

**Senator Luz Escamilla** proposes the following substitute bill:

**MEDICAL CANNABIS ACT AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Luz Escamilla**

House Sponsor: Brad M. Daw

Cosponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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



- 25 who declines to participate in a job duty required by the state's medical cannabis laws;
- 26       ▶ repeals a provision allowing a court in a custody proceeding in a certain
- 27 circumstance to discriminate against a parent based on the parent's lawful use of
- 28 medical cannabis;
- 29       ▶ allows a certain insurer to issue workers' compensation insurance coverage for an
- 30 employer that is a cannabis production establishment or a medical cannabis
- 31 pharmacy;
- 32       ▶ amends the decriminalization provision to include protections for parents and legal
- 33 guardians of certain minor patients;
- 34       ▶ clarifies quantity limits for possession during the decriminalization period; and
- 35       ▶ makes technical changes.

36 **Money Appropriated in this Bill:**

37       None

38 **Other Special Clauses:**

39       This bill provides a special effective date.

40 **Utah Code Sections Affected:**

41 AMENDS:

42       **4-41a-404**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
43 Chapter 1

44       **4-41a-701**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
45 Chapter 1

46       **26-61a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
47 Chapter 1

48       **26-61a-103**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
49 Chapter 1

50       **26-61a-105**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
51 Chapter 1

52       **26-61a-106**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
53 Chapter 1

54       **26-61a-111**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
55 Chapter 1

56 **30-3-10**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1  
 57 **31A-15-103**, as last amended by Laws of Utah 2018, Chapter 319  
 58 **58-37-3.7**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

59 ENACTS:

60 **4-41a-107**, Utah Code Annotated 1953



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

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

63 **4-41a-107. No adverse government employment action.**

64 The state or a political subdivision may not take adverse action against an employee  
 65 because the employee has objected to or refused to carry out a directive that:

66 (1) derives from a requirement imposed on the state or political subdivision under this  
 67 title; and

68 (2) the employee reasonably believes violates:

69 (a) a law of this state, a political subdivision of this state, or the United States; or

70 (b) a rule or regulation adopted under the authority of the laws of this state, a political  
 71 subdivision of this state, or the United States.

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

73 **4-41a-404. Cannabis, cannabis product, or medical cannabis device**  
 74 **transportation.**

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

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

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

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

84 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter  
 85 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall  
 86

87 possess a transportation manifest that:

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

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

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

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

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

100 (i) between a cannabis cultivation facility and:

101 (A) another cannabis cultivation facility; or

102 (B) a cannabis processing facility; and

103 (ii) between a cannabis processing facility and:

104 (A) another cannabis processing facility;

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

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

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

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

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

112 (i) guilty of an infraction; and

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

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

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

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

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

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

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

127 **4-41a-701. Cannabis and cannabis product testing.**

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

133 [(+)] (2) A cannabis processing facility may not offer any cannabis or cannabis  
134 products for sale to a medical cannabis pharmacy or the state central fill medical cannabis  
135 pharmacy, and a medical cannabis pharmacy and the state central fill medical cannabis  
136 pharmacy may not offer any cannabis or cannabis product for sale unless an independent  
137 cannabis testing laboratory has tested a representative sample of the cannabis or cannabis  
138 product to determine:

- 139 (a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the  
140 cannabis or cannabis product; and
- 141 (ii) the amount of any other cannabinoid in the cannabis or cannabis product that the  
142 label claims the cannabis or cannabis product contains;
- 143 (b) that the presence of contaminants, including mold, fungus, pesticides, microbial  
144 contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for  
145 human consumption; and

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

149           ~~[(2)]~~ (3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative  
150 Rulemaking Act, the department:

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

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

155           ~~[(3)]~~ (4) The department may require testing for a toxin if:

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

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

159           ~~[(4)]~~ (5) The department shall establish by rule, in accordance with Title 63G, Chapter  
160 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for  
161 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

162           ~~[(5)]~~ (6) The department may require an independent cannabis testing laboratory to  
163 participate in a proficiency evaluation that the department conducts or that an organization that  
164 the department approves conducts.

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

166           **26-61a-102. Definitions.**

167           As used in this chapter:

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

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

172           (3) "Cannabis" means marijuana.

173           (4) "Cannabis cultivation facility" means the same as that term is defined in Section  
174 [4-41a-102](#).

175           (5) "Cannabis processing facility" means the same as that term is defined in Section  
176 [4-41a-102](#).

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

178           (a) is intended for human use; and

179           (b) contains cannabis or tetrahydrocannabinol.

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

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

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

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

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

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

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

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

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

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

197 (15) "Local health department" means the same as that term is defined in Section  
198 26A-1-102.

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

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

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

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

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

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

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

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

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

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

214 (i) facilitates cannabis combustion; or

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

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

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

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

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

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

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

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

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

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

227 (B) a medical cannabis device; or

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

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

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

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

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

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

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

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

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



- 242 single dosage form with a specific and consistent cannabinoid content:
- 243 (A) a tablet;
  - 244 (B) a capsule;
  - 245 (C) a concentrated oil;
  - 246 (D) a liquid suspension;
  - 247 (E) a topical preparation;
  - 248 (F) a transdermal preparation;
  - 249 (G) a sublingual preparation;
  - 250 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
  - 251 rectangular cuboid shape; or
  - 252 (I) for use only after the individual's qualifying condition has failed to substantially
  - 253 respond to at least two other forms described in this Subsection (29)(a)(i), a resin or wax;
  - 254 (ii) for unprocessed cannabis flower, a blister pack, with each individual blister:
  - 255 (A) containing a specific and consistent weight that does not exceed one gram and that
  - 256 varies by no more than 10% from the stated weight; and
  - 257 (B) after December 31, 2020, labeled with a barcode that provides information
  - 258 connected to an inventory control system and the individual blister's content and weight; and
  - 259 (iii) a form measured in grams, milligrams, or milliliters.
  - 260 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
  - 261 (i) the medical cannabis cardholder has recently removed from the blister pack
  - 262 described in Subsection (29)(a)(ii) for use; and
  - 263 (ii) does not exceed the quantity described in Subsection (29)(a)(ii).
  - 264 (c) "Medicinal dosage form" does not include:
  - 265 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in
  - 266 Subsection (29)(b); or
  - 267 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
  - 268 on a nail or other metal object that is heated by a flame, including a blowtorch.
  - 269 (30) "Pharmacy medical provider" means the medical provider required to be on site at
  - 270 a medical cannabis pharmacy under Section [26-61a-403](#).
  - 271 (31) "Provisional patient card" means a card that:
  - 272 (a) the department issues to a minor with a qualifying condition for whom:

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

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

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

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

281 (34) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section  
282 26-61a-109.

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

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

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

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

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

295 (40) "State electronic verification system" means the system described in Section  
296 26-61a-103.

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

298 **26-61a-103. Electronic verification system.**

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

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

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

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

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

308 (i) meets the requirements contained in the request for proposals issued under  
309 Subsection (1)(b)[-]; and

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

312 (2) The Department of Agriculture and Food, the department, the Department of Public  
313 Safety, and the Department of Technology Services shall ensure that, on or before March 1,  
314 2020, the state electronic verification system described in Subsection (1):

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

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

320 (c) allows a qualified medical provider to:

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

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

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

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

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

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

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

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

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

336 (d) connects with:

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

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

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

344 (C) any cannabis production establishment, any medical cannabis pharmacy, or the  
345 state central fill medical cannabis pharmacy associated with the cannabis, cannabis product, or  
346 medical cannabis device; and

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

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

354 (e) provides access to:

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

357 (ii) the Department of Agriculture and Food to the extent necessary to carry out the  
358 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter  
359 41a, Cannabis Production Establishments; and

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

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

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

366 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
367 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

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

369 (f) provides access to and interaction with the state central fill medical cannabis  
370 pharmacy, state central fill agents, and local health department distribution agents, to facilitate  
371 the state central fill shipment process;

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

373 (i) during a traffic stop for the purpose of determining if the individual subject to the  
374 traffic stop is in compliance with state medical cannabis law; or

375 (ii) after obtaining a warrant; and

376 (h) creates a record each time a person accesses the database that identifies the person  
377 who accesses the database and the individual whose records the person accesses.

378 (3) The department may release de-identified data that the system collects for the  
379 purpose of:

380 (a) conducting medical research; and

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

382 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
383 Administrative Rulemaking Act, to establish:

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

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

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

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

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

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

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

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

402 (i) a third degree felony; and

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

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

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

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

407 General Fund.

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

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

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

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

413 Health Insurance Portability and Accountability Act of 1996; or

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

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

416 **26-61a-105. Compassionate use board.**

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

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

419 Senate confirms:

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

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

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

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

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

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

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

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

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

434 (i) each term is four years; and

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

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

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

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

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

440 (b) per diem and travel expenses in accordance with Section 63A-3-106, Section  
441 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
442 63A-3-107.

443 (5) The compassionate use board shall:

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

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

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

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

454 (ii) the qualified medical provider:

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

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

459 (iii) the board determines that:  
460 (A) the recommendation of the individual's qualified medical provider is justified; and  
461 (B) based on available information, it may be in the best interests of the individual to  
462 allow the use of medical cannabis;  
463 (b) unless no petitions are pending:  
464 (i) meet to receive or review compassionate use petitions at least quarterly; and  
465 (ii) if there are more petitions than the board can receive or review during the board's  
466 regular schedule, as often as necessary;  
467 (c) complete a review of each petition and recommend to the department approval or  
468 denial of the applicant for qualification for a medical cannabis card within 90 days after the day  
469 on which the board received the petition; and  
470 (d) report, before November 1 of each year, to the Health and Human Services Interim  
471 Committee:  
472 (i) the number of compassionate use recommendations the board issued during the past  
473 year; and  
474 (ii) the types of conditions for which the board approved compassionate use.  
475 (6) (a) (i) The department shall review any compassionate use for which the board  
476 recommends approval under Subsection (5)(c) to determine whether the board properly  
477 exercised the board's discretion under this section.  
478 (ii) If the department determines that the board properly exercised the board's  
479 discretion in recommending approval under Subsection (5)(c), the department shall:  
480 (A) issue the relevant medical cannabis card; and  
481 (B) provide for the renewal of the medical cannabis card in accordance with the  
482 recommendation of the qualified medical provider described in Subsection (5)(a).  
483 (b) (i) If the board recommends denial under Subsection (5)(c), the individual seeking  
484 to obtain a medical cannabis card may petition the department to review the board's decision.  
485 (ii) If the department determines that the board's recommendation for denial under  
486 Subsection (5)(c) was arbitrary or capricious:  
487 (A) the department shall notify the board of the department's determination; and  
488 (B) the board shall reconsider the board's refusal to recommend approval under this  
489 section.



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

494 (7) Any individually identifiable health information contained in a petition that the  
495 board or department receives under this section is a protected record in accordance with Title  
496 63G, Chapter 2, Government Records Access and Management Act.

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

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

500 **26-61a-106. Qualified medical provider registration -- Continuing education --**  
501 **Treatment recommendation.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

543 (i) complete continuing education:

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

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

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

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

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

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

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

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

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

564 (i) the provisions of this chapter;

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

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

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

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

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

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

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

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

585 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in  
586 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for  
587 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of  
588 100 patients per authorization, not to exceed three authorizations.

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

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

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

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

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

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

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

609 (i) a green cross;

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

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

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

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

616 (i) applies for renewal;

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

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

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

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

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

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

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

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

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

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

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

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

636 **26-61a-111. Nondiscrimination for medical care or government employment --**  
637 **No adverse government employment action.**

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

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

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

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

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

651 (3) The state or a political subdivision may not take adverse action against an employee  
652 because the employee has objected to or refused to carry out a directive that:

653 (a) derives from a requirement imposed on the state or political subdivision under this  
654 title; and

655 (b) the employee reasonably believes violates:

656 (i) a law of this state, a political subdivision of this state, or the United States; or

657 (ii) a rule or regulation adopted under the authority of the laws of this state, a political  
658 subdivision of this state, or the United States.

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

660 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
661 **consideration.**

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

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

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

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

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

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

- 676 (v) those factors outlined in Section 30-3-10.2.
- 677 (b) There is a rebuttable presumption that joint legal custody, as defined in Section  
678 30-3-10.1, is in the best interest of the child, except in cases where there is:
- 679 (i) domestic violence in the home or in the presence of the child;
- 680 (ii) special physical or mental needs of a parent or child, making joint legal custody  
681 unreasonable;
- 682 (iii) physical distance between the residences of the parents, making joint decision  
683 making impractical in certain circumstances; or
- 684 (iv) any other factor the court considers relevant including those listed in this section  
685 and Section 30-3-10.2.
- 686 (c) (i) The person who desires joint legal custody shall file a proposed parenting plan in  
687 accordance with Sections 30-3-10.8 and 30-3-10.9.
- 688 (ii) A presumption for joint legal custody may be rebutted by a showing by a  
689 preponderance of the evidence that it is not in the best interest of the child.
- 690 (d) A child may not be required by either party to testify unless the trier of fact  
691 determines that extenuating circumstances exist that would necessitate the testimony of the  
692 child be heard and there is no other reasonable method to present the child's testimony.
- 693 (e) (i) The court may inquire of the child's and take into consideration the ~~the~~ child's  
694 desires regarding future custody or parent-time schedules, but the expressed desires are not  
695 controlling and the court may determine the children's custody or parent-time otherwise.
- 696 (ii) The desires of a child 14 years of age or older shall be given added weight, but is  
697 not the single controlling factor.
- 698 (f) (i) If an interview with a child is conducted by the court pursuant to Subsection  
699 (1)(e), the interview shall be conducted by the judge in camera.
- 700 (ii) The prior consent of the parties may be obtained but is not necessary if the court  
701 finds that an interview with a child is the only method to ascertain the child's desires regarding  
702 custody.
- 703 (2) In awarding custody, the court shall consider, among other factors the court finds  
704 relevant, which parent is most likely to act in the best interests of the child, including allowing  
705 the child frequent and continuing contact with the noncustodial parent as the court finds  
706 appropriate.

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

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

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

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

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

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

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

726 (6) When an issue before the court involves custodial responsibility in the event of a  
727 deployment of one or both parents who are servicemembers, and the servicemember has not yet  
728 been notified of deployment, the court shall resolve the issue based on the standards in Sections  
729 78B-20-306 through 78B-20-309.

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

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

737 (b) status as a:



- 738 (i) cannabis production establishment agent, as that term is defined in Section
- 739 4-41a-102;
- 740 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;
- 741 (iii) state central fill agent, as that term is defined in Section 26-61a-102; or
- 742 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah
- 743 Medical Cannabis Act.

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

745 **31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

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

747 in Section 31A-3-305, a nonadmitted insurer may make an insurance contract for coverage of a

748 person in this state and on a risk located in this state, subject to the limitations and

749 requirements of this section.

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

- 751 (i) inspect the risks to be insured;
- 752 (ii) collect premiums;
- 753 (iii) adjust losses; and
- 754 (iv) do another act reasonably incidental to the contract.

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

- 756 (i) an employee; or
- 757 (ii) an independent contractor.

758 (3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on

759 behalf of an insurer that has no certificate of authority.

760 (b) Insurance placed with a nonadmitted insurer shall be placed by a surplus lines

761 producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants,

762 and Reinsurance Intermediaries.

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

764 (i) pay or permit the payment, commission, or other remuneration on insurance placed

765 by the surplus lines producer under authority of the surplus lines producer's license to one

766 holding a license to act as an insurance producer; and

767 (ii) advertise the availability of the surplus lines producer's services in procuring, on

768 behalf of a person seeking insurance, a contract with a nonadmitted insurer.

769 (4) For a contract made under this section, a nonadmitted insurer is subject to Sections  
770 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

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

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

775 (b) a cannabis production establishment as defined in Section 4-41a-102; or

776 (c) a medical cannabis pharmacy as defined in Section 26-61a-102.

777 (6) (a) The commissioner may by rule prohibit making a contract under Subsection (1)  
778 for a specified class of insurance if authorized insurers provide an established market for the  
779 class in this state that is adequate and reasonably competitive.

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

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

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

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

788 (i) the insurer willfully violates:

789 (A) this section;

790 (B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or

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

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

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

794 (A) in an unsound condition;

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

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

797 (d) (i) The commissioner may issue one or more lists of nonadmitted foreign insurers  
798 whose:

799 (A) solidity the commissioner doubts; or

800 (B) practices the commissioner considers objectionable.

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

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

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

808 (e) A foreign nonadmitted insurer shall be listed on the commissioner's "reliable" list  
809 only if the nonadmitted insurer:

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

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

812 (iii) (A) delivers to the commissioner a copy of the nonadmitted insurer's current  
813 annual statement certified by the insurer and, each subsequent year, delivers to the  
814 commissioner a copy of the nonadmitted insurer's annual statement within 60 days after the day  
815 on which the nonadmitted insurer files the annual statement with the insurance regulatory  
816 authority where the nonadmitted insurer is domiciled; or

817 (B) files the nonadmitted insurer's annual statements with the National Association of  
818 Insurance Commissioners and the nonadmitted insurer's annual statements are available  
819 electronically from the National Association of Insurance Commissioners;

820 (iv) (A) is in substantial compliance with the solvency standards in Chapter 17, Part 6,  
821 Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is  
822 greater; or

823 (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group  
824 of alien individual insurers, maintains a trust fund that:

825 (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all  
826 policyholders and creditors in the United States of each member of the group;

827 (II) may consist of cash, securities, or investments of substantially the same character  
828 and quality as those which are "qualified assets" under Section [31A-17-201](#); and

829 (III) may include as part of this trust arrangement a letter of credit that qualifies as  
830 acceptable security under Section [31A-17-404.1](#); and

831 (v) for an alien insurer not domiciled in the United States or a territory of the United  
832 States, is listed on the Quarterly Listing of Alien Insurers maintained by the National  
833 Association of Insurance Commissioners International Insurers Department.

834 (7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly  
835 or without reasonable investigation of the financial condition and general reputation of the  
836 insurer, place insurance under this section with:

- 837 (i) a financially unsound insurer;
- 838 (ii) an insurer engaging in unfair practices; or
- 839 (iii) an otherwise substandard insurer.

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

- 842 (i) gives the applicant notice in writing of the known deficiencies of the insurer or the  
843 limitations on the surplus line producer's investigation; and
- 844 (ii) explains the need to place the business with that insurer.

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

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

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

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

- 853 (i) include a description of the subject of the insurance; and
- 854 (ii) indicate:
  - 855 (A) the coverage, conditions, and term of the insurance;
  - 856 (B) the premium charged the policyholder;
  - 857 (C) the premium taxes to be collected from the policyholder; and
  - 858 (D) the name and address of the policyholder and insurer.

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

- 860 (i) the names and addresses of all insurers; and
- 861 (ii) the portion of the entire direct risk each assumes.

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

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

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

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

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

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

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

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

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

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

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

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

888 (c) (i) The examination described in Subsection (11)(a) may be conducted by the  
889 commissioner or by an advisory organization created under Section [31A-15-111](#) and authorized  
890 by the commissioner to conduct these examinations. The commissioner is not required to  
891 authorize an additional advisory organization to conduct an examination under this Subsection  
892 (11)(c).

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

895 (A) by rule; and

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

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

901 (B) A stamping fee collected by the commissioner shall be deposited in the General  
902 Fund.

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

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

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

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

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

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

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

922 (i) shall exercise due diligence to initiate an audit of an insured, to determine whether  
923 additional premium is owed by the insured, by no later than six months after the expiration of

924 the term for which premium is paid; and

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

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

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

931 **58-37-3.7. Medical cannabis decriminalization.**

932 (1) As used in this section:

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

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

935 (c) "Medical cannabis card" means the same as that term is defined in Section  
936 [26-61a-102](#).

937 (d) "Medical cannabis device" means the same as that term is defined in Section  
938 [26-61a-102](#).

939 (e) "Medical cannabis pharmacy" means the same as that term is defined in Section  
940 [26-61a-102](#).

941 (f) "Medicinal dosage form" means the same as that term is defined in Section  
942 [26-61a-102](#).

943 (g) "Qualified medical provider" means the same as that term is defined in Section  
944 [26-61a-102](#).

945 (h) "Qualifying condition" means the same as that term is defined in Section  
946 [26-61a-102](#).

947 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section  
948 [58-37-3.9](#).

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

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

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

953 (B) had a pre-existing provider-patient relationship with an advanced practice

954 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed

955 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,  
956 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under  
957 Title 58, Chapter 70a, Physician Assistant Act, who believed that the individual's illness  
958 described in Subsection (2)(a)(i)(A) could benefit from the use in question; [or]

959 (ii) for possession, was:

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

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

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

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

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

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

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

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

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

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

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

978 (iii) had been diagnosed with a qualifying condition as described in Section  
979 ~~26-61a-104~~; and

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

982 Section 12. **Effective date.**

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



986 the date of veto override.