

Senator Luz Escamilla proposes the following substitute bill:

MEDICAL CANNABIS ACT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Brad M. Daw

Cosponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to the Utah Medical Cannabis Act.

Highlighted Provisions:

This bill:

- ▶ amends a provision regarding the transportation of cannabis and cannabis products to certain facilities;
- ▶ provides for testing of cannabis at additional stages of production;
- ▶ delays a provision during the decriminalization period that requires labeling with a barcode on a blister pack containing unprocessed cannabis flower;
- ▶ amends the request for proposal requirements for a third-party electronic verification system to ensure that the provider does not have an ownership interest in a cannabis production establishment or a medical cannabis pharmacy;
- ▶ subjects appointees to the compassionate use board to Senate confirmation;
- ▶ provides an exception allowing certain medical professionals to recommend medical cannabis before qualified medical provider registration is available;
- ▶ clarifies an exception to an employment protection regarding a public employee's



- 25 lawful use of medical cannabis in the context of certain positions related to federal
26 requirements;
- 27 ▶ requires a state or political subdivision employer to provide a written notice to an
28 employee or prospective employee whose assignments or duties under the state's
29 medical cannabis programs may violate federal law;
 - 30 ▶ provides that a public employee who signs a notice regarding assignments or duties
31 that may violate federal law may not subsequently rely on state whistleblower
32 protections to refuse to carry out an assignment or duty that may violate federal law;
 - 33 ▶ requires the Department of Human Resource Management to create and publish a
34 form notice for public employees regarding the employees' involvement in the
35 state's medical cannabis programs;
 - 36 ▶ repeals a provision allowing a court in a custody proceeding in a certain
37 circumstance to discriminate against a parent based on the parent's lawful use of
38 medical cannabis;
 - 39 ▶ allows a certain insurer to issue workers' compensation insurance coverage for an
40 employer that is a cannabis production establishment or a medical cannabis
41 pharmacy;
 - 42 ▶ amends the decriminalization provision to include protections for parents and legal
43 guardians of certain minor patients;
 - 44 ▶ clarifies quantity limits for possession during the decriminalization period; and
45 ▶ makes technical changes.

46 **Money Appropriated in this Bill:**

47 None

48 **Other Special Clauses:**

49 This bill provides a special effective date.

50 **Utah Code Sections Affected:**

51 AMENDS:

52 **4-41a-404**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
53 Chapter 1

54 **4-41a-701**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
55 Chapter 1

56 **26-61a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
57 Chapter 1

58 **26-61a-103**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
59 Chapter 1

60 **26-61a-105**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
61 Chapter 1

62 **26-61a-106**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
63 Chapter 1

64 **26-61a-111**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
65 Chapter 1

66 **30-3-10**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

67 **31A-15-103**, as last amended by Laws of Utah 2018, Chapter 319

68 **58-37-3.7**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

69 ENACTS:

70 **4-41a-107**, Utah Code Annotated 1953



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

73 Section 1. Section **4-41a-107** is enacted to read:

74 **4-41a-107. Notice to prospective and current public employees.**

75 (1) (a) A state employer or a political subdivision employer shall take the action
76 described in Subsection (1)(b) before:

77 (i) giving to a current employee an assignment or duty that arises from or directly
78 relates to an obligation under this chapter, the state or political subdivision; or

79 (ii) hiring a prospective employee whose assignments or duties would include an
80 assignment or duty that arises from or directly relates to an obligation under this chapter.

81 (b) The employer described in Subsection (1)(a) shall give the employee or prospective
82 employee described in Subsection (1)(a) a written notice that notifies the employee or
83 prospective employee:

84 (i) that the employee's or prospective employee's job duties may require the employee
85 or prospective employee to engage in conduct which is in violation of the criminal laws of the
86 United States; and

87 (ii) that in accepting a job or undertaking a duty described in Subsection (1)(a),
88 although the employee or prospective employee is entitled to the protections of Title 67,
89 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to
90 carry out an assignment or duty that may be a violation of the criminal laws of the United
91 States with respect to the manufacture, sale, or distribution of cannabis.

92 (2) The Department of Human Resource Management shall create, revise, and publish
93 the form of the notice described in Subsection (1).

94 (3) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice
95 described in Subsection (1) may not:

96 (a) claim in good faith that the employee's actions violate or potentially violate the laws
97 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

98 (b) refuse to carry out a directive that the employee reasonably believes violates the
99 criminal laws of the United States with respect to the manufacture, sale, or distribution of
100 cannabis.

101 (4) An employer of an employee who has signed the notice described in Subsection (1)
102 may not take retaliatory action as defined in Section 67-19a-101 against a current employee
103 who refuses to sign the notice described in Subsection (1).

104 Section 2. Section **4-41a-404** is amended to read:

105 **4-41a-404. Cannabis, cannabis product, or medical cannabis device**
106 **transportation.**

107 (1) (a) Only the following individuals may transport cannabis in a medicinal dosage
108 form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this
109 chapter:

110 (i) a registered cannabis production establishment agent; or

111 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that
112 the cardholder is authorized to possess under this chapter.

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

116 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter
117 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall

118 possess a transportation manifest that:

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

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

123 (c) identifies the departure and arrival times and locations of the individual transporting
124 the cannabis, cannabis product, or medical cannabis device.

125 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
126 establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
127 Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a
128 medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis
129 product, or medical cannabis device remains safe for human consumption.

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

131 (i) between a cannabis cultivation facility and:

132 (A) another cannabis cultivation facility; or

133 (B) a cannabis processing facility; and

134 (ii) between a cannabis processing facility and:

135 (A) another cannabis processing facility;

136 (B) an independent cannabis testing laboratory; [or]

137 (C) a medical cannabis pharmacy[?]; or

138 (D) the state central fill medical cannabis pharmacy.

139 (4) (a) It is unlawful for a registered cannabis production establishment agent to make a
140 transport described in this section with a manifest that does not meet the requirements of this
141 section.

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

143 (i) guilty of an infraction; and

144 (ii) subject to a \$100 fine.

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

148 (d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis

149 product, or medical cannabis devices than the manifest identifies, except for a de minimis
150 administrative error:

- 151 (i) the penalty described in Subsection (4)(b) does not apply; and
- 152 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled
153 Substances Act.

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

157 Section 3. Section **4-41a-701** is amended to read:

158 **4-41a-701. Cannabis and cannabis product testing.**

159 (1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis
160 processing facility unless an independent cannabis testing laboratory has tested a representative
161 sample of the cannabis or cannabis product to determine that the presence of contaminants,
162 including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material,
163 does not exceed an amount that is safe for human consumption.

164 [(+)] (2) A cannabis processing facility may not offer any cannabis or cannabis
165 products for sale to a medical cannabis pharmacy or the state central fill medical cannabis
166 pharmacy, and a medical cannabis pharmacy and the state central fill medical cannabis
167 pharmacy may not offer any cannabis or cannabis product for sale unless an independent
168 cannabis testing laboratory has tested a representative sample of the cannabis or cannabis
169 product to determine:

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

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

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

177 (c) for a cannabis product that is manufactured using a process that involves extraction
178 using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that
179 is not safe for human consumption.

180 ~~[(2)]~~ (3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative
181 Rulemaking Act, the department:

182 (a) may determine the amount of any substance described in Subsections ~~[(1)]~~ (2)(b)
183 and (c) that is safe for human consumption; and

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

186 ~~[(3)]~~ (4) The department may require testing for a toxin if:

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

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

190 ~~[(4)]~~ (5) The department shall establish by rule, in accordance with Title 63G, Chapter
191 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
192 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

193 ~~[(5)]~~ (6) The department may require an independent cannabis testing laboratory to
194 participate in a proficiency evaluation that the department conducts or that an organization that
195 the department approves conducts.

196 Section 4. Section **26-61a-102** is amended to read:

197 **26-61a-102. Definitions.**

198 As used in this chapter:

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

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

203 (3) "Cannabis" means marijuana.

204 (4) "Cannabis cultivation facility" means the same as that term is defined in Section
205 [4-41a-102](#).

206 (5) "Cannabis processing facility" means the same as that term is defined in Section
207 [4-41a-102](#).

208 (6) "Cannabis product" means a product that:

209 (a) is intended for human use; and

210 (b) contains cannabis or tetrahydrocannabinol.

211 (7) "Cannabis production establishment agent" means the same as that term is defined
212 in Section 4-41a-102.

213 (8) "Cannabis production establishment agent registration card" means the same as that
214 term is defined in Section 4-41a-102.

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

217 (10) "Department" means the Department of Health.

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

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

221 (b) who registers with the department under Section 26-61a-202.

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

225 (13) "Independent cannabis testing laboratory" means the same as that term is defined
226 in Section 4-41a-102.

227 (14) "Inventory control system" means the system described in Section 4-41a-103.

228 (15) "Local health department" means the same as that term is defined in Section
229 26A-1-102.

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

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

233 (18) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis
234 product in a medicinal dosage form.

235 (19) "Medical cannabis card" means a medical cannabis patient card, a medical
236 cannabis guardian card, or a medical cannabis caregiver card.

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

238 (21) "Medical cannabis caregiver card" means an official card that:

239 (a) the department issues to an individual whom a medical cannabis patient cardholder
240 or a medical cannabis guardian cardholder designates as a designated caregiver; and

241 (b) is connected to the electronic verification system.

242 (22) (a) "Medical cannabis device" means a device that an individual uses to ingest
243 cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

245 (i) facilitates cannabis combustion; or

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

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

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

250 (b) is connected to the electronic verification system.

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

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

253 (b) is connected to the electronic verification system.

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

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

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

258 (B) a medical cannabis device; or

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

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

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

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

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

266 (27) "Medical cannabis pharmacy agent registration card" means a registration card
267 issued by the department that authorizes an individual to act as a medical cannabis pharmacy
268 agent.

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

271 (29) (a) "Medicinal dosage form" means:

272 (i) for processed medical cannabis or a medical cannabis product, the following in

- 273 single dosage form with a specific and consistent cannabinoid content:
- 274 (A) a tablet;
 - 275 (B) a capsule;
 - 276 (C) a concentrated oil;
 - 277 (D) a liquid suspension;
 - 278 (E) a topical preparation;
 - 279 (F) a transdermal preparation;
 - 280 (G) a sublingual preparation;
 - 281 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
 - 282 rectangular cuboid shape; or
 - 283 (I) for use only after the individual's qualifying condition has failed to substantially
 - 284 respond to at least two other forms described in this Subsection (29)(a)(i), a resin or wax;
 - 285 (ii) for unprocessed cannabis flower, a blister pack, with each individual blister:
 - 286 (A) containing a specific and consistent weight that does not exceed one gram and that
 - 287 varies by no more than 10% from the stated weight; and
 - 288 (B) after December 31, 2020, labeled with a barcode that provides information
 - 289 connected to an inventory control system and the individual blister's content and weight; and
 - 290 (iii) a form measured in grams, milligrams, or milliliters.
 - 291 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
 - 292 (i) the medical cannabis cardholder has recently removed from the blister pack
 - 293 described in Subsection (29)(a)(ii) for use; and
 - 294 (ii) does not exceed the quantity described in Subsection (29)(a)(ii).
 - 295 (c) "Medicinal dosage form" does not include:
 - 296 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in
 - 297 Subsection (29)(b); or
 - 298 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
 - 299 on a nail or other metal object that is heated by a flame, including a blowtorch.
 - 300 (30) "Pharmacy medical provider" means the medical provider required to be on site at
 - 301 a medical cannabis pharmacy under Section [26-61a-403](#).
 - 302 (31) "Provisional patient card" means a card that:
 - 303 (a) the department issues to a minor with a qualifying condition for whom:

304 (i) a qualified medical provider has recommended a medical cannabis treatment; and
305 (ii) the department issues a medical cannabis guardian card to the minor's parent or
306 legal guardian; and

307 (b) is connected to the electronic verification system.

308 (32) "Qualified medical provider" means an individual who is qualified to recommend
309 treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

310 (33) "Qualified Distribution Enterprise Fund" means the enterprise fund created in
311 Section 26-61a-110.

312 (34) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section
313 26-61a-109.

314 (35) "Qualifying condition" means a condition described in Section 26-61a-104.

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

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

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

322 (39) "State central fill shipment" means a shipment of cannabis in a medicinal dosage
323 form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state
324 central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis
325 cardholder in a local health department.

326 (40) "State electronic verification system" means the system described in Section
327 26-61a-103.

328 Section 5. Section 26-61a-103 is amended to read:

329 **26-61a-103. Electronic verification system.**

330 (1) The Department of Agriculture and Food, the department, the Department of Public
331 Safety, and the Department of Technology Services shall:

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

334 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah

335 Procurement Code, to develop a request for proposals for a third-party provider to develop and
336 maintain the state electronic verification system in coordination with the Department of
337 Technology Services; and

338 (c) select a third-party provider who:

339 (i) meets the requirements contained in the request for proposals issued under
340 Subsection (1)(b)[:]; and

341 (ii) may not have any commercial or ownership interest in a cannabis production
342 establishment or a medical cannabis pharmacy.

343 (2) The Department of Agriculture and Food, the department, the Department of Public
344 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
345 2020, the state electronic verification system described in Subsection (1):

346 (a) allows an individual, with the individual's qualified medical provider in the qualified
347 medical provider's office, to apply for a medical cannabis patient card or, if applicable, a
348 medical cannabis guardian card;

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

351 (c) allows a qualified medical provider to:

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

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

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

356 (ii) electronically recommend, during a visit with a patient, treatment with cannabis in a
357 medicinal dosage form or a cannabis product in a medicinal dosage form and optionally
358 recommend dosing parameters;

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

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

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

365 (iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment

366 in accordance with Section 26-61a-603;

367 (d) connects with:

368 (i) an inventory control system that a medical cannabis pharmacy and the state central
369 fill medical cannabis pharmacy use to track in real time and archive purchases of any cannabis
370 in a medicinal dosage form, cannabis product in a medicinal dosage form, or medical cannabis
371 device, including:

372 (A) the time and date of each purchase;

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

375 (C) any cannabis production establishment, any medical cannabis pharmacy, or the
376 state central fill medical cannabis pharmacy associated with the cannabis, cannabis product, or
377 medical cannabis device; and

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

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

385 (e) provides access to:

386 (i) the department to the extent necessary to carry out the department's functions and
387 responsibilities under this chapter;

388 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
389 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
390 41a, Cannabis Production Establishments; and

391 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
392 carry functions and responsibilities related to the participation of the following in the
393 recommendation and dispensing of medical cannabis:

394 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

395 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
396 Practice Act;

397 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
398 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
399 (D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;
400 (f) provides access to and interaction with the state central fill medical cannabis
401 pharmacy, state central fill agents, and local health department distribution agents, to facilitate
402 the state central fill shipment process;
403 (g) provides access to state or local law enforcement:
404 (i) during a traffic stop for the purpose of determining if the individual subject to the
405 traffic stop is in compliance with state medical cannabis law; or
406 (ii) after obtaining a warrant; and
407 (h) creates a record each time a person accesses the database that identifies the person
408 who accesses the database and the individual whose records the person accesses.
409 (3) The department may release de-identified data that the system collects for the
410 purpose of:
411 (a) conducting medical research; and
412 (b) providing the report required by Section [26-61a-703](#).
413 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
414 Administrative Rulemaking Act, to establish:
415 (a) the limitations on access to the data in the state electronic verification system as
416 described in this section; and
417 (b) standards and procedures to ensure accurate identification of an individual
418 requesting information or receiving information in this section.
419 (5) (a) Any person who knowingly and intentionally releases any information in the
420 state electronic verification system in violation of this section is guilty of a third degree felony.
421 (b) Any person who negligently or recklessly releases any information in the state
422 electronic verification system in violation of this section is guilty of a class C misdemeanor.
423 (6) (a) Any person who obtains or attempts to obtain information from the state
424 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
425 (b) Any person who obtains or attempts to obtain information from the state electronic
426 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
427 degree felony.

428 (7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and
429 intentionally use, release, publish, or otherwise make available to any other person information
430 obtained from the state electronic verification system for any purpose other than a purpose
431 specified in this section.

432 (b) Each separate violation of this Subsection (7) is:

433 (i) a third degree felony; and

434 (ii) subject to a civil penalty not to exceed \$5,000.

435 (c) The department shall determine a civil violation of this Subsection (7) in

436 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

437 (d) Civil penalties assessed under this Subsection (7) shall be deposited into the

438 General Fund.

439 (e) This Subsection (7) does not prohibit a person who obtains information from the

440 state electronic verification system under Subsection (2)(a), (c), or (f) from:

441 (i) including the information in the person's medical chart or file for access by a person
442 authorized to review the medical chart or file;

443 (ii) providing the information to a person in accordance with the requirements of the

444 Health Insurance Portability and Accountability Act of 1996; or

445 (iii) discussing or sharing that information on the patient with the patient.

446 Section 6. Section **26-61a-105** is amended to read:

447 **26-61a-105. Compassionate use board.**

448 (1) (a) The department shall establish a compassionate use board consisting of:

449 (i) seven qualified medical providers that the executive director appoints and the

450 Senate confirms:

451 (A) who are knowledgeable about the medicinal use of cannabis;

452 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
453 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

454 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
455 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
456 pediatrics, or gastroenterology; and

457 (ii) as a nonvoting member and the chair of the board, the executive director or the
458 director's designee.

459 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
460 the executive director shall ensure that at least two have a board certification in pediatrics.

461 (2) (a) Of the members of the board that the executive director first appoints:

462 (i) three shall serve an initial term of two years; and

463 (ii) the remaining members shall serve an initial term of four years.

464 (b) After an initial term described in Subsection (2)(a) expires:

465 (i) each term is four years; and

466 (ii) each board member is eligible for reappointment.

467 (c) A member of the board may serve until a successor is appointed.

468 (3) Four members constitute a quorum of the compassionate use board.

469 (4) A member of the board may receive:

470 (a) compensation or benefits for the member's service; and

471 (b) per diem and travel expenses in accordance with Section 63A-3-106, Section
472 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and
473 63A-3-107.

474 (5) The compassionate use board shall:

475 (a) review and recommend for department approval an individual described in
476 Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an
477 individual who is not otherwise qualified to receive a medical cannabis card to obtain a
478 medical cannabis card for compassionate use if:

479 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
480 the individual's qualified medical provider is actively treating the individual for an intractable
481 condition that:

482 (A) substantially impairs the individual's quality of life; and

483 (B) has not, in the qualified medical provider's professional opinion, adequately
484 responded to conventional treatments;

485 (ii) the qualified medical provider:

486 (A) recommends that the individual or minor be allowed to use medical cannabis; and

487 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
488 describing relevant treatment history including rationale for considering the use of medical
489 cannabis; and

490 (iii) the board determines that:
491 (A) the recommendation of the individual's qualified medical provider is justified; and
492 (B) based on available information, it may be in the best interests of the individual to
493 allow the use of medical cannabis;
494 (b) unless no petitions are pending:
495 (i) meet to receive or review compassionate use petitions at least quarterly; and
496 (ii) if there are more petitions than the board can receive or review during the board's
497 regular schedule, as often as necessary;
498 (c) complete a review of each petition and recommend to the department approval or
499 denial of the applicant for qualification for a medical cannabis card within 90 days after the day
500 on which the board received the petition; and
501 (d) report, before November 1 of each year, to the Health and Human Services Interim
502 Committee:
503 (i) the number of compassionate use recommendations the board issued during the past
504 year; and
505 (ii) the types of conditions for which the board approved compassionate use.
506 (6) (a) (i) The department shall review any compassionate use for which the board
507 recommends approval under Subsection (5)(c) to determine whether the board properly
508 exercised the board's discretion under this section.
509 (ii) If the department determines that the board properly exercised the board's
510 discretion in recommending approval under Subsection (5)(c), the department shall:
511 (A) issue the relevant medical cannabis card; and
512 (B) provide for the renewal of the medical cannabis card in accordance with the
513 recommendation of the qualified medical provider described in Subsection (5)(a).
514 (b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking
515 to obtain a medical cannabis card may petition the department to review the board's decision.
516 (ii) If the department determines that the board's recommendation for denial under
517 Subsection (5)(c) was arbitrary or capricious:
518 (A) the department shall notify the board of the department's determination; and
519 (B) the board shall reconsider the board's refusal to recommend approval under this
520 section.

521 (c) In reviewing the board's recommendation for approval or denial under Subsection
522 (5)(c) in accordance with this Subsection (6), the department shall presume the board properly
523 exercised the board's discretion unless the department determines that the board's
524 recommendation was arbitrary or capricious.

525 (7) Any individually identifiable health information contained in a petition that the
526 board or department receives under this section is a protected record in accordance with Title
527 63G, Chapter 2, Government Records Access and Management Act.

528 (8) The compassionate use board shall annually report the board's activity to the
529 Cannabinoid Product Board created in Section [26-61-201](#).

530 Section 7. Section **26-61a-106** is amended to read:

531 **26-61a-106. Qualified medical provider registration -- Continuing education --**
532 **Treatment recommendation.**

533 (1) (a) ~~[An]~~ Except as provided in Subsection (1)(b), an individual may not recommend
534 a medical cannabis treatment unless the department registers the individual as a qualified
535 medical provider in accordance with this section.

536 (b) An individual who meets the qualifications in Subsections [26-61a-106\(2\)\(a\)\(iii\)](#)
537 and (iv) may recommend a medical cannabis treatment without registering under Subsection
538 (1)(a) until January 1, 2021.

539 (2) (a) The department shall, within 15 days after the day on which the department
540 receives an application from an individual, register and issue a qualified medical provider
541 registration card to the individual if the individual:

542 (i) provides to the department the individual's name and address;

543 (ii) provides to the department a report detailing the individual's completion of the
544 applicable continuing education requirement described in Subsection (3);

545 (iii) provides to the department evidence that the individual:

546 (A) has the authority to write a prescription;

547 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
548 Controlled Substances Act; and

549 (C) possesses the authority, in accordance with the individual's scope of practice, to
550 prescribe a Schedule II controlled substance;

551 (iv) provides to the department evidence that the individual is:

552 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
553 Practice Act;

554 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
555 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

556 (C) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act,
557 whose declaration of services agreement, as that term is defined in Section 58-70a-102,
558 includes the recommending of medical cannabis, and whose supervising physician is a
559 qualified medical provider; and

560 (v) pays the department a fee in an amount that:

561 (A) the department sets, in accordance with Section 63J-1-504; and

562 (B) does not exceed \$300 for an initial registration.

563 (b) The department may not register an individual as a qualified medical provider if the
564 individual is:

565 (i) a pharmacy medical provider or a state central fill medical provider; or

566 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
567 production establishment or a medical cannabis pharmacy.

568 (3) (a) An individual shall complete the continuing education described in this
569 Subsection (3) in the following amounts:

570 (i) for an individual as a condition precedent to registration, four hours; and

571 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
572 every two years.

573 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

574 (i) complete continuing education:

575 (A) regarding the topics described in Subsection (3)(d); and

576 (B) offered by the department under Subsection (3)(c) or an accredited or approved
577 continuing education provider that the department recognizes as offering continuing education
578 appropriate for the recommendation of cannabis to patients; and

579 (ii) make a continuing education report to the department in accordance with a process
580 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
581 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
582 Professional Licensing and:

583 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
584 Nurse Practice Act, the Board of Nursing;

585 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
586 Practice Act, the Physicians Licensing Board;

587 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
588 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
589 and

590 (D) for a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant
591 Act, the Physician Assistant Licensing Board.

592 (c) The department may, in consultation with the Division of Occupational and
593 Professional Licensing, develop the continuing education described in this Subsection (3).

594 (d) The continuing education described in this Subsection (3) may discuss:

595 (i) the provisions of this chapter;

596 (ii) general information about medical cannabis under federal and state law;

597 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
598 including risks and benefits;

599 (iv) recommendations for medical cannabis as it relates to the continuing care of a
600 patient in pain management, risk management, potential addiction, or palliative care; and

601 (v) best practices for recommending the form and dosage of medical cannabis products
602 based on the qualifying condition underlying a medical cannabis recommendation.

603 (4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may
604 not recommend a medical cannabis treatment to more than 175 of the qualified medical
605 provider's patients at the same time, as determined by the number of medical cannabis cards
606 under the qualified medical provider's name in the state electronic verification system.

607 (b) Except as provided in Subsection (4)(c), a qualified medical provider may
608 recommend a medical cannabis treatment to up to 300 of the qualified medical provider's
609 patients at any given time, as determined by the number of medical cannabis cards under the
610 qualified medical provider's name in the state electronic verification system, if:

611 (i) the appropriate American medical board has certified the qualified medical provider
612 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
613 palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

614 (ii) a licensed business employs or contracts the qualified medical provider for the
615 specific purpose of providing hospice and palliative care.

616 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in
617 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for
618 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of
619 100 patients per authorization, not to exceed three authorizations.

620 (ii) The Division of Occupational and Professional Licensing shall grant the
621 authorization described in Subsection (4)(c)(i) if:

622 (A) the petitioning qualified medical provider pays a \$100 fee;

623 (B) the division performs a review that includes the qualified medical provider's
624 medical cannabis recommendation activity in the state electronic verification system, relevant
625 information related to patient demand, and any patient medical records that the division
626 determines would assist in the division's review; and

627 (C) after the review described in this Subsection (4)(c)(ii), the division determines that
628 granting the authorization would not adversely affect public safety, adversely concentrate the
629 overall patient population among too few qualified medical providers, or adversely concentrate
630 the use of medical cannabis among the provider's patients.

631 (5) A qualified medical provider may recommend medical cannabis to an individual
632 under this chapter only in the course of a qualified medical provider-patient relationship after
633 the qualifying medical provider has completed and documented in the patient's medical record
634 a thorough assessment of the patient's condition and medical history based on the appropriate
635 standard of care for the patient's condition.

636 (6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not
637 advertise that the qualified medical provider recommends medical cannabis treatment.

638 (b) For purposes of Subsection (6)(a), the communication of the following, through a
639 website does not constitute advertising:

640 (i) a green cross;

641 (ii) a qualifying condition that the qualified medical provider treats; or

642 (iii) a scientific study regarding medical cannabis use.

643 (7) (a) A qualified medical provider registration card expires two years after the day on
644 which the department issues the card.

645 (b) The department shall renew a qualified medical provider's registration card if the
646 provider:

647 (i) applies for renewal;

648 (ii) is eligible for a qualified medical provider registration card under this section,
649 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

650 (iii) certifies to the department in a renewal application that the information in
651 Subsection (2)(a) is accurate or updates the information;

652 (iv) submits a report detailing the completion of the continuing education requirement
653 described in Subsection (3); and

654 (v) pays the department a fee in an amount that:

655 (A) the department sets, in accordance with Section 63J-1-504; and

656 (B) does not exceed \$50 for a registration renewal.

657 (8) The department may revoke the registration of a qualified medical provider who
658 fails to maintain compliance with the requirements of this section.

659 (9) A qualified medical provider may not receive any compensation or benefit for the
660 qualified medical provider's medical cannabis treatment recommendation from:

661 (a) a cannabis production establishment or an owner, officer, director, board member,
662 employee, or agent of a cannabis production establishment;

663 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
664 employee, or agent of a medical cannabis pharmacy; or

665 (c) a qualified medical provider or pharmacy medical provider.

666 Section 8. Section 26-61a-111 is amended to read:

667 **26-61a-111. Nondiscrimination for medical care or government employment --**
668 **Notice to prospective and current public employees.**

669 (1) For purposes of medical care, including an organ or tissue transplant, a patient's
670 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis
671 product in a medicinal dosage form:

672 (a) is considered the equivalent of the authorized use of any other medication used at
673 the discretion of a physician; and

674 (b) does not constitute the use of an illicit substance or otherwise disqualify an
675 individual from needed medical care.

676 (2) (a) Notwithstanding any other provision of law and except as provided in
677 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
678 cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or
679 political subdivision treats employee use of opioids and opiates.

680 (b) Subsection (2)(a) does not apply where the application of Subsection (2)(a) would
681 jeopardize federal funding, a federal security clearance, or any other federal background
682 determination required for the employee's position.

683 (3) (a) (i) A state employer or a political subdivision employer shall take the action
684 described in Subsection (3)(a)(ii) before:

685 (A) giving to a current employee an assignment or duty that arises from or directly
686 relates to an obligation under this chapter, the state or political subdivision; or

687 (B) hiring a prospective employee whose assignments or duties would include an
688 assignment or duty that arises from or directly relates to an obligation under this chapter.

689 (ii) The employer described in Subsection (3)(a)(i) shall give the employee or
690 prospective employee described in Subsection (3)(a)(i) a written notice that notifies the
691 employee or prospective employee:

692 (A) that the employee's or prospective employee's job duties may require the employee
693 or prospective employee to engage in conduct which is in violation of the criminal laws of the
694 United States; and

695 (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i),
696 although the employee or prospective employee is entitled to the protections of Title 67,
697 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to
698 carry out an assignment or duty that may be a violation of the criminal laws of the United
699 States with respect to the manufacture, sale, or distribution of cannabis.

700 (b) The Department of Human Resource Management shall create, revise, and publish
701 the form of the notice described in Subsection (3)(a).

702 (c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice
703 described in Subsection (3)(a) may not:

704 (i) claim in good faith that the employee's actions violate or potentially violate the laws
705 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

706 (ii) refuse to carry out a directive that the employee reasonably believes violates the

707 criminal laws of the United States with respect to the manufacture, sale, or distribution of
708 cannabis.

709 (d) An employer of an employee who has signed the notice described in Subsection
710 (3)(a) may not take retaliatory action as defined in Section 67-19a-101 against a current
711 employee who refuses to sign the notice described in Subsection (3)(a).

712 Section 9. Section 30-3-10 is amended to read:

713 **30-3-10. Custody of children in case of separation or divorce -- Custody**
714 **consideration.**

715 (1) If a married couple having one or more minor children are separated, or their
716 marriage is declared void or dissolved, the court shall make an order for the future care and
717 custody of the minor children as it considers appropriate.

718 (a) In determining any form of custody, including a change in custody, the court shall
719 consider the best interests of the child without preference for either parent solely because of the
720 biological sex of the parent and, among other factors the court finds relevant, the following:

721 (i) in accordance with Subsection (7), the past conduct and demonstrated moral
722 standards of each of the parties;

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

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

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

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

730 (b) There is a rebuttable presumption that joint legal custody, as defined in Section
731 30-3-10.1, is in the best interest of the child, except in cases where there is:

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

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

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

737 (iv) any other factor the court considers relevant including those listed in this section

738 and Section 30-3-10.2.

739 (c) (i) The person who desires joint legal custody shall file a proposed parenting plan in
740 accordance with Sections 30-3-10.8 and 30-3-10.9.

741 (ii) A presumption for joint legal custody may be rebutted by a showing by a
742 preponderance of the evidence that it is not in the best interest of the child.

743 (d) A child may not be required by either party to testify unless the trier of fact
744 determines that extenuating circumstances exist that would necessitate the testimony of the
745 child be heard and there is no other reasonable method to present the child's testimony.

746 (e) (i) The court may inquire of the child's and take into consideration the [the] child's
747 desires regarding future custody or parent-time schedules, but the expressed desires are not
748 controlling and the court may determine the children's custody or parent-time otherwise.

749 (ii) The desires of a child 14 years of age or older shall be given added weight, but is
750 not the single controlling factor.

751 (f) (i) If an interview with a child is conducted by the court pursuant to Subsection
752 (1)(e), the interview shall be conducted by the judge in camera.

753 (ii) The prior consent of the parties may be obtained but is not necessary if the court
754 finds that an interview with a child is the only method to ascertain the child's desires regarding
755 custody.

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

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

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

766 (b) The court may not consider the disability of a parent as a factor in awarding custody
767 or modifying an award of custody based on a determination of a substantial change in
768 circumstances, unless the court makes specific findings that:

769 (i) the disability significantly or substantially inhibits the parent's ability to provide for
770 the physical and emotional needs of the child at issue; and

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

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

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

779 (6) When an issue before the court involves custodial responsibility in the event of a
780 deployment of one or both parents who are servicemembers, and the servicemember has not yet
781 been notified of deployment, the court shall resolve the issue based on the standards in Sections
782 78B-20-306 through 78B-20-309.

783 (7) In considering the past conduct and demonstrated moral standards of each party
784 under Subsection (1)(a)(i) or any other factor a court finds relevant, the court may not
785 discriminate against a parent because of or otherwise consider the parent's:

786 (a) lawful possession or use of cannabis in a medicinal dosage form, a cannabis
787 product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26,
788 Chapter 61a, Utah Medical Cannabis Act ~~H~~→ [H] , **except as it relates to that parent's ability to**
788a **care for**

789 **a child** [H] ←~~H~~ ; or

790 (b) status as a:

791 (i) cannabis production establishment agent, as that term is defined in Section
792 4-41a-102;

793 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

794 (iii) state central fill agent, as that term is defined in Section 26-61a-102; or

795 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah
796 Medical Cannabis Act.

797 Section 10. Section 31A-15-103 is amended to read:

798 **31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

799 (1) Notwithstanding Section 31A-15-102, when this state is the home state as defined

800 in Section [31A-3-305](#), a nonadmitted insurer may make an insurance contract for coverage of a
801 person in this state and on a risk located in this state, subject to the limitations and
802 requirements of this section.

803 (2) (a) For a contract made under this section, the insurer may, in this state:

804 (i) inspect the risks to be insured;

805 (ii) collect premiums;

806 (iii) adjust losses; and

807 (iv) do another act reasonably incidental to the contract.

808 (b) An act described in Subsection (2)(a) may be done through:

809 (i) an employee; or

810 (ii) an independent contractor.

811 (3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on
812 behalf of an insurer that has no certificate of authority.

813 (b) Insurance placed with a nonadmitted insurer shall be placed by a surplus lines
814 producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants,
815 and Reinsurance Intermediaries.

816 (c) The commissioner may by rule prescribe how a surplus lines producer may:

817 (i) pay or permit the payment, commission, or other remuneration on insurance placed
818 by the surplus lines producer under authority of the surplus lines producer's license to one
819 holding a license to act as an insurance producer; and

820 (ii) advertise the availability of the surplus lines producer's services in procuring, on
821 behalf of a person seeking insurance, a contract with a nonadmitted insurer.

822 (4) For a contract made under this section, a nonadmitted insurer is subject to Sections
823 [31A-23a-402](#), [31A-23a-402.5](#), and [31A-23a-403](#) and the rules adopted under those sections.

824 (5) A nonadmitted insurer may not issue workers' compensation insurance coverage to
825 an employer located in this state, except:

826 (a) for stop loss coverage issued to an employer securing workers' compensation under
827 Subsection [34A-2-201\(2\)](#)[-];

828 (b) a cannabis production establishment as defined in Section [4-41a-102](#); or

829 (c) a medical cannabis pharmacy as defined in Section [26-61a-102](#).

830 (6) (a) The commissioner may by rule prohibit making a contract under Subsection (1)

831 for a specified class of insurance if authorized insurers provide an established market for the
832 class in this state that is adequate and reasonably competitive.

833 (b) The commissioner may by rule place a restriction or a limitation on and create
834 special procedures for making a contract under Subsection (1) for a specified class of insurance
835 if:

836 (i) there have been abuses of placements in the class; or

837 (ii) the policyholders in the class, because of limited financial resources, business
838 experience, or knowledge, cannot protect their own interests adequately.

839 (c) The commissioner may prohibit an individual insurer from making a contract under
840 Subsection (1) and all insurance producers from dealing with the insurer if:

841 (i) the insurer willfully violates:

842 (A) this section;

843 (B) Section [31A-4-102](#), [31A-23a-402](#), [31A-23a-402.5](#), or [31A-26-303](#); or

844 (C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

845 (ii) the insurer fails to pay the fees and taxes specified under Section [31A-3-301](#); or

846 (iii) the commissioner has reason to believe that the insurer is:

847 (A) in an unsound condition;

848 (B) operated in a fraudulent, dishonest, or incompetent manner; or

849 (C) in violation of the law of its domicile.

850 (d) (i) The commissioner may issue one or more lists of nonadmitted foreign insurers

851 whose:

852 (A) solidity the commissioner doubts; or

853 (B) practices the commissioner considers objectionable.

854 (ii) The commissioner shall issue one or more lists of nonadmitted foreign insurers the
855 commissioner considers to be reliable and solid.

856 (iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner
857 may issue other relevant evaluations of nonadmitted insurers.

858 (iv) An action may not lie against the commissioner or an employee of the department
859 for a written or oral communication made in, or in connection with the issuance of, a list or
860 evaluation described in this Subsection (6)(d).

861 (e) A foreign nonadmitted insurer shall be listed on the commissioner's "reliable" list

862 only if the nonadmitted insurer:

863 (i) delivers a request to the commissioner to be on the list;

864 (ii) establishes satisfactory evidence of good reputation and financial integrity;

865 (iii) (A) delivers to the commissioner a copy of the nonadmitted insurer's current

866 annual statement certified by the insurer and, each subsequent year, delivers to the

867 commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day

868 on which the nonadmitted insurer files the annual statement with the insurance regulatory

869 authority where the nonadmitted insurer is domiciled; or

870 (B) files the nonadmitted insurer's annual statements with the National Association of

871 Insurance Commissioners and the nonadmitted insurer's annual statements are available

872 electronically from the National Association of Insurance Commissioners;

873 (iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part 6,

874 Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is

875 greater; or

876 (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group

877 of alien individual insurers, maintains a trust fund that:

878 (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all

879 policyholders and creditors in the United States of each member of the group;

880 (II) may consist of cash, securities, or investments of substantially the same character

881 and quality as those which are "qualified assets" under Section [31A-17-201](#); and

882 (III) may include as part of this trust arrangement a letter of credit that qualifies as

883 acceptable security under Section [31A-17-404.1](#); and

884 (v) for an alien insurer not domiciled in the United States or a territory of the United

885 States, is listed on the Quarterly Listing of Alien Insurers maintained by the National

886 Association of Insurance Commissioners International Insurers Department.

887 (7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly

888 or without reasonable investigation of the financial condition and general reputation of the

889 insurer, place insurance under this section with:

890 (i) a financially unsound insurer;

891 (ii) an insurer engaging in unfair practices; or

892 (iii) an otherwise substandard insurer.

893 (b) A surplus line producer may place insurance under this section with an insurer
894 described in Subsection (7)(a) if the surplus line producer:

895 (i) gives the applicant notice in writing of the known deficiencies of the insurer or the
896 limitations on the surplus line producer's investigation; and

897 (ii) explains the need to place the business with that insurer.

898 (c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the
899 surplus line producer for at least five years.

900 (d) To be financially sound, an insurer shall satisfy standards that are comparable to
901 those applied under the laws of this state to an authorized insurer.

902 (e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an
903 insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed
904 substandard.

905 (8) (a) A policy issued under this section shall:

906 (i) include a description of the subject of the insurance; and

907 (ii) indicate:

908 (A) the coverage, conditions, and term of the insurance;

909 (B) the premium charged the policyholder;

910 (C) the premium taxes to be collected from the policyholder; and

911 (D) the name and address of the policyholder and insurer.

912 (b) If the direct risk is assumed by more than one insurer, the policy shall state:

913 (i) the names and addresses of all insurers; and

914 (ii) the portion of the entire direct risk each assumes.

915 (c) A policy issued under this section shall have attached or affixed to the policy the
916 following statement: "The insurer issuing this policy does not hold a certificate of authority to
917 do business in this state and thus is not fully subject to regulation by the Utah insurance
918 commissioner. This policy receives no protection from any of the guaranty associations created
919 under Title 31A, Chapter 28, Guaranty Associations."

920 (9) Upon placing a new or renewal coverage under this section, a surplus lines
921 producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the
922 insurance consisting either of:

923 (a) the policy as issued by the insurer; or

924 (b) if the policy is not available upon placing the coverage, a certificate, cover note, or
925 other confirmation of insurance complying with Subsection (8).

926 (10) If the commissioner finds it necessary to protect the interests of insureds and the
927 public in this state, the commissioner may by rule subject a policy issued under this section to
928 as much of the regulation provided by this title as is required for a comparable policy written
929 by an authorized foreign insurer.

930 (11) (a) A surplus lines transaction in this state shall be examined to determine whether
931 it complies with:

932 (i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;

933 (ii) the solicitation limitations of Subsection (3);

934 (iii) the requirement of Subsection (3) that placement be through a surplus lines
935 producer;

936 (iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

937 (v) the policy form requirements of Subsections (8) and (10).

938 (b) The examination described in Subsection (11)(a) shall take place as soon as
939 practicable after the transaction. The surplus lines producer shall submit to the examiner
940 information necessary to conduct the examination within a period specified by rule.

941 (c) (i) The examination described in Subsection (11)(a) may be conducted by the
942 commissioner or by an advisory organization created under Section 31A-15-111 and authorized
943 by the commissioner to conduct these examinations. The commissioner is not required to
944 authorize an additional advisory organization to conduct an examination under this Subsection
945 (11)(c).

946 (ii) The commissioner's authorization of one or more advisory organizations to act as
947 examiners under this Subsection (11)(c) shall be:

948 (A) by rule; and

949 (B) evidenced by a contract, on a form provided by the commissioner, between the
950 authorized advisory organization and the department.

951 (d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall
952 collect a stamping fee of an amount not to exceed 1% of the policy premium payable in
953 connection with the transaction.

954 (B) A stamping fee collected by the commissioner shall be deposited in the General

955 Fund.

956 (C) The commissioner shall establish a stamping fee by rule.

957 (ii) A stamping fee collected by an advisory organization is the property of the advisory
958 organization to be used in paying the expenses of the advisory organization.

959 (iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1)
960 for taxes imposed under Section 31A-3-301.

961 (iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If
962 a stamping fee is not paid when due, the commissioner or advisory organization may impose a
963 penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until
964 full payment of the stamping fee.

965 (e) The commissioner, representatives of the department, advisory organizations,
966 representatives and members of advisory organizations, authorized insurers, and surplus lines
967 insurers are not liable for damages on account of statements, comments, or recommendations
968 made in good faith in connection with their duties under this Subsection (11)(e) or under
969 Section 31A-15-111.

970 (f) An examination conducted under this Subsection (11) and a document or materials
971 related to the examination are confidential.

972 (12) (a) For a surplus lines insurance transaction in the state entered into on or after
973 May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines
974 insurer:

975 (i) shall exercise due diligence to initiate an audit of an insured, to determine whether
976 additional premium is owed by the insured, by no later than six months after the expiration of
977 the term for which premium is paid; and

978 (ii) may not audit an insured more than three years after the surplus lines insurance
979 policy expires.

980 (b) A surplus lines insurer that does not comply with this Subsection (12) may not
981 charge or collect additional premium in excess of the premium agreed to under the surplus
982 lines insurance policy.

983 Section 11. Section 58-37-3.7 is amended to read:

984 **58-37-3.7. Medical cannabis decriminalization.**

985 (1) As used in this section:

- 986 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.
- 987 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- 988 (c) "Medical cannabis card" means the same as that term is defined in Section
- 989 26-61a-102.
- 990 (d) "Medical cannabis device" means the same as that term is defined in Section
- 991 26-61a-102.
- 992 (e) "Medical cannabis pharmacy" means the same as that term is defined in Section
- 993 26-61a-102.
- 994 (f) "Medicinal dosage form" means the same as that term is defined in Section
- 995 26-61a-102.
- 996 (g) "Qualified medical provider" means the same as that term is defined in Section
- 997 26-61a-102.
- 998 (h) "Qualifying condition" means the same as that term is defined in Section
- 999 26-61a-102.
- 1000 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
- 1001 58-37-3.9.
- 1002 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
- 1003 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:
- 1004 (a) at the time of the arrest or citation, the individual:
- 1005 (i) (A) had been diagnosed with a qualifying condition; and
- 1006 (B) had a pre-existing provider-patient relationship with an advanced practice
- 1007 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
- 1008 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
- 1009 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
- 1010 Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness
- 1011 described in Subsection (2)(a)(i)(A) could benefit from the use in question; ~~or~~
- 1012 (ii) for possession, was:
- 1013 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
- 1014 is a minor; or
- 1015 (B) the spouse of an individual described in Subsection (2)(a)(i); or
- 1016 ~~(iii)~~ (iii) (A) for possession, was a medical cannabis cardholder; or

1017 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
1018 condition under the supervision of a medical cannabis guardian cardholder; and

1019 (b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in [a
1020 quantity described in Subsection ~~26-61a-502~~(2).] one of the following amounts:

1021 (i) no more than 56 grams by weight of unprocessed cannabis; or

1022 (ii) an amount of cannabis products that contains, in total, no more than 10 grams of
1023 total composite tetrahydrocannabinol.

1024 (3) An individual is not guilty under this chapter for the use or possession of marijuana,
1025 tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

1026 (a) at the time of the arrest or citation, the individual:

1027 (i) was not a resident of Utah or has been a resident of Utah for less than 45 days;

1028 (ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis
1029 card under the laws of another state, district, territory, commonwealth, or insular possession of
1030 the United States; and

1031 (iii) had been diagnosed with a qualifying condition as described in Section
1032 ~~26-61a-104~~; and

1033 (b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a quantity
1034 described in Subsection ~~26-61a-502~~(2).

1035 Section 12. **Effective date.**

1036 If approved by two-thirds of all the members elected to each house, this bill takes effect
1037 upon approval by the governor, or the day following the constitutional time limit of Utah
1038 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
1039 the date of veto override.