

Senator Scott D. Sandall proposes the following substitute bill:

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;
- ▶ amends the request for proposal requirements for a third-party electronic verification system to ensure that the provider does not also provide or have an interest in an inventory control system;
- ▶ 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



26 circumstance to discriminate against a parent based on the parent's lawful use of medical
27 cannabis;

28 ▶ amends the decriminalization provision to include protections for parents and legal
29 guardians of certain minor patients;

30 ▶ clarifies quantity limits for possession during the decriminalization period; and

31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **4-41a-404**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
39 Chapter 1

40 **4-41a-701**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
41 Chapter 1

42 **26-61a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
43 Chapter 1

44 **26-61a-103**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
45 Chapter 1

46 **26-61a-105**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
47 Chapter 1

48 **26-61a-106**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
49 Chapter 1

50 **26-61a-111**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
51 Chapter 1

52 **30-3-10**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

53 **58-37-3.7**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1



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

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

57 **4-41a-404. Cannabis, cannabis product, or medical cannabis device**
58 **transportation.**

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

- 62 (i) a registered cannabis production establishment agent; or
- 63 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that
64 the cardholder is authorized to possess under this chapter.

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

68 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter
69 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall
70 possess a transportation manifest that:

- 71 (a) includes a unique identifier that links the cannabis, cannabis product, or medical
72 cannabis device to a relevant inventory control system;
- 73 (b) includes origin and destination information for any cannabis, cannabis product, or
74 medical cannabis device that the individual is transporting; and
- 75 (c) identifies the departure and arrival times and locations of the individual transporting
76 the cannabis, cannabis product, or medical cannabis device.

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

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

- 83 (i) between a cannabis cultivation facility and:
 - 84 (A) another cannabis cultivation facility; or
 - 85 (B) a cannabis processing facility; and
- 86 (ii) between a cannabis processing facility and:
 - 87 (A) another cannabis processing facility;

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

89 (C) a medical cannabis pharmacy[-]; or

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

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

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

95 (i) guilty of an infraction; and

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

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

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

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

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

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

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

110 **4-41a-701. Cannabis and cannabis product testing.**

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

116 [(+)] (2) A cannabis processing facility may not offer any cannabis or cannabis
117 products for sale to a medical cannabis pharmacy or the state central fill medical cannabis
118 pharmacy, and a medical cannabis pharmacy and the state central fill medical cannabis

119 pharmacy may not offer any cannabis or cannabis product for sale unless an independent
120 cannabis testing laboratory has tested a representative sample of the cannabis or cannabis
121 product to determine:

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

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

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

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

132 [~~(2)~~] (3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative
133 Rulemaking Act, the department:

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

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

138 [~~(3)~~] (4) The department may require testing for a toxin if:

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

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

142 [~~(4)~~] (5) The department shall establish by rule, in accordance with Title 63G, Chapter
143 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
144 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

145 [~~(5)~~] (6) The department may require an independent cannabis testing laboratory to
146 participate in a proficiency evaluation that the department conducts or that an organization that
147 the department approves conducts.

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

149 **26-61a-102. Definitions.**

150 As used in this chapter:

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

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

155 (3) "Cannabis" means marijuana.

156 (4) "Cannabis cultivation facility" means the same as that term is defined in Section
157 [4-41a-102](#).

158 (5) "Cannabis processing facility" means the same as that term is defined in Section
159 [4-41a-102](#).

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

161 (a) is intended for human use; and

162 (b) contains cannabis or tetrahydrocannabinol.

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

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

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

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

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

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

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

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

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

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

180 (15) "Local health department" means the same as that term is defined in Section

181 26A-1-102.

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

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

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

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

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

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

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

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

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

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

197 (i) facilitates cannabis combustion; or

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

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

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

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

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

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

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

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

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

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

210 (B) a medical cannabis device; or

211 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal

212 dosage form, or a medical cannabis device; and

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

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

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

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

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

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

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

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

226 (A) a tablet;

227 (B) a capsule;

228 (C) a concentrated oil;

229 (D) a liquid suspension;

230 (E) a topical preparation;

231 (F) a transdermal preparation;

232 (G) a sublingual preparation;

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

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

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

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

240 (B) after December 31, 2020, labeled with a barcode that provides information
241 connected to an inventory control system and the individual blister's content and weight; and

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

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

244 (i) the medical cannabis cardholder has recently removed from the blister pack

245 described in Subsection (29)(a)(ii) for use; and

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

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

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

249 Subsection (29)(b); or

250 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis

251 on a nail or other metal object that is heated by a flame, including a blowtorch.

252 (30) "Pharmacy medical provider" means the medical provider required to be on site at

253 a medical cannabis pharmacy under Section [26-61a-403](#).

254 (31) "Provisional patient card" means a card that:

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

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

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

258 legal guardian; and

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

260 (32) "Qualified medical provider" means an individual who is qualified to recommend

261 treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).

262 (33) "Qualified Distribution Enterprise Fund" means the enterprise fund created in

263 Section [26-61a-110](#).

264 (34) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section

265 [26-61a-109](#).

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

267 (36) "State central fill agent" means an employee of the state central fill medical

268 cannabis pharmacy that the department registers in accordance with Section [26-61a-602](#).

269 (37) "State central fill medical cannabis pharmacy" means the central fill pharmacy that

270 the department creates in accordance with Section [26-61a-601](#).

271 (38) "State central fill medical provider" means a physician or pharmacist that the state

272 central fill medical cannabis pharmacy employs to consult with medical cannabis cardholders

273 in accordance with Section [26-61a-601](#).

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

278 (40) "State electronic verification system" means the system described in Section
279 26-61a-103.

280 Section 4. Section 26-61a-103 is amended to read:

281 **26-61a-103. Electronic verification system.**

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

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

286 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
287 Procurement Code, to develop a request for proposals for a third-party provider:

288 (i) to develop and maintain the state electronic verification system in coordination with
289 the Department of Technology Services; and

290 (ii) that may not have, in order to ensure proper enforcement and public safety, any
291 commercial interest in or provide services directly to an inventory control system operating
292 within the state or any other state; and

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

295 (2) The Department of Agriculture and Food, the department, the Department of Public
296 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
297 2020, the state electronic verification system described in Subsection (1):

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

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

303 (c) allows a qualified medical provider to:

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

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

306 (B) for whom the qualified medical provider has recommended or is considering

307 recommending a medical cannabis card;

308 (ii) electronically recommend, during a visit with a patient, treatment with cannabis in a

309 medicinal dosage form or a cannabis product in a medicinal dosage form and optionally

310 recommend dosing parameters;

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

312 medical cannabis guardian cardholder:

313 (A) for the qualified medical provider who originally recommended a medical cannabis

314 treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

315 (B) for a qualified medical provider who did not originally recommend the medical

316 cannabis treatment, during a face-to-face visit with a patient; and

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

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

319 (d) connects with:

320 (i) an inventory control system that a medical cannabis pharmacy and the state central

321 fill medical cannabis pharmacy use to track in real time and archive purchases of any cannabis

322 in a medicinal dosage form, cannabis product in a medicinal dosage form, or medical cannabis

323 device, including:

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

325 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device

326 purchased;

327 (C) any cannabis production establishment, any medical cannabis pharmacy, or the

328 state central fill medical cannabis pharmacy associated with the cannabis, cannabis product, or

329 medical cannabis device; and

330 (D) the personally identifiable information of the medical cannabis cardholder who

331 made the purchase; and

332 (ii) any commercially available inventory control system that a cannabis production

333 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of

334 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah

335 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to

336 track and confirm compliance;

337 (e) provides access to:

338 (i) the department to the extent necessary to carry out the department's functions and

339 responsibilities under this chapter;

340 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

341 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter

342 41a, Cannabis Production Establishments; and

343 (iii) the Division of Occupational and Professional Licensing to the extent necessary to

344 carry functions and responsibilities related to the participation of the following in the

345 recommendation and dispensing of medical cannabis:

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

347 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

348 Practice Act;

349 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

350 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

351 (D) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act;

352 (f) provides access to and interaction with the state central fill medical cannabis

353 pharmacy, state central fill agents, and local health department distribution agents, to facilitate

354 the state central fill shipment process;

355 (g) provides access to state or local law enforcement:

356 (i) during a traffic stop for the purpose of determining if the individual subject to the

357 traffic stop is in compliance with state medical cannabis law; or

358 (ii) after obtaining a warrant; and

359 (h) creates a record each time a person accesses the database that identifies the person

360 who accesses the database and the individual whose records the person accesses.

361 (3) The department may release de-identified data that the system collects for the

362 purpose of:

363 (a) conducting medical research; and

364 (b) providing the report required by Section [26-61a-703](#).

365 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

366 Administrative Rulemaking Act, to establish:

367 (a) the limitations on access to the data in the state electronic verification system as
368 described in this section; and

369 (b) standards and procedures to ensure accurate identification of an individual
370 requesting information or receiving information in this section.

371 (5) (a) Any person who knowingly and intentionally releases any information in the
372 state electronic verification system in violation of this section is guilty of a third degree felony.

373 (b) Any person who negligently or recklessly releases any information in the state
374 electronic verification system in violation of this section is guilty of a class C misdemeanor.

375 (6) (a) Any person who obtains or attempts to obtain information from the state
376 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

377 (b) Any person who obtains or attempts to obtain information from the state electronic
378 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
379 degree felony.

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

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

385 (i) a third degree felony; and

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

387 (c) The department shall determine a civil violation of this Subsection (7) in
388 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

389 (d) Civil penalties assessed under this Subsection (7) shall be deposited into the
390 General Fund.

391 (e) This Subsection (7) does not prohibit a person who obtains information from the
392 state electronic verification system under Subsection (2)(a), (c), or (f) from:

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

395 (ii) providing the information to a person in accordance with the requirements of the
396 Health Insurance Portability and Accountability Act of 1996; or

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

398 Section 5. Section **26-61a-105** is amended to read:

399 **26-61a-105. Compassionate use board.**

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

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

402 Senate confirms:

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

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

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

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

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

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

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

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

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

417 (i) each term is four years; and

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

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

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

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

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

423 (b) per diem and travel expenses in accordance with Section [63A-3-106](#), Section

424 [63A-3-107](#), and rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

425 [63A-3-107](#).

426 (5) The compassionate use board shall:

427 (a) review and recommend for department approval an individual described in

428 Subsection [26-61a-201\(2\)\(a\)](#), a minor described in Subsection [26-61a-201\(2\)\(c\)](#), or an

429 individual who is not otherwise qualified to receive a medical cannabis card to obtain a
430 medical cannabis card for compassionate use if:

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

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

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

437 (ii) the qualified medical provider:

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

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

442 (iii) the board determines that:

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

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

446 (b) unless no petitions are pending:

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

448 (ii) if there are more petitions than the board can receive or review during the board's
449 regular schedule, as often as necessary;

450 (c) complete a review of each petition and recommend to the department approval or
451 denial of the applicant for qualification for a medical cannabis card within 90 days after the day
452 on which the board received the petition; and

453 (d) report, before November 1 of each year, to the Health and Human Services Interim
454 Committee:

455 (i) the number of compassionate use recommendations the board issued during the past
456 year; and

457 (ii) the types of conditions for which the board approved compassionate use.

458 (6) (a) (i) The department shall review any compassionate use for which the board
459 recommends approval under Subsection (5)(c) to determine whether the board properly

460 exercised the board's discretion under this section.

461 (ii) If the department determines that the board properly exercised the board's
462 discretion in recommending approval under Subsection (5)(c), the department shall:

463 (A) issue the relevant medical cannabis card; and

464 (B) provide for the renewal of the medical cannabis card in accordance with the
465 recommendation of the qualified medical provider described in Subsection (5)(a).

466 (b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking
467 to obtain a medical cannabis card may petition the department to review the board's decision.

468 (ii) If the department determines that the board's recommendation for denial under
469 Subsection (5)(c) was arbitrary or capricious:

470 (A) the department shall notify the board of the department's determination; and

471 (B) the board shall reconsider the board's refusal to recommend approval under this
472 section.

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

477 (7) Any individually identifiable health information contained in a petition that the
478 board or department receives under this section is a protected record in accordance with Title
479 63G, Chapter 2, Government Records Access and Management Act.

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

482 Section 6. Section 26-61a-106 is amended to read:

483 **26-61a-106. Qualified medical provider registration -- Continuing education --**
484 **Treatment recommendation.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

522 (i) for an individual as a condition precedent to registration, four hours; and
523 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
524 every two years.

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

526 (i) complete continuing education:

527 (A) regarding the topics described in Subsection (3)(d); and
528 (B) offered by the department under Subsection (3)(c) or an accredited or approved
529 continuing education provider that the department recognizes as offering continuing education
530 appropriate for the recommendation of cannabis to patients; and

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

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

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

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

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

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

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

547 (i) the provisions of this chapter;
548 (ii) general information about medical cannabis under federal and state law;
549 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
550 including risks and benefits;

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

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

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

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

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

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

568 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in
569 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for
570 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of
571 100 patients per authorization, not to exceed three authorizations.

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

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

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

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

583 (5) A qualified medical provider may recommend medical cannabis to an individual

584 under this chapter only in the course of a qualified medical provider-patient relationship after
585 the qualifying medical provider has completed and documented in the patient's medical record
586 a thorough assessment of the patient's condition and medical history based on the appropriate
587 standard of care for the patient's condition.

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

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

- 592 (i) a green cross;
- 593 (ii) a qualifying condition that the qualified medical provider treats; or
- 594 (iii) a scientific study regarding medical cannabis use.

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

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

- 599 (i) applies for renewal;
- 600 (ii) is eligible for a qualified medical provider registration card under this section,
601 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);
- 602 (iii) certifies to the department in a renewal application that the information in
603 Subsection (2)(a) is accurate or updates the information;
- 604 (iv) submits a report detailing the completion of the continuing education requirement
605 described in Subsection (3); and
- 606 (v) pays the department a fee in an amount that:
 - 607 (A) the department sets, in accordance with Section [63J-1-504](#); and
 - 608 (B) does not exceed \$50 for a registration renewal.

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

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

- 613 (a) a cannabis production establishment or an owner, officer, director, board member,
614 employee, or agent of a cannabis production establishment;

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

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

618 Section 7. Section **26-61a-111** is amended to read:

619 **26-61a-111. Nondiscrimination for medical care or government employment --**
620 **No adverse employment action.**

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

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

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

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

632 (b) Subsection (2)(a) does not apply where application would jeopardize federal
633 funding for the employee's position.

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

637 Section 8. Section **30-3-10** is amended to read:

638 **30-3-10. Custody of children in case of separation or divorce -- Custody**
639 **consideration.**

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

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

- 646 (i) in accordance with Subsection (7), the past conduct and demonstrated moral
647 standards of each of the parties;
- 648 (ii) which parent is most likely to act in the best interest of the child, including
649 allowing the child frequent and continuing contact with the noncustodial parent;
- 650 (iii) the extent of bonding between the parent and child, meaning the depth, quality,
651 and nature of the relationship between a parent and child;
- 652 (iv) whether the parent has intentionally exposed the child to pornography or material
653 harmful to a minor, as defined in Section 76-10-1201; and
- 654 (v) those factors outlined in Section 30-3-10.2.
- 655 (b) There is a rebuttable presumption that joint legal custody, as defined in Section
656 30-3-10.1, is in the best interest of the child, except in cases where there is:
- 657 (i) domestic violence in the home or in the presence of the child;
- 658 (ii) special physical or mental needs of a parent or child, making joint legal custody
659 unreasonable;
- 660 (iii) physical distance between the residences of the parents, making joint decision
661 making impractical in certain circumstances; or
- 662 (iv) any other factor the court considers relevant including those listed in this section
663 and Section 30-3-10.2.
- 664 (c) (i) The person who desires joint legal custody shall file a proposed parenting plan in
665 accordance with Sections 30-3-10.8 and 30-3-10.9.
- 666 (ii) A presumption for joint legal custody may be rebutted by a showing by a
667 preponderance of the evidence that it is not in the best interest of the child.
- 668 (d) A child may not be required by either party to testify unless the trier of fact
669 determines that extenuating circumstances exist that would necessitate the testimony of the
670 child be heard and there is no other reasonable method to present the child's testimony.
- 671 (e) (i) The court may inquire of the child's and take into consideration the ~~the~~ child's
672 desires regarding future custody or parent-time schedules, but the expressed desires are not
673 controlling and the court may determine the children's custody or parent-time otherwise.
- 674 (ii) The desires of a child 14 years of age or older shall be given added weight, but is
675 not the single controlling factor.
- 676 (f) (i) If an interview with a child is conducted by the court pursuant to Subsection

677 (1)(e), the interview shall be conducted by the judge in camera.

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

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

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

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

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

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

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

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

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

704 (6) When an issue before the court involves custodial responsibility in the event of a
705 deployment of one or both parents who are servicemembers, and the servicemember has not yet
706 been notified of deployment, the court shall resolve the issue based on the standards in Sections
707 78B-20-306 through 78B-20-309.

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

711 (a) lawful possession or use of cannabis in a medicinal dosage form, a cannabis
712 product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 26,
713 Chapter 61a, Utah Medical Cannabis Act~~[-except as it relates to that parent's ability to care for~~
714 ~~a child];~~ or

715 (b) status as a:

716 (i) cannabis production establishment agent, as that term is defined in Section
717 4-41a-102;

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

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

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

722 Section 9. Section 58-37-3.7 is amended to read:

723 **58-37-3.7. Medical cannabis decriminalization.**

724 (1) As used in this section:

725 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

726 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

727 (c) "Medical cannabis card" means the same as that term is defined in Section
728 26-61a-102.

729 (d) "Medical cannabis device" means the same as that term is defined in Section
730 26-61a-102.

731 (e) "Medical cannabis pharmacy" means the same as that term is defined in Section
732 26-61a-102.

733 (f) "Medicinal dosage form" means the same as that term is defined in Section
734 26-61a-102.

735 (g) "Qualified medical provider" means the same as that term is defined in Section
736 26-61a-102.

737 (h) "Qualifying condition" means the same as that term is defined in Section
738 26-61a-102.

739 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
740 58-37-3.9.

741 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
742 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

743 (a) at the time of the arrest, the individual:

744 (i) (A) had been diagnosed with a qualifying condition; and

745 (B) had a pre-existing provider-patient relationship with an advanced practice
746 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
747 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
748 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
749 Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness
750 described in Subsection (2)(a)(i)(A) could benefit from the use in question; [or]

751 (ii) for possession, was:

752 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
753 is a minor; or

754 (B) the spouse of an individual described in Subsection (2)(a)(i); or

755 [(ii)] (iii) (A) for possession, was a medical cannabis cardholder; or

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

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

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

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

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

765 (a) at the time of the arrest, the individual:

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

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

770 (iii) had been diagnosed with a qualifying condition as described in Section
771 26-61a-104; and

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

774 Section 10. **Effective date.**

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