's status as a qualified medical provider, may not act as a medical cannabis [dispensary] pharmacy agent[-], have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

(3) (a) The department shall, within 15 days after ~~[receiving]~~ the day on which the department receives a complete application from a medical cannabis [dispensary] pharmacy on behalf of a prospective medical cannabis [dispensary] pharmacy agent, register and issue a medical cannabis [dispensary] pharmacy agent registration card to ~~[an individual who]~~ the prospective agent if the medical cannabis pharmacy:

~~[(a)]~~ (i) provides to the department:

(A) the ~~[individual's]~~ prospective agent's name and address [and];

(B) the name and location of the licensed medical cannabis [dispensary] pharmacy where the ~~[individual]~~ prospective agent seeks to act as the medical cannabis [dispensary] pharmacy agent; ~~[and]~~

(C) the submission required under Subsection (3)(b); and

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~~[(b)] (ii)~~ pays a fee to the department~~;~~ in an amount ~~[determined by]~~ that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504,~~that is necessary to cover the department's cost to implement this part].~~

(b) Each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

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

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

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(ii) remit the fee described in Subsection (3)(d) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis [~~dispensary~~] pharmacy agent registration card[;] the name of the medical cannabis [~~dispensary~~] pharmacy where the individual is registered as an agent.

(5) A medical cannabis [~~dispensary~~] pharmacy agent shall comply with a certification standard [~~developed by the department~~] that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a [third party] third-party certification standard [designated by] that the department[;] designates by rule [made], in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) [shall include] includes training in:

- (a) Utah medical cannabis law; and
- (b) medical cannabis [~~dispensary~~] pharmacy best practices.

(7) The department may revoke [~~or refuse to issue~~] the medical cannabis [~~dispensary~~] pharmacy agent registration card of or refuse to issue a medical cannabis pharmacy agent registration card to an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted [~~of an offense that is a felony~~] under state or federal law[;] of:
 - (i) a felony; or
 - (ii) after the effective date of this bill, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

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(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 70. Section **26-61a-402**, which is renumbered from Section 26-60b-403 is renumbered and amended to read:

~~[26-60b-403].~~ **26-61a-402.** **Medical cannabis pharmacy agent registration card -- Rebuttable presumption.**

(1) A medical cannabis [~~dispensary~~] pharmacy agent [~~who is registered with the department under section 26-60b-403~~] shall carry the individual's medical cannabis [~~dispensary~~] pharmacy agent registration card with the individual at all times when:

(a) the individual is on the premises of a medical cannabis [~~dispensary~~] pharmacy; and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between [~~two cannabis production establishments or between~~] a cannabis production establishment and a medical cannabis [~~dispensary~~] pharmacy.

(2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device [~~at a cannabis dispensary,~~] or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

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

(b) [~~a law enforcement officer does not have~~] there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), [~~to believe~~] that the individual is engaging in illegal activity.

(3) (a) [~~An individual who violates~~] A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy agent registration card in accordance with Subsection (1) is:

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(i) for a first or second offense in a two-year period:

~~[(a)]~~ (A) guilty of an infraction; and

~~[(b)]~~ (B) is subject to a \$100 fine[-]; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant medical cannabis pharmacy of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 71. Section **26-61a-403** is enacted to read:

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

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department

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receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a qualified medical provider or a state central fill medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

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(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

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Section 72. Section ~~26-61a-501~~, which is renumbered from Section 26-60b-501 is renumbered and amended to read:

Part 5. Medical Cannabis Pharmacy Operation

~~[26-60b-501].~~ 26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis [~~dispensary~~] pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under [Section 26-60b-303] Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis [~~dispensary~~] pharmacy shall notify the department before a change in the medical cannabis [~~dispensary's~~] pharmacy's physical address or operating plan.

(2) ~~[A] An individual may not enter a medical cannabis [dispensary shall operate] pharmacy unless the individual:~~

(a) is at least 18 years old; and

~~[(a)] (b) except as provided in Subsection (5), [in a facility that is accessible only by an individual with] possesses a valid:~~

(i) medical cannabis [dispensary] pharmacy agent registration card; or [a]

(ii) medical cannabis card[; and].

~~[(b) at the physical address provided to the department under Section 26-60b-301.]~~

(3) A medical cannabis [~~dispensary~~] pharmacy may not employ [~~any person~~] an individual who is younger than 21 years [~~of age~~] old.

(4) A medical cannabis [~~dispensary shall conduct a background check into the criminal history of every person who will become an agent of the cannabis dispensary and] pharmacy may not employ [~~any person~~] an individual who has been convicted of [~~an offense that is] a felony under [either] state or federal law.~~~~

(5) ~~[A] Notwithstanding Subsection (2), a medical cannabis [dispensary] pharmacy may authorize an individual who is not a medical cannabis [dispensary] pharmacy agent to access the medical cannabis [dispensary] pharmacy if the medical cannabis [dispensary] pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis [dispensary] pharmacy and maintains a record of the individual's access.~~

(6) A medical cannabis [~~dispensary~~] pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

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

(i) detects and records entry into the medical cannabis [~~dispensary~~] pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis [~~dispensary~~] pharmacy is closed; and

(c) a lock on [~~any~~] each area where the medical cannabis [~~dispensary~~] pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis [~~dispensary~~] pharmacy shall post, both clearly and conspicuously in the medical cannabis [~~dispensary~~] pharmacy, the limit on the purchase of cannabis described in Subsection [~~26-60b-502(3)~~] 26-61a-502(2).

(8) A medical cannabis [~~dispensary~~] pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis [~~dispensary~~] pharmacy.

(9) A medical cannabis [~~dispensary~~] pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis [~~dispensary~~] pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) dosing parameters or an indication that the qualified medical provider did not recommend specific dosing parameters; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) The medical cannabis pharmacy may not sell cannabis or a cannabis product unless the cannabis or cannabis product has a label securely affixed to the container indicating the following minimum information:

(i) the name, address, and telephone number of the medical cannabis pharmacy;

(ii) the unique identification number that the medical cannabis pharmacy assigns;

(iii) the date of the sale;

(iv) the name of the patient;

(v) the name of the qualified medical provider who recommended the medical cannabis

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treatment:

(vi) directions for use and cautionary statements, if any;

(vii) the amount dispensed and the cannabinoid content;

(viii) the beyond use date; and

(ix) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal, face-to-face counseling with the pharmacy medical provider who is a pharmacist; and

(b) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter

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3, Utah Administrative Rulemaking Act.

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

Section 73. Section ~~26-61a-502~~, which is renumbered from Section 26-60b-502 is renumbered and amended to read:

~~[26-60b-502].~~ 26-61a-502. Dispensing -- Amount a **medical** cannabis ~~{dispensary}~~**pharmacy** may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis [dispensary] pharmacy may [only] not sell a product other than, subject to this chapter:

~~[(a)]~~ (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

~~[(b)]~~ (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

~~[(c)]~~ (iii) a medical cannabis device; or

~~[(d)]~~ (iv) educational [materials] material related to the medical use of cannabis.

~~[(2)]~~ (b) A medical cannabis [dispensary] pharmacy may only sell [the items] an item listed in Subsection (1)(a) to an individual with:

(i) a medical cannabis card [issued by the department.]; and

(ii) corresponding identification that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

~~[(3)]~~ (2) A medical cannabis [dispensary] pharmacy may not dispense [on behalf of any one individual with]:

(a) to a medical cannabis [card.], cardholder in any one [14-day] 12-day period, more than the lesser of:

(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters

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that the relevant qualified medical provider recommends; or

~~[(a)] (ii) (A) [an amount] 56 grams by weight of unprocessed cannabis that [exceeds two ounces by weight] is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or~~

~~[(b)] (B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol [or cannabidiol];~~

(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

(c) to an individual whose qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

~~[(4)] (3) An individual with a medical cannabis card may not purchase;~~

~~(a) more cannabis or cannabis products than the amounts designated in Subsection [(3)] (2) in any one [14-day] 12-day period[-]; or~~

(b) if the relevant qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with cannabis and cannabis products; and

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(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

(5) A medical cannabis [~~dispensary~~] pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to [~~an individual with~~] a medical cannabis [~~card~~] cardholder in order to determine if the [~~individual~~] cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis products described in Subsection [~~(3)~~] (2); and

(ii) if the verification in Subsection (5)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the qualified medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis [~~dispensary~~] pharmacy dispenses cannabis or a cannabis product to [~~an individual with~~] a medical cannabis [~~card~~] cardholder;

(c) package any cannabis or cannabis product that is in a blister pack in a container that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

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(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(6) (a) Except as provided in Subsection (6)(b), a medical cannabis [dispensary] pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medial cannabis [dispensary] pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(7) A medical cannabis [dispensary] pharmacy may not give [~~to an individual with a medical cannabis card~~], at no cost, a product that the medial cannabis [dispensary] pharmacy is allowed to sell under Subsection (1).

(8) The department may impose a uniform fee on each medical cannabis cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 74. Section **26-61a-503** is enacted to read:

26-61a-503. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical

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cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 75. Section **26-61a-504**, which is renumbered from Section 26-60b-503 is renumbered and amended to read:

~~[26-60b-503].~~ **26-61a-504. Inspections.**

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

(2) The department may inspect the records and facility of a medical cannabis [dispensary] pharmacy at any time during business hours in order to determine if the medical cannabis [dispensary] pharmacy complies with [the licensing requirements of this part] this chapter.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(b) questioning of any relevant individual; or

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(4) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department or the department's authorized agents immediate access to records and facilities during business hours in accordance with this section may result

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in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 76. Section **26-61a-505**, which is renumbered from Section 26-60b-504 is renumbered and amended to read:

~~[26-60b-504].~~ **26-61a-505. Advertising.**

(1) Except as provided in Subsections (2) and (3), a medical cannabis [dispensary] pharmacy may not advertise in any medium.

(2) A medical cannabis [dispensary] pharmacy may use signage on the outside of the medical cannabis [dispensary] pharmacy that includes only:

- (a) the medical cannabis [dispensary's] pharmacy's name and hours of operation; and
- (b) a green cross.

(3) A medical cannabis [dispensary] pharmacy may maintain a website that includes information about:

- (a) the location and hours of operation of the medial cannabis [dispensary] pharmacy;
- (b) ~~[the products and services]~~ a product or service available at the medial cannabis [dispensary] pharmacy;
- (c) personnel affiliated with the medical cannabis [dispensary] pharmacy;
- (d) best practices that the medical cannabis [dispensary] pharmacy upholds; and
- (e) educational ~~[materials]~~ material related to the medical use of cannabis.

Section 77. Section **26-61a-506**, which is renumbered from Section 26-60b-505 is renumbered and amended to read:

~~[26-60b-505].~~ **26-61a-506. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) ~~[Except for an individual with a valid medical cannabis card, an individual]~~ Only the following individuals may ~~[not]~~ transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device ~~[unless the individual is]~~ under this chapter:

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- (a) a registered medical cannabis [~~production establishment~~] pharmacy agent; [~~or~~]
- (b) a registered [~~cannabis dispensary~~] state central fill agent[~~;~~];
- (c) a courier for a state central fill shipment described in Section 26-61a-605; or
- (d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card[~~, an individual~~] under this chapter who is transporting a medical cannabis[~~, a cannabis product, or a medical cannabis device~~] treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

- (a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;
- (b) includes origin and destination information for [~~any~~] cannabis, a cannabis product, or a medical cannabis device that the individual is transporting; and
- (c) [~~indicates~~] identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish[~~;~~] by rule [~~made~~], in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that [~~are related to safety for human~~] the cannabis [~~or~~], cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

- (i) between a medical cannabis pharmacy and another medical cannabis pharmacy; and
- (ii) between the state central fill medical cannabis pharmacy and:
 - (A) another state central fill medical cannabis pharmacy location; or
 - (B) a local health department.

(4) (a) [~~An individual who transports cannabis, a cannabis product, or a medical cannabis device~~] It is unlawful for a registered medical cannabis pharmacy agent, a registered state central fill agent, or a courier described in Section 26-61a-605 to make a transport described in this section with a manifest that does not meet the requirements of [~~Subsection (2)~~]

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is:] this section.

(b) Except as provided in Subsection (4)(d), an agent or courier who violates Subsection (4)(a) is:

~~[(a)]~~ (i) guilty of an infraction; and

~~[(b)]~~ (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 78. Section **26-61a-507**, which is renumbered from Section 26-60b-506 is renumbered and amended to read:

~~[26-60b-506].~~ **26-61a-507. Local control.**

~~[(1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis dispensary from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis dispensary is a cannabis dispensary.]~~

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or maintain a license under Section 26-61a-301, a person shall demonstrate that the intended medical cannabis pharmacy location is located at least:

(A) 600 feet from a community location's property boundary following the shortest route of ordinary pedestrian travel; ~~and~~

(B) 200 feet from the patron entrance to the community location's property boundary ~~;~~; and ~~within~~

(C) 600 feet ~~to~~ from an area zoned primarily residential.

(ii) A municipal or county land use authority may recommend in writing that the department waive the community location proximity requirement described in Subsection (1)(a)(i).

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~~[(2)] (b) (i)~~ A municipality or county may not deny or revoke a land use permit ~~[or license]~~ to operate a medical cannabis ~~[dispensary]~~ pharmacy on the sole basis that the applicant or medical cannabis ~~[dispensary]~~ pharmacy violates ~~[a]~~ federal law ~~[of]~~ regarding the ~~[United States]~~ legal status.

(ii) A municipality or county may not deny or revoke a business license to operate a medical cannabis pharmacy on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis.

~~[(3)] (2)~~ A municipality or county may enact ~~[ordinances]~~ an ordinance that:

(a) is not in conflict with this chapter ~~[governing]; and~~

(b) governs the time, place, [and] or manner of medical cannabis ~~[dispensary]~~ pharmacy operations in the municipality or county.

Section 79. Section **26-61a-601** is enacted to read:

Part 6. State Central Fill Medical Cannabis Pharmacy

26-61a-601. Department to establish state central fill medical cannabis pharmacy -- Duties -- Pharmacy medical provider registration -- Continuing education.

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central fill medical cannabis pharmacy as described in this section.

(2) The state central fill medical cannabis pharmacy shall:

(a) procure cannabis that a cannabis processing facility processes into a medicinal dosage form;

(b) prepare cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device for shipment to a medical cannabis cardholder under a qualified medical provider's recommendation to address a qualifying condition;

(c) transport a state central fill shipment, in accordance with Section 26-61a-605, to the relevant local health department for distribution, in accordance with Section 26-61a-607;

(d) (i) (A) if the state establishes the state central fill medical cannabis pharmacy, process and accept payment for a transaction involving a state central fill shipment; or

(B) if the state establishes the state central fill medical cannabis pharmacy by contract, process prepaid requests for a state central fill shipment from the department; and

(ii) deposit funds that the state central fill medical cannabis pharmacy collects under

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Subsection (2)(d)(i) into the Qualified Distribution Enterprise ~~{Account}~~ Fund created in Section 26-61a-110.

(3) (a) An individual may not enter a state central fill medical cannabis pharmacy location unless:

(i) the individual is a state central fill agent or an employee of the state central fill medical cannabis pharmacy;

(ii) the individual is an employee of the department; or

(iii) a state central fill agent escorts the individual at all times.

(b) An individual who violates Subsection (3)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (3)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(b).

(4) (a) The state central fill medical cannabis pharmacy:

(i) shall employ at least one pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a state central fill medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a state central fill medical provider;

(iii) shall ensure that a state central fill medical provider described in Subsection (4)(a)(i) works onsite at each location during all business hours;

(iv) shall designate one state central fill medical provider described in Subsection (4)(a)(i) as the pharmacist-in-charge, as that term is defined in Section 58-17b-102, to oversee the operation of and generally supervise the state central fill medical cannabis pharmacy; and

(v) may establish more than one location in which the state central fill medical cannabis pharmacy operates if the department determines, after an analysis of the current and anticipated market for cannabis in a medicinal dosage form and cannabis products in a medicinal dosage form, including costs and logistical issues in transportation of state central fill shipments, that multiple central fill locations are necessary to provide an adequate supply of state central fill shipments to local health departments for distribution to recipient medical

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cannabis cardholders.

(b) An individual may not serve as a state central fill medical provider unless the department registers the individual as a state central fill medical provider.

(5) (a) The department shall, within 15 days after the day on which the department receives an application from the state central fill medical cannabis pharmacy on behalf of a prospective state central fill medical provider, register and issue a state central fill medical provider registration card to the prospective state central fill medical provider if the state central fill medical cannabis pharmacy provides to the department:

(i) the prospective state central fill medical provider's name and address; and

(ii) evidence that the prospective state central fill medical provider is:

(A) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

or

(B) a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The department may not register a qualified medical provider or a pharmacy medical provider as a state central fill medical provider.

(6) (a) A state central fill medical provider shall complete the continuing education described in this Subsection (6) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (6)(a), the state central fill medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (6)(d); and

(B) offered by the department under Subsection (6)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

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(A) for a state central fill medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a state central fill medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a state central fill medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (6).

(d) The continuing education described in this Subsection (6) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying the medical cannabis recommendation.

(7) (a) A state central fill medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A state central fill medical provider may renew the provider's registration card if the provider:

(i) is eligible for a state central fill medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (5) is accurate or updates the information; and

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (6).

Section 80. Section **26-61a-602** is enacted to read:

26-61a-602. State central fill agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a state central fill agent unless:

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(a) the individual is an employee of the state central fill medical cannabis pharmacy;
and

(b) the department registers the individual as a state central fill agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from the state central fill medical cannabis pharmacy on behalf of a prospective state central fill agent, register and issue a state central fill agent registration card to the prospective agent if the state central fill medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the submission required under Subsection (2)(b); and

(ii) as reported under Subsection (2)(b), has not been convicted under state or federal law of:

(A) a felony; or

(B) after the effective date of this bill, a misdemeanor for drug distribution.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

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

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

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(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d) to the Bureau of Criminal Identification.

(3) (a) A state central fill agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (3)(a) includes continuing education in:

(i) Utah medical cannabis law;

(ii) the state central fill medical cannabis pharmacy shipment process; and

(iii) state central fill agent best practices.

(4) The department may revoke or refuse to issue the state central fill agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(5) (a) A state central fill agent registration card expires two years after the day on

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which the department issues or renews the card.

(b) A state central fill agent may renew the agent's registration card if the agent:

(i) is eligible for a state central fill registration card under this section; and

(ii) certifies to the department in a renewal application that the information in

Subsection (2)(a) is accurate or updates the information.

(6) A state central fill agent who the department registers under this section shall carry the individual's state central fill agent registration card with the individual at all times when:

(a) the individual is on the premises of the state central fill medical cannabis pharmacy;

and

(b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and the state central fill medical cannabis pharmacy.

(7) If an individual handling cannabis, a cannabis product, or a medical cannabis device handles the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (6):

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

(b) there is no probable cause, based solely on the individual's handling of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, that the individual is engaging in illegal activity.

(8) (a) An individual who violates Subsection (6) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

Section 81. Section **26-61a-603** is enacted to read:

26-61a-603. Recommendation.

(1) When an individual receives a recommendation for a medical cannabis treatment from the individual's qualified medical provider, the individual may initiate a shipment from the state central fill medical cannabis pharmacy to a local health department by:

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(a) contacting the state central fill medical cannabis pharmacy directly; or

(b) requesting that the qualified medical provider initiate the shipment through the state electronic verification system.

(2) Upon receiving a request to prepare a shipment under Subsection (1), a state central fill agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) process payment, including contacting the medical cannabis cardholder to complete payment if necessary;

(c) prepare the shipment in accordance with Section 26-61a-604;

(d) record the preparation of the shipment in the electronic verification system; and

(e) place the shipment for transportation in accordance with Section 26-61a-605.

Section 82. Section **26-61a-604** is enacted to read:

26-61a-604. State central fill shipment preparation.

(1) (a) The state central fill medical cannabis pharmacy may not prepare or ship to a local health department a product other than:

(i) cannabis in medicinal dosage form that the state central fill medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in medicinal dosage form that the state central fill medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) The state central fill medical cannabis pharmacy may only sell or ship an item listed in Subsection (1)(a) in response to a request for shipment described in Subsection 26-61a-603(1).

(c) Notwithstanding Subsection (1)(a), the state central fill medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(2) The state central fill medical cannabis pharmacy may not prepare a shipment:

(a) for a medical cannabis cardholder in any one 12-day period, more than the lesser of:

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(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;

(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

(c) for an individual whose qualified medical provider did not recommend dosing parameters, any cannabis or cannabis product, until the individual consults with the state central fill medical provider in accordance with Subsection (4).

(3) A medical cannabis cardholder may not receive a state central fill shipment containing:

(a) more cannabis or cannabis products than the amounts designated in Subsection (2) in any one 12-day period; or

(b) if the relevant qualified medical provider did not recommend dosing parameters, any cannabis or cannabis product, until the cardholder consults with the state central fill medical provider in accordance with Subsection (4).

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

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(ii) prior treatment attempts with cannabis and cannabis products; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may receive a state central fill shipment, the state central fill medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

(5) The state central fill medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before preparing a shipment of cannabis or a cannabis product to determine if the medical cannabis cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis product described in Subsection (2); and

(ii) if the verification in Subsection (5)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the request to prepare the shipment; and

(B) notify the qualified medical provider that made the recommendation;

(b) submit a record to the state electronic verification system each time the state central fill medical cannabis pharmacy prepares and ships a shipment of cannabis, a cannabis product, or a medical cannabis device;

(c) package any cannabis or cannabis product that is in a blister pack in a container that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

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(d) for any product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(6) (a) Except as provided in Subsection (6)(b), the state central fill medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) The state central fill medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(7) The state central fill medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

(8) (a) The state central fill medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) dosing parameters or an indication that the qualified medical provider did not recommend specific dosing parameters; and

(v) the name and the address of the medical cannabis cardholder if the cardholder is not the patient.

(b) The state central fill medical cannabis pharmacy may not sell cannabis or a cannabis product unless the cannabis or cannabis product has a label securely affixed to the container indicating the following minimum information:

(i) the name and telephone number of the state central fill medical cannabis pharmacy;

(ii) the unique identification number that the state central fill medical cannabis pharmacy assigns;

(iii) the date of the sale;

(iv) the name of the medical cannabis cardholder;

(v) the name of the qualified medical provider who recommends the medical cannabis treatment;

(vi) directions for use and cautionary statements, if any;

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(vii) the amount dispensed and the cannabinoid content;

(viii) the beyond use date; and

(ix) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(9) A pharmacy medical provider at the state central fill medical cannabis pharmacy or a state central fill agent shall:

(a) include in each state central fill shipment written counseling regarding the state central fill shipment; and

(b) provide a telephone number or website by which a medical cannabis cardholder may contact a pharmacy medical provider for counseling.

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

(11) The department may impose a uniform fee on each medical cannabis cardholder transaction for a state central fill shipment in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 83. Section **26-61a-605** is enacted to read:

26-61a-605. State central fill shipment transportation.

(1) The state central fill medical cannabis pharmacy shall ensure that the state central fill medical cannabis pharmacy is capable of delivering, in a secure manner, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and a medical cannabis device to each local health department in the state within two business days after the day on which the state central fill medical cannabis pharmacy receives a request for a state central fill shipment resulting from a recommendation of a qualified medical provider under Section 26-61a-603.

(2) (a) The department may contract with a private entity for the entity to serve as a courier for the state central fill medical cannabis pharmacy, delivering state central fill shipments to local health departments for distribution to medical cannabis cardholders.

(b) If the department enters into a contract described in Subsection (2)(a), the department shall:

(i) issue the contract described in Subsection (2)(a) in accordance with Title 63G,

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Chapter 6a, Utah Procurement Code:

(ii) impose security and personnel requirements on the contracted private entity sufficient to ensure the security and safety of state central fill shipments; and

(iii) provide regular oversight of the contracted private entity.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a state central fill shipment unless the individual is:

(a) a registered state central fill agent; or

(b) an agent of the private courier described in Subsection (2).

(4) An individual transporting a state central fill shipment shall possess a transportation manifest that:

(a) includes a unique identifier that links the state central fill shipment to a relevant inventory control system;

(b) includes origin and destination information for a state central fill shipment the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the state central fill shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting state central fill shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a state central fill shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a):

(i) is guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

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(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 84. Section **26-61a-606** is enacted to read:

26-61a-606. Local health department distribution agent -- Background check --

Registration card -- Rebuttable presumption.

(1) An individual may not serve as a local health department distribution agent unless:

(a) the individual is an employee of a local health department; and

(b) the department registers the individual as a local health department distribution agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a local health department on behalf of a prospective local health department distribution agent, register and issue a local health department distribution agent registration card to the prospective agent if the local health department:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the local health department where the prospective agent seeks to act as a local health department distribution agent;

(C) the submission required under Subsection (2)(b); and

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after the effective date of this bill, a misdemeanor for drug distribution.

(b) Each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

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

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

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Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's local health department distribution agent registration card the name of the local health department where the individual is registered as an agent.

(4) (a) A local health department distribution agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that

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the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

- (i) Utah medical cannabis law;
- (ii) the state central fill medical cannabis pharmacy shipment process; and
- (iii) local health department distribution agent best practices.

(5) The department may revoke or refuse to issue or renew the local health department distribution agent registration card of an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
 - (i) a felony; or
 - (ii) after the effective date of this bill, a misdemeanor for drug distribution.

(6) A local health department distribution agent who the department has registered under this section shall carry the agent's local health department distribution agent registration card with the agent at all times when:

- (a) the agent is on the premises of the local health department; and
- (b) the agent is handling a shipment of cannabis or cannabis product from the state central fill medical cannabis pharmacy.

(7) If a local health department distribution agent handling a shipment of cannabis or cannabis product from the state central fill medical cannabis pharmacy possesses the shipment in compliance with Subsection (6):

- (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
- (b) there is no probable cause, based solely on the agent's possession of the shipment

containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device, that the agent is engaging in illegal activity.

(8) (a) A local health department distribution agent who violates Subsection (6) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (8)(a) is not

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guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (8)(a).

Section 85. Section **26-61a-607** is enacted to read:

26-61a-607. Local health department distribution.

(1) Each local health department shall designate:

(a) one or more of the local health department's locations as a state central fill shipment distribution location; and

(b) a sufficient number of personnel to ensure that at least one individual is available at all times during business hours:

(i) whom the department has registered as a local health department distribution agent;
and

(ii) to distribute state central fill shipments to medical cannabis cardholders in accordance with this section.

(2) An individual may not retrieve a shipment from the state central fill medical cannabis pharmacy at a local health department unless the individual presents:

(a) a form of identification that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card; and

(b) a valid medical cannabis card under the same name that appears on the identification described in Subsection (2)(a).

(3) Before a local health department distribution agent distributes a state central fill shipment to a medical cannabis cardholder, the local health department distribution agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (2);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in the electronic verification system.

(4) The local health department shall:

(a) (i) store each state central fill shipment that the local health department receives, until the recipient medical cannabis cardholder retrieves the shipment or the local health department returns the shipment to the state central fill medical cannabis pharmacy in

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accordance with Subsection (5), in a single, secure, locked area that is equipped with a security system that detects and records entry into the area; and

(ii) ensure that only a local health department distribution agent is able to access the area;

(b) return any unclaimed state central fill shipment to the state central fill medical cannabis pharmacy, in accordance with Subsection (5)(a), after the local health department has possessed the state central fill shipment for 10 business days; and

(c) return any state central fill shipment to the state central fill medical cannabis pharmacy, in accordance with Subsection (5)(b), if a medical cannabis cardholder returns the shipment to the local health department after retrieving the shipment.

(5) (a) If a local health department returns an unclaimed state central fill shipment under Subsection (4)(b), the state central fill medical cannabis pharmacy may repackage or otherwise reuse the shipment for another state central fill shipment.

(b) If a local health department returns a returned state central fill shipment under Subsection (4)(c), the state central fill medical cannabis pharmacy shall dispose of the returned shipment by:

(i) rendering the state central fill shipment unusable and unrecognizable before transporting the shipment from the state central fill medical cannabis pharmacy; and

(ii) disposing of the state central fill shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 86. Section **26-61a-608** is enacted to read:

26-61a-608. Department to set state central fill prices.

(1) The department shall set a price schedule for cannabis in a medicinal dosage form that the state central fill medical cannabis pharmacy sells to medical cannabis cardholders through distribution to local health departments.

(2) The department shall ensure that the price schedule described in Subsection (1):

(a) through an annual review, takes into consideration:

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(i) the demand for medical cannabis and cannabis products dispensed through the state central fill medical cannabis pharmacy and the local health departments;

(ii) the labor required to cultivate and process cannabis into a medicinal dosage form;

(iii) the regulatory burden involved in the creation of the product; and

(iv) any other consideration the department considers necessary; and

(b) after at least three medical cannabis pharmacies that the department licenses under Section 26-61a-301 are operational, contains pricing for a specific product that is within 10% of the average price for the product among the operational medical cannabis pharmacies.

(3) The department shall ensure that the price schedule that the department sets under Subsection (1) includes a set fee that the department deposits into the Qualified Distribution Enterprise Fund to cover the cost of:

(a) the state central fill medical cannabis pharmacy; and

(b) the courier described in Section 26-61a-605, if any.

Section 87. Section **26-61a-609** is enacted to read:

26-61a-609. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.

(2) The state central fill medical cannabis pharmacy may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A state central fill medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-604(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

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(a) the state central fill medical provider determined dosing parameters for the partial fill under Subsection 26-61a-604(4); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 88. Section **26-61a-610** is enacted to read:

26-61a-610. Records -- Inspections.

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

(2) The department may inspect the records and facility of the state central fill medical cannabis pharmacy or a local health department at any time during business hours in order to determine compliance with this chapter.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, and other physical or electronic information;

(b) questioning of any relevant individual; or

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label.

(4) In making an inspection under this section, the department may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department or the department's authorized agents immediate access during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

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(c) an immediate cessation of operations under a cease and desist order that the department issues.

Section 89. Section **26-61a-611** is enacted to read:

26-61a-611. Advertising.

(1) Except as provided in Subsection (2), the state central fill medical cannabis pharmacy may not advertise in any medium.

(2) The state central fill medical cannabis pharmacy may maintain a website that includes information about:

(a) the contact information for the state central fill medical cannabis pharmacy;

(b) a product or service available through shipment from the state central fill medical cannabis pharmacy;

(c) a description of the state central fill medical cannabis pharmacy shipment process;

(d) information about retrieving a state central fill shipment at a local health department; or

(e) educational material related to the medical use of cannabis.

Section 90. Section **26-61a-701** is enacted to read:

Part 7. Enforcement

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

(1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments, and Sections 26-61a-502, 26-61a-605, and 26-61a-607, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.

(2) (a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a \$1,000 fine.

(b) An individual is not guilty under Subsection (2)(a) if the individual:

(i) (A) is a designated caregiver; and

(B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or

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(ii) (A) is a medical cannabis guardian cardholder; and

(B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.

(c) An individual who is guilty of a violation described in Subsection (2)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (2)(a).

Section 91. Section ~~26-61a-702~~, which is renumbered from Section 26-60b-601 is renumbered and amended to read:

~~[26-60b-601].~~ **26-61a-702. Enforcement -- Fine -- Citation.**

(1) ~~(a)~~ The department may, for a medical cannabis pharmacy's violation of this chapter ~~[by a person who is a cannabis dispensary or cannabis dispensary agent]:~~

~~[(a)]~~ (i) revoke the ~~[person's license or]~~ medical cannabis ~~[dispensary agent registration card]~~ pharmacy license;

~~[(b)]~~ (ii) refuse to renew the ~~[person's license or]~~ medical cannabis ~~[dispensary agent registration card]~~ pharmacy license; or

~~[(c)]~~ (iii) assess the ~~[person]~~ medical cannabis pharmacy an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or state central fill agent's violation of this chapter:

(i) revoke the medical cannabis pharmacy agent or state central fill agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or state central fill agent registration card; or

(iii) assess the medical cannabis pharmacy agent or state central fill agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section ~~[in]~~ into the ~~[general fund]~~ General Fund.

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

(a) for a fine amount not already specified in law, assess the person a fine~~[, established in accordance with Section 63J-1-504,]~~ of up to \$5,000 per violation, in accordance with a fine

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schedule ~~[established]~~ that the department establishes by rule ~~[made]~~ in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

(4) The department may not revoke a medical cannabis ~~[dispensary's]~~ pharmacy's license without first directing the medical cannabis ~~[dispensary]~~ pharmacy to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

(a) refuse to issue or renew the person's license ~~[or cannabis dispensary]~~ agent registration card; or

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

(7) (a) ~~[If the department makes a final determination under this section that]~~ Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual ~~[violated]~~ violates a provision of this chapter, the individual is:

(i) guilty of an infraction[-]; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

Section 92. Section ~~26-61a-703~~, which is renumbered from Section 26-60b-602 is renumbered and amended to read:

~~[26-60b-602].~~ **26-61a-703. Report.**

(1) ~~[The]~~ By the November interim meeting each year, the department shall report ~~[annually]~~ to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards[-];

(b) the number of qualifying patients and designated caregivers[-];

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- (c) the nature of the debilitating medical conditions of the qualifying patients~~[-];~~
- (d) the age and county of residence of cardholders~~[-];~~
- (e) the number of medical cannabis cards revoked~~[-];~~
- (f) the number of practitioners providing recommendations for qualifying patients~~[-];~~
- (g) the number of license applications and renewal license applications received~~[-];~~
- (h) the number of licenses the department has issued in each county~~[-];~~
- (i) the number of licenses the department has revoked~~[-and];~~
- (j) the quantity and timeliness of state central fill shipments, including the amount of time between recommendation to the state central fill medical cannabis pharmacy and arrival of a state central fill shipment at a local health department;
- (k) the market share of state central fill shipments;
- (l) the expenses incurred and revenues generated from the medical cannabis program~~[-];~~
- (m) the expenses incurred and revenues generated from the state central fill medical cannabis pharmacy, including a profit and loss statement; and
- (n) an analysis of product availability, including the price differential between comparable products, in medical cannabis pharmacies and the state central fill medical cannabis pharmacy.

(2) The department may not include personally identifying information in the report described in this section.

Section 93. Section **26-65-102 (Effective 07/01/19)** is amended to read:

26-65-102 (Effective 07/01/19). Definitions.

- (1) "Agent" means an employee or independent contractor of an entity.
- ~~[(2) "Cannabidiol laboratory" means the same as that term is defined in Section 4-43-102.]~~
- ~~[(3)]~~ (2) "Cannabidiol product" means ~~[the same as that term is defined in Section 4-41-102.]~~ a chemical compound extracted from cannabis that:
 - (a) is processed into a medicinal dosage form; and
 - (b) contains less than 0.3% tetrahydrocannabinol by dry weight.
- (3) "Cannabis" means marijuana, as that term is defined in Section 58-37-2.
- ~~[(4) "Cannabidiol-qualified pharmacy" means the same as that term is defined in~~

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Section ~~4-43-102~~.]

~~[(5) "Cannabinoid Product Restricted Account" means the account created in Section 4-43-801.]~~

~~[(6) (4) "Medicinal dosage form" means a qualifying dosage form for a cannabidiol product under Section 26-65-103.~~

~~[(7) (5) "Physician" means an individual who is licensed to practice:~~

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

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

Section 94. Section **26-65-103 (Effective 07/01/19)** is amended to read:

26-65-103 (Effective 07/01/19). Medicinal dosage form.

(1) For the purpose of this chapter, any of the following is a qualifying medicinal dosage form for a cannabidiol product:

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a liquid suspension;

(e) a transdermal preparation; and

(f) a sublingual preparation.

(2) A patient may not purchase, use, or possess a cannabidiol product unless the cannabidiol product is prepared in a medicinal dosage form.

(3) A ~~[cannabidiol-qualified]~~ pharmacy may not purchase, possess, or sell a cannabidiol product unless the cannabidiol product is prepared in a medicinal dosage form.

(4) The department may recommend that the Legislature approve the use of an additional medicinal dosage form.

Section 95. Section **30-3-10** is amended to read:

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

(1) If a ~~[husband and wife]~~ married couple having one or more minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

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

(i) in accordance with Subsection (7), the past conduct and demonstrated moral standards of each of the parties;

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

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

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

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

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

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

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

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

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

(c) (i) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(ii) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) [~~The children~~] A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the [~~children~~] child be heard and there is no other reasonable method to present [~~their~~] the child's testimony.

(e) (i) The court may inquire of [~~the children~~] the child's and take into consideration the

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~~[children's]~~ the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) (i) If ~~[interviews]~~ an interview with ~~[the children are]~~ a child is conducted by the court pursuant to Subsection (1)(e), ~~[they]~~ the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with ~~[the children]~~ a child is the only method to ascertain the child's desires regarding custody.

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

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

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

(b) ~~[If a]~~ The court ~~[takes a parent's]~~ may not consider the disability ~~[into account]~~ of a parent as a factor in awarding custody or ~~[determining whether]~~ modifying an award of custody based on a determination of a substantial change ~~[has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing]~~ in circumstances, unless the court makes specific findings that:

(i) the disability ~~[does not]~~ significantly or substantially ~~[inhibit]~~ inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability ~~[has]~~ lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional

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needs of the child at issue.

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

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

(6) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

~~[(6)] (7)~~ In considering the past conduct and demonstrated moral standards of each ~~[of the parties as described]~~ party under Subsection (1)(a)(i)~~[-]~~ or any other factor a court finds relevant, the court may not discriminate against a parent because of or otherwise consider the parent's:

(a) lawful possession or [consumption] use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act ~~[[],]]~~ except as it relates to that parent's ability to care for a child; or ~~[because of]~~

(b) ~~[the parent's]~~ status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) state central fill agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with ~~[Title 4, Chapter 41b, a cannabis dispensary agent in accordance with Title 26, Chapter 60b, or a medical cannabis card holder in accordance with]~~ Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act.

Section 96. Section **34A-2-418** is amended to read:

34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial means and appliances.

(1) In addition to the compensation provided in this chapter or Chapter 3, Utah Occupational Disease Act, and subject to Subsection 34A-2-407(11), the employer or the

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insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for medicines, and for artificial means, appliances, and prostheses necessary to treat the injured employee.

(2) The employer and the insurance carrier are not required to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device, as those terms are defined in Section 26-61a-102.

~~[(2)]~~ (3) If death results from the injury, the employer or the insurance carrier shall pay the burial expenses in ordinary cases as established by rule.

~~[(3)]~~ (4) If a compensable accident results in the breaking of or loss of an employee's artificial means or appliance including eyeglasses, the employer or insurance carrier shall provide a replacement of the artificial means or appliance.

~~[(4)]~~ (5) An administrative law judge may require the employer or insurance carrier to maintain the artificial means or appliances or provide the employee with a replacement of any artificial means or appliance for the reason of breakage, wear and tear, deterioration, or obsolescence.

~~[(5)]~~ (6) An administrative law judge may, in unusual cases, order, as the administrative law judge considers just and proper, the payment of additional sums:

- (a) for burial expenses; or
- (b) to provide for artificial means or appliances.

Section 97. Section **41-6a-517 (Superseded 07/01/19)** is amended to read:

41-6a-517 (Superseded 07/01/19). Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

- (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- (b) "Practitioner" means the same as that term is defined in Section 58-37-2.
- (c) "Prescribe" means the same as that term is defined in Section 58-37-2.
- (d) "Prescription" means the same as that term is defined in Section 58-37-2.

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

(3) It is an affirmative defense to prosecution under this section that the controlled

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substance was:

- (a) involuntarily ingested by the accused;
- (b) prescribed by a practitioner for use by the accused; [~~or~~]
- (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The Driver License Division shall:

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

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

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

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

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

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

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection

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(11)(b);

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

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

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

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

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

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

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

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

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

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

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

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person

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convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section 98. Section **41-6a-517 (Effective 07/01/19)** is amended to read:

41-6a-517 (Effective 07/01/19). Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

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

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

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused [~~or recommended by a physician for use by the accused; or~~];

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage

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form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

~~(c)~~ (d) otherwise legally ingested.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The Driver License Division shall:

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

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

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

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

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

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

(b) completes a screening;

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

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

(e) completes an educational series if substance abuse treatment is not required by the

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assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

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

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

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

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

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

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

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

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

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

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver

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License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section 99. Section **49-11-1401** is amended to read:

49-11-1401. Forfeiture of retirement benefits for employees for employment related offense convictions -- Notifications -- Investigations -- Appeals.

(1) As used in this section:

(a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) "Employee" means a member of a system or plan administered by the board.

(c) (i) "Employment related offense" means a felony committed during employment or the term of an elected or appointed office with a participating employer that is:

[(+)] (A) during the performance of the employee's duties;

[(+)] (B) within the scope of the employee's employment; or

[(+)] (C) under color of the employee's authority.

(ii) "Employment related offense" does not include any federal offense for conduct that is lawful under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) (a) Notwithstanding any other provision of this title, an employee shall forfeit accrual of service credit, employer retirement related contributions, including employer contributions to the employer sponsored defined contribution plans, or other retirement related benefits from a system or plan under this title in accordance with this section.

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not

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include the employee's contribution to a defined contribution plan.

(3) An employee shall forfeit the benefits described under Subsection (2)(a):

(a) if the employee is convicted of an employment related offense;

(b) beginning on the day on which the employment related offense occurred; and

(c) until the employee is either:

(i) re-elected or reappointed to office; or

(ii) (A) terminated from the position for which the employee was found to have

committed an employment related offense; and

(B) rehired or hired as an employee who is eligible to be a member of a Utah state retirement system or plan.

(4) The employee's participating employer shall:

(a) immediately notify the office:

(i) if an employee is charged with an offense that is or may be an employment related offense under this section; and

(ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is or may be an employment related offense under this section; and

(b) if the employee is convicted of an offense that may be an employment related

offense:

(i) conduct an investigation, which may rely on the conviction, to determine:

(A) whether the conviction is for an employment related offense; and

(B) the date on which the employment related offense was initially committed; and

(ii) after the period of time for an appeal by an employee under Subsection (5),

immediately notify the office of the employer's determination under this Subsection (4)(b).

(5) An employee may appeal the employee's participating employer's determination under Subsection (4)(b) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the attorney general's office, or the state auditor may notify the office and the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense under this section.

(b) If the employee's participating employer receives a notification under Subsection

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(6)(a), the participating employer shall immediately report to the entity that provided the notification under Subsection (6)(a):

(i) if the employee is acquitted of the offense;

(ii) if the employee is convicted of an offense that may be an employment related offense; and

(iii) when the participating employer has concluded its duties under this section if the employee is convicted, including conducting an investigation, making a determination under Subsection (4)(b) that the conviction was for an employment related offense, and notifying the office under Subsection (7).

(c) The notifying entity under Subsection (6)(a) may assist the employee's participating employer with the investigation and determination described under Subsection (4)(b).

(7) Upon receiving a notification from a participating employer that the participating employer has made a determination under Subsection (4)(b) that the conviction was for an employment related offense, the office shall immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense determined under Subsection (4)(b).

(8) This section applies to an employee who is convicted on or after the effective date of this act for an employment related offense.

(9) The board may make rules to implement this section.

(10) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

Section 100. Section **53-1-106.5** is amended to read:

53-1-106.5. Utah Medical Cannabis Act -- Department duties.

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

(1) provide standards for training peace officers and law enforcement agencies in the use of the state electronic verification system; and

(2) collaborate with the Department of Health and the Department of Agriculture and Food to provide standards for training peace officers and law enforcement agencies in medical

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cannabis law.

Section 101. Section **58-17b-302** is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307[-]; and

(b) for the operation of a medical cannabis pharmacy or the state central fill medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy, including the state central fill medical cannabis pharmacy, shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 102. Section **58-17b-310** is amended to read:

58-17b-310. Continuing education.

(1) The division in collaboration with the board may establish by rule continuing education requirements for each classification of licensure under this chapter.

(2) The division shall accept and apply toward an hour requirement that the division

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establishes under Subsection (1) continuing education that a pharmacist completes in accordance with Sections 26-61a-403 and 26-61a-601.

Section 103. Section **58-17b-502** is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

~~[(1)]~~ (a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

~~[(2)]~~(a) (b) except as provided in Subsection (2)~~[(b)]~~:

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals[-];

~~[(b) Subsection (2)(a) does not apply to:]~~

~~[(i) giving or receiving price discounts based on purchase volume;]~~

~~[(ii) passing along pharmaceutical manufacturer's rebates; or]~~

~~[(iii) providing compensation for services to a veterinarian.]~~

~~[(3)]~~ (c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

~~[(4)]~~ (d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

~~[(5)]~~ (e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

~~[(6)]~~ (f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

~~[(7)]~~ (g) violating:

~~[(a)]~~ (i) the federal Controlled Substances Act, Title II, P.L. 91-513;

~~[(b)]~~ (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

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~~[(e)]~~ (iii) rules or regulations adopted under either act;

~~[(8)]~~ (h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

~~[(9)]~~ (i) administering:

~~[(a)]~~ (i) without appropriate training, as defined by rule;

~~[(b)]~~ (ii) without a physician's order, when one is required by law; and

~~[(c)]~~ (iii) in conflict with a practitioner's written guidelines or written protocol for administering;

~~[(10)]~~ (j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

~~[(11)]~~ (k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

~~[(12)]~~ (l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

~~[(13)]~~ (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; ~~[and]~~

~~[(14)]~~ (n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order~~[-];~~ and

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

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(a) when registered as a pharmacy medical provider, as that term is defined in Section 20-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when registered as a state central fill medical provider, as that term is defined in Section 26-61a-102, providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 104. Section **58-20b-101** is enacted to read:

CHAPTER 20b. ENVIRONMENTAL HEALTH SCIENTIST ACT

Part 1. General Provisions.

58-20b-101. Title.

This chapter is known as the "Environmental Health Scientist Act."

Section 105. Section **58-20b-102** is enacted to read:

58-20b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Accredited program" means a degree-offering program from:

(a) an institution, college, or university that is accredited by the Department of Education or the Council for Higher Education Accreditation; or

(b) a non-accredited institution, college, or university that offers education equivalent to Department of Education-accredited programs, as determined by a third party selected by the board.

(2) "Board" means the Environmental Health Scientist Board created in Section 58-20b-201.

(3) "General supervision" means the supervising environmental health scientist is available for immediate voice communication with the person he or she is supervising.

(4) "Practice of environmental health science" means:

(a) the enforcement of, the issuance of permits required by, or the inspection for the purpose of enforcing state and local public health laws in the following areas:

(i) air quality;

(ii) food quality;

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(iii) solid, hazardous, and toxic substances disposal;

(iv) consumer product safety;

(v) housing;

(vi) noise control;

(vii) radiation protection;

(viii) water quality;

(ix) vector control;

(x) drinking water quality;

(xi) milk sanitation;

(xii) rabies control;

(xiii) public health nuisances;

(xiv) indoor clean air regulations;

(xv) institutional and residential sanitation; or

(xvi) recreational facilities sanitation; or

(b) representing oneself in any manner as, or using the titles "environmental health scientist," "environmental health scientist-in-training," or "registered sanitarian."

(5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.

(6) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-20b-501 and as may be further defined by division rule.

Section 106. Section **58-20b-201** is enacted to read:

Part 2. Board.

58-20b-201. Board.

(1) There is created the Environmental Health Scientist Board consisting of four environmental health scientists in good standing and one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

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(4) A board member who has, under Subsection (3), reviewed a complaint or advised in the investigation of the complaint is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 107. Section **58-20b-301** is enacted to read:

Part 3. Licensing.

58-20b-301. Licensure required -- License classifications.

(1) A person shall hold a license under this chapter in order to engage in the practice of environmental health science while employed by any of the following, except as specifically exempted in Section 58-20b-305 or 58-1-307:

- (a) a local health department;
- (b) the state Department of Health;
- (c) the state Department of Human Services;
- (d) the Department of Agriculture and Food as a food and dairy compliance officer; or
- (e) a local health department as its director of environmental health services.

(2) Any other individual not subject to Subsection (1) may also be licensed under this chapter upon compliance with all requirements.

(3) The division shall issue to persons who qualify under this chapter a license in the classification:

- (a) environmental health scientist; or
- (b) environmental health scientist-in-training.

Section 108. Section **58-20b-302** is enacted to read:

58-20b-302. Qualifications for licensure.

(1) Except as provided in Subsection (2), an applicant for licensure as an environmental health scientist shall:

- (a) submit an application in a form prescribed by the division;
- (b) pay a fee determined by the department under Section 63J-1-504;
- (c) be of good moral character;
- (d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;
- (e) pass an examination as determined by division rule in collaboration with the board;

and

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(f) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division.

(2) An applicant for licensure as an environmental health scientist-in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) hold, at a minimum, a bachelor's degree from an accredited program in a university or college, which degree includes completion of specific course work as defined by rule;

(e) pass the Utah Law and Rules Examination for Environmental Health Scientists administered by the division; and

(f) present evidence acceptable to the division and the board that the applicant, when licensed, will practice as an environmental health scientist-in-training only under the general supervision of a supervising environmental health scientist licensed under this chapter.

Section 109. Section **58-20b-303** is enacted to read:

58-20b-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license for an environmental health scientist in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) Each license for an environmental health scientist-in-training shall be issued for a term of two years and may not be renewed.

(3) Each license issued under this chapter automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Section 110. Section **58-20b-304** is enacted to read:

58-20b-304. Continuing education.

Each person holding a license under this chapter as an environmental health scientist or an environmental health scientist-in-training shall complete in each two-year period of licensure not fewer than 30 hours of professional continuing education in accordance with standards defined by division rule.

Section 111. Section **58-20b-305** is enacted to read:

58-20b-305. Exemptions from licensure.

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In addition to the exemptions from licensure in Section 58-1-307, a person is exempt from the licensure requirements of this chapter if:

(1) the person's practice of environmental health science is limited to inspecting in order to enforce compliance with an inspection and maintenance program established pursuant to Section 41-6a-1642 or to issuing permits under that program;

(2) the person is a laboratory staff person employed by the Department of Agriculture and Food or the Department of Health, and in the person's employment inspects, permits, certifies, or otherwise enforces laboratory standards in laboratories regulated by state or local public health laws; or

(3) the person is the local health officer of a local public health department, which employs a director of environmental health services licensed under this chapter.

Section 112. Section **58-20b-401** is enacted to read:

Part 4. License Denial and Discipline.

58-20b-401. Grounds for denial of license -- Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Section 113. Section **58-20b-501** is enacted to read:

Part 5. Unprofessional Conduct.

58-20b-501. Unprofessional conduct.

"Unprofessional conduct" includes:

(1) acting dishonestly or fraudulently in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training;

(2) intentionally filing a false report or record in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training; and

(3) willfully impeding or obstructing another person from filing a report in the performance of professional duties as an environmental health scientist or environmental health scientist-in-training.

Section 114. Section **58-31b-305** is amended to read:

58-31b-305. Term of license -- Expiration -- Renewal.

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(1) The division shall issue each license or certification under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) The division shall renew the license of a licensee who, at the time of renewal:

(a) completes and submits an application for renewal in a form prescribed by the division;

(b) pays a renewal fee established by the division under Section 63J-1-504; and

(c) meets continuing competency requirements as established by rule.

(3) In addition to the renewal requirements under Subsection (2), a person licensed as [a] an advanced practice registered nurse shall be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of that qualification or if licensed prior to July 1, 1992, meet the requirements established by rule.

(4) In addition to the requirements described in Subsections (2) and (3), an advanced practice registered nurse licensee specializing in psychiatric mental health nursing who, as of the day on which the division originally issued the licensee's license had not completed the division's clinical practice requirements in psychiatric and mental health nursing, shall, to qualify for renewal:

(a) if renewing less than two years after the day on which the division originally issued the license, demonstrate satisfactory progress toward completing the clinical practice requirements; or

(b) have completed the clinical practice requirements.

(5) Each license or certification automatically expires on the expiration date shown on the license or certification unless renewed in accordance with Section 58-1-308.

(6) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2)(c) continuing education that an advanced practice registered nurse completes in accordance with Section 26-61a-106.

Section 115. Section **58-31b-502** is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

[~~(1)~~] (a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged

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to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

~~[(2)]~~ (b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

~~[(3)]~~ (c) engaging in sexual relations with a patient during any:

~~[(a)]~~ (i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

~~[(b)]~~ (ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

~~[(4)(a)]~~ (d)(i) as a result of any circumstance under Subsection (3), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

~~[(b)]~~ (ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

~~[(5)]~~ (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

~~[(6)]~~ (f) unauthorized taking or personal use of nursing supplies from an employer;

~~[(7)]~~ (g) unauthorized taking or personal use of a patient's personal property;

~~[(8)]~~ (h) knowingly entering into any medical record any false or misleading information or altering a medical record in any way for the purpose of concealing an act, omission, or record of events, medical condition, or any other circumstance related to the patient and the medical or nursing care provided;

~~[(9)]~~ (i) unlawful or inappropriate delegation of nursing care;

~~[(10)]~~ (j) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

~~[(11)]~~ (k) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

~~[(12)]~~ (l) failure to file or record any medical report as required by law, impeding or

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obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

~~[(13)]~~ (m) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

~~[(14)]~~ (n) failure to pay a penalty imposed by the division;

~~[(15)]~~ (o) prescribing a Schedule ~~[H-HH]~~ II or III controlled substance without complying with the requirements in Section 58-31b-803;

~~[(16)]~~ (p) violating Section 58-31b-801;

~~[(17)]~~ (q) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; and

~~[(18)]~~ (r) establishing or operating a pain clinic without a consultation and referral plan for Schedule ~~[H-HH]~~ II or III controlled substances.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 116. Section **58-37-3.6 (Superseded 07/01/19)** is amended to read:

58-37-3.6 (Superseded 07/01/19). Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

(1) As used in this section:

(a) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Expanded cannabinoid product" means a product intended for human ingestion

that:

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(i) contains an extract or concentrate that is obtained from cannabis;
(ii) is prepared in a medicinal dosage form; and
(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(e) "Medicinal dosage form" means:

- (i) a tablet;
- (ii) a capsule;
- (iii) a concentrated oil;
- (iv) a liquid suspension;
- (v) a transdermal preparation; or
- (vi) a sublingual preparation.

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

(2) Notwithstanding any other provision of this chapter, an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61, Cannabinoid Research Act.

~~[(3) Notwithstanding any other provision of this chapter, an individual who grows, processes, or possesses cannabis is not subject to the penalties described in this title for the growth, processing, or possession of marijuana to the extent that the individual is authorized to grow, process, or possess the cannabis under Section 4-41-203 and is in compliance with any rules made pursuant to Section 4-41-204.]~~

~~[(4) Notwithstanding any other provision of this chapter, an individual who possesses or uses cannabis in a medicinal dosage form is not subject to the penalties described in this title for the possession or use of marijuana or tetrahydrocannabinol to the extent that the individual's possession or use of the cannabis complies with Title 58, Chapter 85, Utah Right to Try Act.]~~

Section 117. Section **58-37-3.6 (Effective 07/01/19)** is amended to read:

58-37-3.6 (Effective 07/01/19). Exemption for possession or distribution of a cannabinoid product or expanded cannabinoid product pursuant to an approved study.

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(1) As used in this section:

~~[(a)]~~ "Cannabidiol product" means the same as that term is defined in Section 4-41-102.;

~~[(b)]~~ (a) "Cannabinoid product" means a product intended for human ingestion that:

- (i) contains an extract or concentrate that is obtained from cannabis;
- (ii) is prepared in a medicinal dosage form; and
- (iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

~~[(c)]~~ (b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

~~[(d)]~~ (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

~~[(e)]~~ (d) "Expanded cannabinoid product" means a product intended for human ingestion that:

- (i) contains an extract or concentrate that is obtained from cannabis;
- (ii) is prepared in a medicinal dosage form; and
- (iii) contains less than 10 units of cannabidiol for every one unit of

tetrahydrocannabinol.

~~[(f)]~~ (e) "Medicinal dosage form" means:

- (i) a tablet;
- (ii) a capsule;
- (iii) a concentrated oil;
- (iv) a liquid suspension;
- (v) a transdermal preparation; or
- (vi) a sublingual preparation.

~~[(g)]~~ (f) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter~~[(a)]~~ an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter 61,

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Cannabinoid Research Act[;].

~~[(b) an individual who grows, processes, possesses, transports, or distributes cannabidiol for medicinal use or a hemp-grade product that is intended to be processed into cannabidiol for medicinal use, is not subject to the penalties described in this title to the extent that the individual's growth, processing, possession, transportation, or distribution of the cannabidiol or hemp-grade product is in compliance with Title 4, Chapter 43, Cannabidiol Producers, and]~~

~~[(c) a person who processes, possesses, or sells cannabidiol is not subject to the penalties described in this title if:]~~

~~[(i) the person is a cannabidiol-qualified pharmacy, or]~~

~~[(ii) the person is an individual whose physician has recommended use of the cannabidiol and the individual purchased the cannabidiol from a cannabidiol-qualified pharmacy.]~~

~~[(3) Notwithstanding any other provision of this chapter, an individual who grows, processes, or possesses cannabis is not subject to the penalties described in this title for the growth, processing, or possession of marijuana to the extent that the individual is authorized to grow, process, or possess the cannabis under Section 4-41-203 and is in compliance with any rules made pursuant to Section 4-41-204.]~~

~~[(4) Notwithstanding any other provision of this chapter, an individual who possesses or uses cannabis in a medicinal dosage form is not subject to the penalties described in this title for the possession or use of marijuana or tetrahydrocannabinol to the extent that the individual's possession or use of the cannabis complies with Title 58, Chapter 85, Utah Right to Try Act.]~~

Section 118. Section **58-37-3.7** is amended to read:

58-37-3.7. Medical cannabis decriminalization.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

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(e) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

~~(1)~~ (2) Before ~~[July]~~ January 1, ~~[2020]~~ 2021, ~~[it is an affirmative defense to criminal charges against an individual]~~ an individual is not guilty under this chapter for the use~~[-]~~ or possession~~[-or manufacture]~~ of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia ~~[under this chapter that]~~ if:

(a) ~~at the time of the arrest, the individual [would be eligible for a medical cannabis card, and that the individuals conduct would have been lawful, after July 1, 2020.]:~~

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question; or

(ii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in a quantity described in Subsection 26-61a-502(2).

~~(2)~~ (3) ~~[It is an affirmative defense to criminal charges against an individual]~~ An individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

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(a) at the time of the arrest, the individual:

(i) ~~[is a]~~ was not a resident of Utah or has been a resident of Utah for less than 45 days ~~[and was issued]~~;

(ii) had a currently valid medical cannabis ~~[identification]~~ card or ~~[its]~~ the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

~~[(b)]~~ (iii) ~~[the individual has]~~ had been diagnosed with a qualifying ~~[illness]~~ condition as described in Section ~~[26-60b-105.]~~ 26-61a-104; and

(b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a quantity described in Subsection 26-61a-502(2).

~~[(3) A court shall, for charges that the court dismisses under Subsection (1) or Subsection (2), dismiss the charges without prejudice.]~~

Section 119. Section **58-37-3.8** is amended to read:

58-37-3.8. Enforcement.

(1) ~~[No]~~ A law enforcement officer ~~[employed by an agency that receives state or local government funds shall]~~, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that ~~[such]~~ the activity is in compliance with the state medical cannabis laws ~~[, nor shall any such officer expend any state or local resources, including the officer's time, to]~~;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to [such] an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) ~~[No]~~ An agency or political subdivision of ~~[Utah]~~ the state may ~~[rely on a violation of federal law as the sole basis for taking]~~ not take an adverse action against a person for

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providing a professional [~~services~~] service to a medical cannabis [~~dispensary~~] pharmacy, as that term is defined in Section 26-61a-102, the state central fill medical cannabis pharmacy, as that term is defined in Section 26-61a-102, or a cannabis production establishment [~~if the person has not violated the state medical cannabis laws~~], as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Section 120. Section ~~58-37-3.9~~ is amended to read:

58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

~~[(b) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.]~~

~~[(c) (b) "Cannabis product" means [a product that: (i) is intended for human ingestion; and (ii) contains cannabis or tetrahydrocannabinol]~~ the same as that term is defined in Section 26-61a-102.

~~[(d) "Designated caregiver" means the same as that term is defined in Section 26-60b-102.]~~

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

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

~~[(g) (d) "Medical cannabis [card] cardholder" means the same as that term is defined in Section [26-60b-102] 26-61a-102.~~

~~[(h) (e) [(f) "Medical cannabis device" means [a device that an individual uses to ingest cannabis or a cannabis product]~~ the same as that term is defined in Section 26-61a-102.

~~[(ii) "Medical cannabis device" does not include a device that facilitates cannabis combustion at a temperature of greater than 750 degrees Fahrenheit.]~~

~~[(f) (f) "[Qualifying illness] Medicinal dosage form" means the same as that term is defined in Section [26-60b-102] 26-61a-102.~~

~~[(f) (g) "Tetrahydrocannabinol" means a substance derived from cannabis [that meets the description] or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).~~

(2) Notwithstanding any other provision of law, except as otherwise provided in this

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section:

(a) an individual [who] is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) ~~[possesses, produces, manufactures, dispenses, distributes, sells, or offers]~~ possessing, ingesting, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or ~~[who possesses]~~

(ii) possessing cannabis or a cannabis product with the intent to ~~[produce, manufacture, dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not subject to the penalties described in this title for]~~ engage in the conduct ~~[to the extent that the individual's conduct complies with:]~~ described in Subsection (2)(a)(i); and

~~[(i)]~~ (b) an individual is guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter [41b] 41a, Cannabis Production [Establishment;] Establishments, and [(ii)] Title 26, Chapter [60b] 61a, Utah Medical Cannabis Act[;]:

~~[(b)]~~ (i) ~~[an individual who]~~ possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) ~~[who]~~ possesses a medical cannabis device with the intent to ~~[manufacture, distribute, sell, or offer to sell a medical cannabis device is authorized and is not subject to the penalties described in this title for the possession, manufacture, distribution, sale, or offer for sale of drug paraphernalia to the extent that the individual's]~~ engage in any of the conduct ~~[complies with:]~~ described in Subsection (2)(b)(i).

~~[(i)]~~ Title 4, Chapter 41b, Cannabis Production Establishment; and]

~~[(ii)]~~ Title 26, Chapter 60b, Medical Cannabis Act.]

~~[(3)]~~ For purposes of state law, ~~except as otherwise provided in this section, activities related to cannabis shall be considered lawful and any cannabis consumed shall be considered legally ingested, as long as the conduct is in accordance with:]~~

~~[(a)]~~ Title 4, Chapter 41b, Cannabis Production Establishment; and]

~~[(b)]~~ Title 26, Chapter 60b, Medical Cannabis Act.]

~~[(4)]~~ (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

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~~(b) [It is not lawful for] Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis [card holder] cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis. [An individual convicted of violating this section is guilty of an infraction. For purposes of this section, smoking does not include a means of administration that involves cannabis combustion at a temperature that is not greater than 750 degrees Fahrenheit and that does not involve using a flame.]~~

(c) A medical cannabis cardholder who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is subject to charges under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b).

~~[(5) An individual is not exempt from the penalties described in this title for ingesting cannabis or a cannabis product while operating a motor vehicle.]~~

~~[(6) (4) An individual who is assessed a penalty or convicted of [an infraction] a crime under Title 4, Chapter [41b] 41a, Cannabis Production [Establishment] Establishments, or Title 26, Chapter [60b] 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to [the penalties] a penalty described in this chapter for:~~

~~(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or~~

~~(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.~~

~~Section 121. Section 58-37f-203 (Effective 07/01/19) is amended to read:~~

~~**58-37f-203 (Effective 07/01/19). Submission, collection, and maintenance of data.**~~

~~(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:~~

~~(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and~~

~~(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.~~

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(b) (i) On and after January 1, 2016, a pharmacist shall comply with either:

(A) the submission time requirements established by the division under Subsection (1)(a)(i); or

(B) the submission time requirements established by the division under Subsection (1)(a)(ii).

(ii) Prior to January 1, 2016, a pharmacist may submit information using either option under this Subsection (1).

(c) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

(i) the requirements of this section;

(ii) the procedures established by the division;

(iii) additional types of information or data fields established by the division; and

(iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) [(a)] The pharmacist-in-charge and the pharmacist described in Subsection (2) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a health care facility, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6).

~~[(b) The pharmacist described in Subsection (2) shall, in the case of a cannabidiol-qualified pharmacy dispensing a cannabidiol product, submit the following information to the division:]~~

~~[(i) the name of the recommending physician;]~~

~~[(ii) the date of the recommendation;]~~

~~[(iii) the date the recommendation was filled by the cannabidiol-qualified pharmacy;]~~

~~[(iv) the name of the individual for whom the recommendation was written; and]~~

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~~[(v) any other information the division requires by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect. The patient shall provide a postal address for the division's response.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision by mail postmarked within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the postmark date of the patient's letter making a request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

- (a) electronic format;
- (b) submission procedures; and
- (c) required information and data fields.

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

(a) the identification of each individual who requests or receives information from the database;

- (b) the information provided to each individual; and
- (c) the date and time that the information is requested or provided.

Section 122. Section **58-67-304** is amended to read:

58-67-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

- (a) complete qualified continuing professional education requirements in accordance

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with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

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(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) and continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-601.

Section 123. Section **58-67-502** is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8; ~~or~~

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable~~[-]; or~~

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include~~[-];~~

(a) in compliance with Section 58-85-103:

~~(a)~~ (i) obtaining an investigational drug or investigational device;

~~(b)~~ (ii) administering the investigational drug to an eligible patient; or

~~(c)~~ (iii) treating an eligible patient with the investigational drug or investigational device~~[-]; or~~

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central fill medical provider, as that term is defined in Section 26-61a-102, providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define

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unprofessional conduct for a pharmacist described in Subsections (2)(b).

Section 124. Section **58-68-304** is amended to read:

58-68-304. License renewal requirements.

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating

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to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

- (a) of the name and business address of the physician; and
- (b) that the physician responded positively to the question described in Subsection

(3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) and continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and 26-61a-601.

Section 125. Section **58-68-502** is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [or]

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5[-]; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include[-];

(a) in compliance with Section 58-85-103:

~~(a)~~ (i) obtaining an investigational drug or investigational device;

~~(b)~~ (ii) administering the investigational drug to an eligible patient; or

~~(c)~~ (iii) treating an eligible patient with the investigational drug or investigational device[-]; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section

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26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central fill medical provider, as that term is defined in Section 26-61a-102, providing state central fill medical provider services in the state central fill medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (2)(b).

Section 126. Section **58-70a-303** is amended to read:

58-70a-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensee shall show compliance with continuing education renewal requirements.

(3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

(4) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (2) continuing education that a physician assistant completes in accordance with Section 26-61a-106.

Section 127. Section **58-70a-503** is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

~~(1)~~ (a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

~~(2)~~ (b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

~~(3)~~ (c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a

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licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

~~[(4)]~~ (d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;

~~[(5)]~~ (e) failure to make the delegation of services agreement available to the division for review upon request;

~~[(6)]~~ (f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule; and

~~[(7)]~~ (g) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2).

Section 128. Section **58-85-102** is amended to read:

58-85-102. Definitions.

As used in this chapter:

~~[(1) "Cannabis" means cannabis that has been grown by a state-approved grower and processed into a medicinal dosage form.]~~

~~[(2) "Cannabis-based treatment" means a course of treatment involving cannabis.]~~

~~[(3)]~~ (1) "Eligible patient" means an individual who has been diagnosed with a terminal illness by a physician.

~~[(4) "Health care facility" means the same as that term is defined in Section 26-55-102.]~~

~~[(5)]~~ (2) "Insurer" means the same as that term is defined in Section 31A-1-301.

~~[(6)]~~ (3) "Investigational device" means a device that:

(a) meets the definition of "investigational device" in 21 C.F.R. Sec. 812.3; and

(b) has successfully completed the United States Food and Drug Administration Phase

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1 testing for an investigational device described in 21 C.F.R. Part 812.

~~[(7)]~~ (4) "Investigational drug" means a drug that:

(a) meets the definition of "investigational new drug" in 21 C.F.R. Sec. 312.3; and

(b) has successfully completed the United States Food and Drug Administration Phase

1 testing for an investigational new drug described in 21 C.F.R. Part 312.

~~[(8)]~~ (5) "Medicinal dosage form" means the same as that term is defined in Section 58-37-3.6.

~~[(9)]~~ (6) "Physician" means an individual who is licensed under:

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

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

~~[(10)] "State-approved grower and processor" means a person who grows cannabis pursuant to state law and processes the cannabis into a medicinal dosage form.]~~

~~[(11)]~~ (7) "Terminal illness" means a condition of a patient that:

(a) as determined by a physician:

(i) is likely to pose a greater risk to the patient than the risk posed to the patient by treatment with an investigational drug or investigational device; and

(ii) will inevitably lead to the patient's death; and

(b) presents the patient, after the patient has explored conventional therapy options, with no treatment option that is satisfactory or comparable to treatment with an investigational drug or device.

Section 129. Section **58-85-104** is amended to read:

58-85-104. Standard of care -- Medical practitioners not liable -- No private right of action.

(1) ~~[(a)]~~ It is not a breach of the applicable standard of care for a physician, other licensed health care provider, or hospital to treat an eligible patient with an investigational drug or investigational device under this chapter.

~~[(b)] It is not a breach of the applicable standard of care for a physician to recommend a cannabis-based treatment to a terminally ill patient under this chapter, or a health care facility to aid or assist in any way a terminally ill patient's use of cannabis.]~~

(2) A physician, other licensed health care provider, or hospital that treats an eligible patient with an investigational drug or investigational device under this chapter~~[-or a physician~~

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~~who recommends a cannabis-based treatment to a terminally ill patient or a health care facility that facilitates a terminally ill patient's recommended use of a cannabis-based treatment under this chapter,]~~ may not, for any harm done to the eligible patient by the investigational drug or device, ~~[or for any harm done to the terminally ill patient by the cannabis-based treatment,]~~ be subject to:

- (a) civil liability;
- (b) criminal liability; or
- (c) licensure sanctions under:
 - (i) for a physician:
 - (A) Title 58, Chapter 67, Utah Medical Practice Act; or
 - (B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (ii) for the other licensed health care provider, the act governing the other licensed health care provider's license; or
 - (iii) for the hospital ~~[or health care facility]~~, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- (3) This chapter does not:
 - (a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an eligible patient's physician;
 - (b) require a physician to agree to:
 - (i) administer an investigational drug to an eligible patient under this chapter; or
 - (ii) treat an eligible patient with an investigational device under this chapter; or
 - ~~[(iii) recommend a cannabis-based treatment to a terminally ill patient; or]~~
 - (c) create a private right of action for an eligible patient:
 - (i) against a physician or hospital, for the physician's or hospital's refusal to:
 - (A) administer an investigational drug to an eligible patient under this chapter; or
 - (B) treat an eligible patient with an investigational device under this chapter; or
 - ~~[(C) recommend a cannabis-based treatment to the terminally ill patient; or]~~
 - (ii) against a manufacturer, for the manufacturer's refusal to provide an eligible patient with an investigational drug or an investigational device under this chapter.

Section 130. Section ~~58-85-105~~ is amended to read:

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58-85-105. Insurance coverage.

(1) This chapter does not:

(a) require an insurer to cover the cost of:

(i) administering an investigational drug under this chapter; or

(ii) treating a patient with an investigational device under this chapter; or

~~[(iii) a cannabis-based treatment; or]~~

(b) prohibit an insurer from covering the cost of:

(i) administering an investigational drug under this chapter; or

(ii) treating a patient with an investigational device under this chapter~~[-or]~~.

~~[(iii) a cannabis-based treatment.]~~

(2) Except as described in Subsection (3), an insurer may deny coverage to an eligible patient who is treated with an investigational drug or investigational device, for harm to the eligible patient caused by the investigational drug or investigational device.

(3) An insurer may not deny coverage to an eligible patient under Subsection (2) for:

(a) the eligible patient's preexisting condition;

(b) benefits that commenced before the day on which the eligible patient is treated with the investigational drug or investigational device; or

(c) palliative or hospice care for an eligible patient that has been treated with an investigational drug or device, but is no longer receiving curative treatment with the investigational drug or device.

Section 131. Section **59-12-104.10** is enacted to read:

59-12-104.10. Exemption from sales tax for cannabis.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(e) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

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(f) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) In addition to the exemptions described in Section 59-12-104, the sale by a licensed medical cannabis pharmacy or the state central fill medical cannabis pharmacy of the following is not subject to the taxes this chapter imposes:

(a) cannabis in a medicinal dosage form; or

(b) a cannabis product in a medicinal dosage form.

(3) The sale of a medical cannabis device by a medical cannabis pharmacy or the state central fill medical cannabis pharmacy is subject to the taxes this chapter imposes.

Section 132. Section **62A-3-322** is enacted to read:

62A-3-322. Medical cannabis use by a vulnerable adult or guardian.

A peace officer or an employee or agent of the division may not solicit or provide, and a court may not order, emergency services for a vulnerable adult based solely on:

(1) the vulnerable adult's possession or use of cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 133. Section **62A-4a-202.1** is amended to read:

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

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

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

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

(i) educational neglect, truancy, or failure to comply with a court order to attend school; or

(ii) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal

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dosage form, or a medical cannabis device [~~in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis device is in compliance with Title 26, Chapter 60b, Medical Cannabis Act~~], as those terms are defined in Section 26-61a-102.

(2) A child welfare worker within the division may take action under Subsection [~~(10)~~] (1) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.

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

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

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

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

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

- (i) a shelter facility; or
- (ii) an emergency placement in accordance with Section 62A-4a-209.

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

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

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

- (a) the parent's rights under this part, including the right to be present and participate in

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any court proceeding relating to the child's case;

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

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

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

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

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

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

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

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

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

Section 134. Section **63I-1-226** is amended to read:

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

(1) Section 26-1-40 is repealed July 1, 2019.

~~[(1)]~~ (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

~~[(2)]~~ (3) Section 26-10-11 is repealed July 1, 2020.

(4) Subsection 26-18-417(3) is repealed July 1, 2020.

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

~~[(4)]~~ (5) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(7) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

~~[(5)]~~ (8) Title 26, Chapter [36a] 36d, Hospital Provider Assessment Act, is repealed

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July 1, ~~[2016]~~ 2019.

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

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

~~[(8)]~~ (9) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed January 1, 2019.

(10) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

Section 135. Section **63I-1-258** is amended to read:

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

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

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

(3) Title 58, Chapter ~~[20a]~~ 20b, Environmental Health Scientist Act, is repealed July 1, ~~[2018]~~ 2028.

(4) Section 58-37-4.3 is repealed January 1, 2020.

(5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

~~[(5)]~~ (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

~~[(6)]~~ (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

~~[(7)]~~ (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

~~[(8)]~~ (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

~~[(9)]~~ (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

~~[(10)]~~ (11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

~~[(11)]~~ (12) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

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(13) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

(14) The following sections are repealed on July 1, 2019:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

Section 136. Section **67-19-33** is amended to read:

67-19-33. Controlled substances and alcohol use prohibited.

[An] Except as provided in Title 26, Chapter 61a, Utah Medical Cannabis Act, an employee may not:

(1) manufacture, dispense, possess, use, distribute, or be under the influence of a controlled substance or alcohol during work hours or on state property except where legally permissible;

(2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol if the activity prevents:

(a) state agencies from receiving federal grants or performing under federal contracts of \$25,000 or more; or

(b) the employee to perform his services or work for state government effectively as regulated by the rules of the executive director in accordance with Section 67-19-34; or

(3) refuse to submit to a drug or alcohol test under Section 67-19-36.

Section 137. Section **78A-6-508 (Superseded 07/01/19)** is amended to read:

78A-6-508 (Superseded 07/01/19). Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six

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months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

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

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

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

(f) a history of violent behavior; or

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

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent ~~[because of the]~~ or otherwise consider a parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102, in accordance with Title 26, Chapter ~~[60b]~~ 61a, Utah Medical Cannabis Act.

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

(5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care

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decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

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

(7) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 138. Section **78A-6-508 (Effective 07/01/19)** is amended to read:

78A-6-508 (Effective 07/01/19). Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Subsection 78A-6-316(1).

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(2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

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

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

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

(f) a history of violent behavior; or

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

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26-61a-102 or a medical cannabis device, in accordance with Title 26, Chapter [~~60b~~] 61a, Utah Medical Cannabis Act.

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

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

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

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

(7) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 139. Repealer.

This bill repeals:

Section 4-41-201, Title.

Section 4-41-202, Definitions.

Section 4-41-203, Department to cultivate cannabis.

Section 4-41-301, Department to establish a state dispensary.

Section 4-41-302, Labeling.

Section 4-41-303, Department to set prices.

Section 4-41-304, Department to make rules regarding purchasers, communication

-- Report.

Section 4-41b-104, Preemption.

Section 4-43-101 (Effective 07/01/19), Title.

Section 4-43-102 (Effective 07/01/19), Definitions.

Section 4-43-201 (Effective 07/01/19), Cannabidiol processor -- Cannabidiol laboratory -- License -- Renewal.

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Section 4-43-202 (Effective 07/01/19), Renewal.

Section 4-43-203 (Effective 07/01/19), Bond required for license.

Section 4-43-301 (Effective 07/01/19), Cannabidiol processor and laboratory agents.

Section 4-43-401 (Effective 07/01/19), Cannabidiol processor or cannabidiol laboratory -- General operating requirements.

Section 4-43-402 (Effective 07/01/19), Cannabidiol processor or cannabidiol laboratory -- Inspection by department.

Section 4-43-501 (Effective 07/01/19), Cannabidiol processor -- Operating requirements.

Section 4-43-502 (Effective 07/01/19), Cannabidiol product.

Section 4-43-503 (Effective 07/01/19), Cannabidiol medicine -- Labeling and packaging.

Section 4-43-601 (Effective 07/01/19), Hemp and cannabidiol product testing.

Section 4-43-602 (Effective 07/01/19), Reporting -- Inspections.

Section 4-43-701 (Effective 07/01/19), Enforcement -- Fine -- Citation.

Section 4-43-702 (Effective 07/01/19), Report to the Legislature.

Section 4-43-703 (Effective 07/01/19), Fees -- Deposit into Cannabinoid Product Restricted Account.

Section 4-43-801 (Effective 07/01/19), Cannabinoid Product Restricted Account -- Creation.

Section 26-60b-104, Preemption.

Section 58-67-808 (Effective 07/01/19), Recommendation of cannabidiol products.

Section 58-68-808 (Effective 07/01/19), Recommendation of cannabidiol products.

Section 58-85-103.5, Right to request a recommendation for a cannabis-based treatment.

Section 58-88-101 (Effective 07/01/19), Title.

Section 58-88-102 (Effective 07/01/19), Definitions.

Section 58-88-103 (Effective 07/01/19), Cannabidiol-qualified pharmacy requirements.

Section 58-88-104 (Effective 07/01/19), Division to make rules -- Study.

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Section 59-12-104.7 (Repealed 01/01/19), Reporting by purchaser of certain sales and use tax exempt purchases.

Section 59-12-104.9 (Effective 07/01/19), Exemption from sales tax for cannabinoid products.

Section 59-29-101 (Effective 07/01/19), Title.

Section 59-29-102 (Effective 07/01/19), Definitions.

Section 59-29-103 (Effective 07/01/19), Imposition of tax -- Rate -- Administration.

Section 59-29-104 (Effective 07/01/19), Collection of tax.

Section 59-29-105 (Effective 07/01/19), Deposit of tax revenue.

Section 59-29-106 (Effective 07/01/19), Records.

Section 59-29-107 (Effective 07/01/19), Rulemaking authority.

Section 59-29-108 (Effective 07/01/19), Penalties and interest.

Section 140. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Sections 26-65-102 (Effective (07/01/19), 26-65-103 (Effective 07/01/19), 41-6a-517 (Effective 07/01/19), 58-37-3.6 (Effective 07/01/19), and 78A-6-508 (Effective 07/01/19) in this bill take effect on July 1, 2019.

Section 141. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) in Sections 4-41a-106 and 26-61a-114 replace the language from "this bill" with the bill's designated chapter number in the Laws of Utah; and

(2) in Sections 4-41a-201, 4-41a-301, 4-41a-401, 26-61a-202, 26-61a-301, 26-61a-401, 26-61a-602, and 26-61a-606, replace the language from "the effective date of this bill" to the bill's actual effective date.