MEDICAL CANNABIS ACT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: ____________

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;
- 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;
- provides employment protection for a state or political subdivision employee who declines to participate in a job duty required by the Utah Medical Cannabis Act;
- repeals a provision allowing a court in a custody proceeding in a certain circumstance to discriminate against a parent based on the parent's lawful use of medical cannabis;
- amends the decriminalization provision to include protections for parents and legal guardians of certain minor patients;
- clarifies quantity limits for possession during the decriminalization period; and
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> makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

- **4-41a-404**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- **4-41a-701**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- **26-61a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- **26-61a-105**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- **26-61a-106**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- **26-61a-111**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
- **30-3-10**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- **58-37-3.7**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

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

Section 1. Section **4-41a-404** is amended to read:

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

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

(i) a registered cannabis production establishment agent; or

(ii) 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 under Title 26, Chapter
61a, Utah Medical Cannabis Act, who is transporting a medical cannabis 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;

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

(c) 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, 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 the cannabis, 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 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[; or]
(D) the state central fill medical cannabis pharmacy.

(4) (a) 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.

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

(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 2. Section 4-41a-701 is amended to read:

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

(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine 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.

(2) A cannabis processing facility may not offer any cannabis or cannabis products for sale to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy, and a medical cannabis pharmacy and the state central fill medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product 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;
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 a level of a residual solvent that is not safe for human consumption.

By rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) may determine the amount of any substance described in Subsections (b) and (c) that is safe for human consumption; and

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

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.

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.

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 3. Section 26-61a-102 is amended to read:

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.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section
(5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis product" means a product that:
   (a) is intended for human use; and
   (b) contains cannabis or tetrahydrocannabinol.

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

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

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

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

(11) "Designated caregiver" means an individual:
   (a) whom 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 26-61a-202.

(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.

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

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

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

(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.

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

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

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

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

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

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

(b) is connected to the electronic verification system.

(22) (a) "Medical cannabis device" means a device that an individual uses to ingest

(23) (a) "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

(b) is connected to the electronic verification system.

(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.

(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

(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.

(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.

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

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

(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 (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) after December 31, 2020, 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 (29)(a)(ii) for use; and

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

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

(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection (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.

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

(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.

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

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

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

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

(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.

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

(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.

(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 cannabis cardholder in a local health department.

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

Section 4. Section 26-61a-105 is amended to read:
Compassionate use board.

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

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

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

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

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

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

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

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

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

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

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

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

(4) A member of the board may receive:

(a) compensation or benefits for the member's service; 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 shall:

(a) review and recommend for department approval 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 for an intractable condition that:

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

(iii) the board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or 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 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:

(i) the number of compassionate use 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 for which the board recommends approval under Subsection (5)(c) to determine whether the board properly exercised the board's discretion under this section.
(ii) If the department determines that the board properly exercised the board's discretion in recommending approval under Subsection (5)(c), the department shall:

(A) issue the relevant medical cannabis card; 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.

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

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

Section 5. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education --

Treatment recommendation.

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

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

(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
(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled 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 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 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 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.
431 based on the qualifying condition underlying a medical cannabis recommendation.
432 (4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may
433 not recommend a medical cannabis treatment to more than 175 of the qualified medical
434 provider's patients at the same time, as determined by the number of medical cannabis cards
435 under the qualified medical provider's name in the state electronic verification system.
436 (b) Except as provided in Subsection (4)(c), a qualified medical provider may
437 recommend a medical cannabis treatment to up to 300 of the qualified medical provider's
438 patients at any given time, as determined by the number of medical cannabis cards under the
439 qualified medical provider's name in the state electronic verification system, if:
440 (i) the appropriate American medical board has certified the qualified medical provider
441 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
442 palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or
443 (ii) a licensed business employs or contracts the qualified medical provider for the
444 specific purpose of providing hospice and palliative care.
445 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in
446 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for
447 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of
448 100 patients per authorization, not to exceed three authorizations.
449 (ii) The Division of Occupational and Professional Licensing shall grant the
450 authorization described in Subsection (4)(c)(i) if:
451 (A) the petitioning qualified medical provider pays a $100 fee;
452 (B) the division performs a review that includes the qualified medical provider's
453 medical cannabis recommendation activity in the state electronic verification system, relevant
454 information related to patient demand, and any patient medical records that the division
455 determines would assist in the division's review; and
456 (C) after the review described in this Subsection (4)(c)(ii), the division determines that
457 granting the authorization would not adversely affect public safety, adversely concentrate the
458 overall patient population among too few qualified medical providers, or adversely concentrate
459 the use of medical cannabis among the provider's patients.
460 (5) A qualified medical provider may recommend medical cannabis to an individual
461 under this chapter only in the course of a qualified medical provider-patient relationship after
the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

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

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

(i) a green cross;

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

(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 6. Section 26-61a-111 is amended to read:

26-61a-111. Nondiscrimination for medical care or government employment --

No adverse employment action.

(1) For purposes of medical care, including an organ or tissue transplant, a 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) (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
funding for the employee's position.

(3) The state or a political subdivision may not take an adverse employment action
against an employee who declines to participate in any job duty that the provisions of Laws of
Utah 2018, Third Special Session, Chapter 1, require.

Section 7. 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 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.

(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 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 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) 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
   child be heard and there is no other reasonable method to present the child's testimony.
   (e) (i) The court may inquire of the child's and take into consideration 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 an interview with a child is conducted by the court pursuant to Subsection
   (1)(e), 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 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) The court may not consider the disability of a parent as a factor in awarding custody
or modifying an award of custody based on a determination of a substantial change in
circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially 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 lacks sufficient human, monetary, or other resources
available to supplement the parent's ability to provide for the physical and emotional 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.

(7) In considering the past conduct and demonstrated moral standards of each 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 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 61a, Utah Medical Cannabis Act[; except as it relates to that parent's ability to care for
a child]; or
(b) 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 26, Chapter 61a, Utah
Medical Cannabis Act.

Section 8. 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.
(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
617 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
618 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:
619 (a) at the time of the arrest, the individual:
620 (i) (A) had been diagnosed with a qualifying condition; and
621 (B) had a pre-existing provider-patient relationship with an advanced practice
622 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
623 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
624 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
625 Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness
626 described in Subsection (2)(a)(i)(A) could benefit from the use in question; [or]
627 (ii) for possession, was:
628 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
629 is a minor; or
630 (B) the spouse of an individual described in Subsection (2)(a)(i); or
631 [(iii) (A) for possession, was a medical cannabis cardholder; or
632 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
633 condition under the supervision of a medical cannabis guardian cardholder; and
634 (b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in [a
635 quantity described in Subsection 26-61a-502(2)] one of the following amounts:
636 (i) no more than 56 grams by weight of unprocessed cannabis; or
637 (ii) an amount of cannabis products that contains, in total, no more than 10 grams of
638 total composite tetrahydrocannabinol.
639 (3) An individual is not guilty under this chapter for the use or possession of marijuana,
tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:
640 (a) at the time of the arrest, the individual:
641 (i) was not a resident of Utah or has been a resident of Utah for less than 45 days;
642 (ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis
643 card under the laws of another state, district, territory, commonwealth, or insular possession of
644 the United States; and
645 (iii) had been diagnosed with a qualifying condition as described in Section
and (b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a quantity described in Subsection 26-61a-502(2).

Section 9. Effective date. 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.