

**MEDICAL CANNABIS AMENDMENTS**

2019 FIRST SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Brad M. Daw

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**LONG TITLE**

**General Description:**

This bill amends provisions related to medical cannabis.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ repeals provisions related to the state central fill medical cannabis pharmacy and makes necessary resulting amendments;
- ▶ replaces a procurement requirement for future Department of Agriculture and Food (UDAF) licensing with a process that UDAF develops in rule;
- ▶ allows UDAF and the Department of Health (DoH) to waive certain proximity requirements in certain circumstances;
- ▶ clarifies the number of cannabis cultivation facility licenses that UDAF is required and allowed to issue;
- ▶ requires certain disclosures about adverse actions against applicants in any jurisdiction and allows UDAF and DoH to revoke licenses if those disclosures are not updated;
- ▶ prohibits UDAF and DoH from issuing certain licenses if a legislator has an ownership interest in the perspective licensee;
- ▶ allows licensed cannabis cultivation facilities to cultivate both indoors and outdoors under UDAF rules;
- ▶ exempts the following from a background check requirement:

- 29           • certain agents re-applying for an agent registration card; and
- 30           • certain guardians and designated caregivers re-applying for a medical cannabis
- 31 card;
- 32           ▶ clarifies that cannabis production establishments and medical cannabis pharmacies
- 33 may use signage regardless of local prohibitions;
- 34           ▶ amends provisions regarding local government land use control, including:
- 35           • ensuring that cannabis production establishments and medical cannabis
- 36 pharmacies are only subject to land use ordinances in effect at the time the land
- 37 use rights vest;
- 38           • requiring an approved land use permit application within a certain time after the
- 39 issuance of a license rather than before; and
- 40           • prohibiting certain proximity minimums;
- 41           ▶ allows UDAF to license research universities to conduct academic medical cannabis
- 42 research;
- 43           ▶ adopts a nationally recognized code regarding marijuana production into the state
- 44 fire code;
- 45           ▶ provides for electronic medical cannabis cards;
- 46           ▶ provides that use of medical cannabis may not be considered differently than lawful
- 47 use of any prescribed controlled substance in certain circumstances;
- 48           ▶ amends provisions regarding privacy in studies of cardholder data;
- 49           ▶ requires an applicant for a medical cannabis pharmacy license to describe a strategic
- 50 plan for opening, including the timing of the opening based on supply, in
- 51 consultation with UDAF, and demand, in consultation with DoH;
- 52           ▶ increases the number of licenses available for private medical cannabis pharmacies
- 53 and allows DoH to issue additional licenses in certain circumstances based on
- 54 market necessity;
- 55           ▶ allows DoH to issue medical cannabis pharmacy licenses in two phases using one

56 procurement process;

57       ▶ allows for certain medical practitioners to be registered as medical cannabis

58 pharmacy agents as long as the provider is not registered as a qualified medical

59 provider;

60       ▶ amends allowable sale and possession amount to be uniform regardless of the

61 distance between an individual's residence and a medical cannabis pharmacy;

62       ▶ directs DoH to create a state central patient portal for patient safety, education, and

63 electronic access to home deliveries of medical cannabis shipments from home

64 delivery medical cannabis pharmacies;

65       ▶ allows DoH to designate certain private medical cannabis pharmacies as home

66 delivery medical cannabis pharmacies that fulfill electronic orders for medical

67 cannabis shipments:

68       • that medical cannabis cardholders access through the state central patient portal;

69 and

70       • for which a payment provider that the Division of Finance approves, in

71 consultation with the state treasurer, or a financial institution facilitates a

72 financial transaction;

73       ▶ broadens an existing requirement that DoH employ certain medical providers to

74 consult with medical cannabis cardholders;

75       ▶ provides for licensing of medical cannabis couriers and registration of medical

76 cannabis courier agents to facilitate delivery of medical cannabis shipments from

77 home delivery medical cannabis pharmacies;

78       ▶ repeals Title 26, Chapter 65, Cannabidiol Product Act;

79       ▶ prohibits considering, in a judicial context, lawful possession or use of medical

80 cannabis differently from lawful possession or use of any prescribed controlled

81 substance;

82       ▶ prohibits certain conditions of probation or release or terms of certain agreements

83 that require a person to abstain from medical cannabis;

84       ▶ addresses a parent or guardian's use of medical cannabis in child welfare cases; and

85       ▶ makes technical and conforming changes.

86 **Money Appropriated in this Bill:**

87       None

88 **Other Special Clauses:**

89       This bill provides a special effective date.

90       This bill provides revisor instructions.

91 **Utah Code Sections Affected:**

92 AMENDS:

93       **4-41a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
94 Chapter 1

95       **4-41a-103**, as last amended by Laws of Utah 2019, Chapter 136

96       **4-41a-201**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
97 Chapter 1

98       **4-41a-204**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
99 Chapter 1

100       **4-41a-205**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
101 Chapter 1

102       **4-41a-301**, as last amended by Laws of Utah 2019, Chapter 136

103       **4-41a-302**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
104 Chapter 1

105       **4-41a-403**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
106 Chapter 1

107       **4-41a-404**, as last amended by Laws of Utah 2019, Chapter 341

108       **4-41a-406**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
109 Chapter 1

110           **4-41a-501**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
111 Chapter 1

112           **4-41a-701**, as last amended by Laws of Utah 2019, Chapter 341

113           **15A-5-103**, as last amended by Laws of Utah 2019, Chapter 103

114           **26-61a-102**, as last amended by Laws of Utah 2019, Chapter 341

115           **26-61a-103**, as last amended by Laws of Utah 2019, Chapters 136 and 341

116           **26-61a-106**, as last amended by Laws of Utah 2019, Chapters 136 and 341

117           **26-61a-107**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
118 Chapter 1

119           **26-61a-109**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
120 Chapter 1

121           **26-61a-111**, as last amended by Laws of Utah 2019, Chapter 341

122           **26-61a-201**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
123 Chapter 1

124           **26-61a-202**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
125 Chapter 1

126           **26-61a-203**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
127 Chapter 1

128           **26-61a-204**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
129 Chapter 1

130           **26-61a-301**, Utah Code Annotated 1953

131           **26-61a-302**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
132 Chapter 1

133           **26-61a-304**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
134 Chapter 1

135           **26-61a-305**, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
136 Chapter 1

- 137           **26-61a-401**, as last amended by Laws of Utah 2019, Chapter 136
- 138           **26-61a-403**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 139           **26-61a-502**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 140 Chapter 1
- 141           **26-61a-503**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 142           **26-61a-505**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 143 Chapter 1
- 144           **26-61a-506**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 145 Chapter 1
- 146           **26-61a-507**, as last amended by Laws of Utah 2019, Chapter 136
- 147           **26-61a-605**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 148           **26-61a-606**, as last amended by Laws of Utah 2019, Chapter 136
- 149           **26-61a-607**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 150           **26-61a-702**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 151 Chapter 1
- 152           **26-61a-703**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 153 Chapter 1
- 154           **30-3-10**, as last amended by Laws of Utah 2019, Chapters 136, 188, and 341
- 155           **58-17b-302**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 156           **58-17b-310**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 157           **58-17b-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 158           **58-37-3.7**, as last amended by Laws of Utah 2019, Chapter 341
- 159           **58-37-3.8**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 160           **58-37-3.9**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 161           **58-67-304**, as last amended by Laws of Utah 2019, Chapter 136
- 162           **58-67-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 163           **58-68-304**, as last amended by Laws of Utah 2019, Chapter 136

164 **58-68-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

165 **59-12-104.10**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

166 **78A-6-115**, as last amended by Laws of Utah 2018, Chapter 359

167 ENACTS:

168 **4-41a-901**, Utah Code Annotated 1953

169 **4-41a-902**, Utah Code Annotated 1953

170 **4-41a-903**, Utah Code Annotated 1953

171 **10-9a-528**, Utah Code Annotated 1953

172 **17-27a-525**, Utah Code Annotated 1953

173 **26-61a-115**, Utah Code Annotated 1953

174 **78A-2-231**, Utah Code Annotated 1953

175 REPEALS AND REENACTS:

176 **26-61a-601**, as last amended by Laws of Utah 2019, Chapter 136

177 **26-61a-602**, as last amended by Laws of Utah 2019, Chapter 136

178 **26-61a-603**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

179 **26-61a-604**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

180 REPEALS:

181 **26-61a-110**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

182 **26-61a-205**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

183 **26-61a-608**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

184 **26-61a-609**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

185 **26-61a-610**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

186 **26-61a-611**, as last amended by Laws of Utah 2019, Chapter 136

187 **26-65-101**, as enacted by Laws of Utah 2018, Chapter 452

188 **26-65-102**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

189 **26-65-103**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

190 **26-65-201**, as enacted by Laws of Utah 2018, Chapter 452

191 [26-65-202](#), as enacted by Laws of Utah 2018, Chapter 452

192 **Utah Code Sections Affected by Revisor Instructions:**

193 [4-41a-201](#), as renumbered and amended by Laws of Utah 2018, Third Special Session,  
194 Chapter 1



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

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

198 **4-41a-102. Definitions.**

199 As used in this chapter:

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

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

202 (a) possesses cannabis;

203 (b) grows or intends to grow cannabis; and

204 (c) sells or intends to sell cannabis to a cannabis cultivation facility ~~[or to]~~, a cannabis  
205 processing facility, or a medical cannabis research licensee.

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

207 (a) is an employee of a cannabis cultivation facility; and

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

209 (4) "Cannabis processing facility" means a person that:

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

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

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

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

- 218 (5) "Cannabis processing facility agent" means an individual who:  
219 (a) is an employee of a cannabis processing facility; and  
220 (b) holds a valid cannabis production establishment agent registration card.
- 221 (6) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- 222 (7) "Cannabis production establishment" means a cannabis cultivation facility, a  
223 cannabis processing facility, or an independent cannabis testing laboratory.
- 224 (8) "Cannabis production establishment agent" means a cannabis cultivation facility  
225 agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- 226 (9) "Cannabis production establishment agent registration card" means a registration  
227 card that the department issues that:  
228 (a) authorizes an individual to act as a cannabis production establishment agent; and  
229 (b) designates the type of cannabis production establishment for which an individual is  
230 authorized to act as an agent.
- 231 (10) "Community location" means a public or private school, a licensed child-care  
232 facility or preschool, a church, a public library, a public playground, or a public park.
- 233 (11) "Department" means the Department of Agriculture and Food.
- 234 (12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,  
235 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,  
236 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.
- 237 (13) "Independent cannabis testing laboratory" means a person that:  
238 (a) conducts a chemical or other analysis of cannabis or a cannabis product; or  
239 (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to  
240 conduct a chemical or other analysis of the cannabis or cannabis product.
- 241 (14) "Independent cannabis testing laboratory agent" means an individual who:  
242 (a) is an employee of an independent cannabis testing laboratory; and  
243 (b) holds a valid cannabis production establishment agent registration card.
- 244 (15) "Inventory control system" means a system described in Section 4-41a-103.

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

246 (17) "Medical cannabis card" means the same as that term is defined in Section  
247 [26-61a-102](#).

248 (18) "Medical cannabis pharmacy" means the same as that term is defined in Section  
249 [26-61a-102](#).

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

252 (20) "Medical cannabis research license" means a license that the department issues to  
253 a research university for the purpose of obtaining and possessing medical cannabis for  
254 academic research.

255 (21) "Medical cannabis research licensee" means a research university that the  
256 department licenses to obtain and possess medical cannabis for academic research, in  
257 accordance with Section [4-41a-901](#).

258 [~~(20)~~] (22) "Medical cannabis treatment" means the same as that term is defined in  
259 Section [26-61a-102](#).

260 [~~(21)~~] (23) "Medicinal dosage form" means the same as that term is defined in Section  
261 [26-61a-102](#).

262 [~~(22)~~] (24) "Qualified medical provider" means the same as that term is defined in  
263 Section [26-61a-102](#).

264 [~~(23)~~] (25) "Qualified Production Enterprise Fund" means the fund created in Section  
265 [4-41a-104](#).

266 [~~(24) "State central fill agent" means the same as that term is defined in Section~~  
267 ~~[26-61a-102](#);~~]

268 [~~(25) "State central fill medical cannabis pharmacy" means the same as that term is~~  
269 ~~defined in Section [26-61a-102](#);~~]

270 [~~(26) "State central fill shipment" means the same as that term is defined in Section~~  
271 ~~[26-61a-102](#);~~]

272 (26) "Research university" means the same as that term is defined in Section  
273 [53B-7-702](#).

274 (27) "State electronic verification system" means the system described in Section  
275 [26-61a-103](#).

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

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

280 Section 2. Section **4-41a-103** is amended to read:

281 **4-41a-103. Inventory control system.**

282 (1) Each cannabis production establishment[;] and each medical cannabis pharmacy[;  
283 ~~and the state central fill medical cannabis pharmacy]~~ shall maintain an inventory control system  
284 that meets the requirements of this section.

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

288 (a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis  
289 plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form  
290 of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

291 (b) maintains in real time a record of the amount of cannabis and cannabis products in  
292 the possession of the establishment or pharmacy;

293 (c) includes a video recording system that:

294 (i) tracks all handling and processing of cannabis or a cannabis product in the  
295 establishment or pharmacy;

296 (ii) is tamper proof; and

297 (iii) stores a video record for at least 45 days; and

298 (d) preserves compatibility with the state electronic verification system described in

299 Section 26-61a-103.

300 (3) A cannabis production establishment~~[;]~~ and a medical cannabis pharmacy~~[; and the~~  
301 ~~state central fill medical cannabis pharmacy]~~ shall allow the department or the Department of  
302 Health access to the cannabis production establishment's~~[;]~~ or the medical cannabis  
303 pharmacy's~~[; or state central fill medical cannabis pharmacy's]~~ inventory control system at any  
304 time.

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

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

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

315 Section 3. Section 4-41a-201 is amended to read:

316 **4-41a-201. Cannabis production establishment -- License.**

317 (1) A person may not operate a cannabis production establishment without a license  
318 that the department issues under this chapter.

319 (2) (a) (i) Subject to Subsections (6), (7), ~~[and]~~ (8), and (13) and to Section  
320 4-41a-205~~[;]~~:

321 (A) for a licensing process that the department initiated before the effective date of this  
322 bill, the department shall~~[; in accordance with]~~ use the procedures in Title 63G, Chapter 6a,  
323 Utah Procurement Code, ~~[issue a license to operate a cannabis production establishment]~~ to  
324 review and rank applications for a cannabis production establishment license; and

325 (B) for a licensing process that the department initiates after the effective date of this

326 bill, the department shall issue a license to operate a cannabis production establishment in  
327 accordance with the procedures described in Subsection (2)(a)(iii).

328 (ii) The department may not issue a license to operate a cannabis production  
329 establishment to an applicant who is not eligible for a license under this section.

330 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
331 the department shall make rules to specify a transparent and efficient process to:

332 (A) solicit applications for a license under this section;

333 (B) allow for comments and questions in the development of applications;

334 (C) timely and objectively evaluate applications;

335 (D) hold public hearings that the department deems appropriate; and

336 (E) select applicants to receive a license.

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

339 (i) subject to Subsection (2)(c), a proposed name and address, located in a zone  
340 described in Subsection ~~4-41a-406~~(~~†~~)(2)(a) or (b), where the applicant will operate the  
341 cannabis production establishment [~~that is not within 1,000 feet of a community location or~~  
342 ~~within 600 feet of an area zoned primarily for residential use, as measured from the nearest~~  
343 ~~entrance to the cannabis production establishment by following the shortest route of ordinary~~  
344 ~~pedestrian travel to the property boundary of the community location or residential area, unless~~  
345 ~~the relevant county or municipality recommends in writing that the department waive the~~  
346 ~~community location proximity limit];~~

347 (ii) the name and address of any individual who has:

348 (A) a financial or voting interest of 2% or greater in the proposed cannabis production  
349 establishment; or

350 (B) the power to direct or cause the management or control of a proposed cannabis  
351 production establishment;

352 (iii) an operating plan that:

353 (A) complies with Section 4-41a-204;

354 (B) includes operating procedures that comply with this chapter and any law the  
355 municipality or county in which the person is located adopts that is consistent with Section  
356 4-41a-406; and

357 (C) the department approves;

358 (iv) ~~[evidence]~~ a statement that the applicant ~~[has obtained]~~ will obtain and ~~[maintains]~~  
359 maintain a performance bond that a surety authorized to transact surety business in the state  
360 issues in an amount of at least:

361 (A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or  
362 (B) \$50,000 for each cannabis processing facility or independent cannabis testing  
363 laboratory for which the applicant applies;

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

367 ~~[(vi)]~~ (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the  
368 department sets in accordance with Section 63J-1-504[-]; and

369 (vi) a description of any investigation or adverse action taken by any licensing  
370 jurisdiction, government agency, law enforcement agency, or court in any state for any  
371 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations  
372 or businesses.

373 (c) (i) A person may not locate a cannabis production establishment:

374 (A) within 1,000 feet of a community location; or  
375 (B) in or within 600 feet of a district that the relevant municipality or county has zoned  
376 as primarily residential.

377 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured  
378 from the nearest entrance to the cannabis production establishment by following the shortest  
379 route of ordinary pedestrian travel to the property boundary of the community location or

380 residential area.

381 (iii) The department may grant a waiver to reduce the proximity requirements in  
382 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible  
383 for the applicant to site the proposed cannabis production establishment without the waiver.

384 (iv) An applicant for a license under this section shall provide evidence of compliance  
385 with the proximity requirements described in Subsection (2)(c)(i).

386 (3) If the department approves an application for a license under this section:

387 (a) the applicant shall pay the department an initial license fee in an amount that,  
388 subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;  
389 and

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

392 (4) (a) Except as provided in Subsection (4)(b), the department shall require a separate  
393 license for each type of cannabis production establishment and each location of a cannabis  
394 production establishment.

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

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

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

403 (a) holds a license or has an ownership interest in a medical cannabis pharmacy, a  
404 cannabis processing facility, or a cannabis cultivation facility;

405 (b) has an owner, officer, director, or employee whose family member holds a license  
406 or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or

407 a cannabis cultivation facility; or

408 (c) proposes to operate the independent cannabis testing laboratory at the same physical  
409 location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis  
410 cultivation facility.

411 (7) The department may not issue a license to operate a cannabis production  
412 establishment to an applicant if any individual described in Subsection (2)(b)(ii):

413 (a) has been convicted under state or federal law of:

414 (i) a felony; or

415 (ii) after December 3, 2018, a misdemeanor for drug distribution; [or]

416 (b) is younger than 21 years old[-]; or

417 (c) after the effective date of this bill until January 1, 2023, is actively serving as a  
418 legislator.

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

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

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

426 (9) The department may revoke a license under this part:

427 (a) if the cannabis production establishment does not begin cannabis production  
428 operations within one year after the day on which the department issues the initial license;

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

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

433 (i) a felony; or

434 (ii) after December 3, 2018, a misdemeanor for drug distribution~~[-];~~ or  
435 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at  
436 the time of application, or fails to supplement the information described in Subsection  
437 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the  
438 application.

439 (10) (a) A person who receives a cannabis production establishment license under this  
440 chapter, if the municipality or county where the licensed cannabis production establishment  
441 will be located requires a local land use permit, shall submit to the department a copy of the  
442 licensee's approved application for the land use permit within 120 days after the day on which  
443 the department issues the license.

444 (b) If a licensee fails to submit to the department a copy of the licensee's approved land  
445 use permit application in accordance with Subsection (10)(a), the department may revoke the  
446 licensee's license.

447 ~~[(10)]~~ (11) The department shall deposit the proceeds of a fee that the department  
448 imposes under this section into the Qualified Production Enterprise Fund.

449 ~~[(11)]~~ (12) The department shall begin accepting applications under this part on or  
450 before January 1, 2020.

451 ~~[(12)]~~ (13) (a) The department's authority to issue a license under this section is plenary  
452 and is not subject to review.

453 (b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a  
454 license to an applicant is not subject to:

455 (i) Title 63G, Chapter 6a, Part 16, Protests; or

456 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

457 Section 4. Section **4-41a-204** is amended to read:

458 **4-41a-204. Operating plan.**

459 (1) A person applying for a cannabis production establishment license or license  
460 renewal shall submit to the department for the department's review a proposed operating plan

461 that complies with this section and that includes:

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

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

465 (i) each officer, director, and owner of the proposed cannabis production  
466 establishment; and

467 (ii) any highly skilled or experienced prospective employee;

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

469 (d) a security plan;

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

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

475 (g) for a cannabis cultivation facility, the information described in Subsection (2);

476 (h) for a cannabis processing facility, the information described in Subsection (3); and

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

479 (2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan  
480 includes the facility's intended:

481 (i) cannabis cultivation practices, including the facility's intended pesticide use and  
482 fertilizer use; and

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

485 (b) Except as provided in Subsection [~~(2)(c) or (d)(i)~~] (2)(c)(i) or (d)(ii), a cannabis  
486 cultivation facility [~~that cultivates cannabis indoors~~] may not:

487 (i) for a facility that cultivates cannabis only indoors:

488 (A) use more than 100,000 square feet for cultivation; or  
489 (B) hang, suspend, stack or otherwise position plants above other plants to cultivate  
490 more plants through use of vertical space; ~~and~~  
491 (ii) ~~[a cannabis cultivation]~~ for a facility that cultivates cannabis only outdoors ~~[may~~  
492 ~~not]~~, use more than four acres for cultivation~~[-]; and~~  
493 (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor  
494 cultivation, use more combined indoor square footage and outdoor acreage than allowed under  
495 the department's formula described in Subsection (2)(e).  
496 (c) (i) Each licensee may annually apply to the department for authorization to exceed  
497 the cannabis cultivation facility's current cultivation size limitation by up to 20%.  
498 (ii) The department may, after conducting a review as described in Subsection  
499 [4-41a-205\(2\)\(a\)](#), grant the authorization described in Subsection (2)(c)(i).  
500 (d) If a licensee describes an intended acreage or square footage under cultivation  
501 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):  
502 (i) the licensee may not cultivate more than the licensee's identified intended acreage or  
503 square footage under cultivation; and  
504 (ii) notwithstanding Subsection (2)(b), the department may allocate the remaining  
505 difference in acreage or square footage under cultivation to another licensee.  
506 (e) The department shall, in accordance with Title 63G, Chapter 3, Utah  
507 Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor  
508 cultivation that:  
509 (i) does not exceed, in estimated cultivation yield, the aggregate limitations described  
510 in Subsection (2)(b)(i) or (ii); and  
511 (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.  
512 (f) Notwithstanding an applicant's proposed operating plan, a cannabis production  
513 establishment is subject to land use regulations, as defined in Sections [10-9a-103](#) and  
514 [17-27a-103](#), regarding the availability of outdoor cultivation in an industrial zone.

515 (3) A cannabis processing facility's operating plan shall include the facility's intended  
516 cannabis processing practices, including the cannabis processing facility's intended:

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

523 (4) An independent cannabis testing laboratory's operating plan shall include the  
524 laboratory's intended:

- 525 (a) cannabis and cannabis product testing capability;
- 526 (b) cannabis and cannabis product testing equipment; and
- 527 (c) testing methods, standards, practices, and procedures for testing cannabis and  
528 cannabis products.

529 Section 5. Section **4-41a-205** is amended to read:

530 **4-41a-205. Number of licenses -- Cannabis cultivation facilities.**

531 (1) Except as provided in Subsection (2)(a), the department [~~may not~~] shall issue at  
532 least five but not more than [10] eight licenses to operate a cannabis cultivation facility.

533 (2) (a) The department may issue [~~up to five~~] a number of licenses to operate a cannabis  
534 cultivation facility that, in addition to the [~~10~~] licenses described in Subsection (1), does not  
535 cause the total number of licenses to exceed 15 if the department determines, in consultation  
536 with the Department of Health and after an annual or more frequent analysis of the current and  
537 anticipated market for medical cannabis [~~in a medicinal dosage form and cannabis products in~~  
538 ~~a medicinal dosage form~~], that each additional license is necessary to provide an adequate  
539 supply, quality, or variety of medical cannabis [~~in a medicinal dosage form and cannabis~~  
540 ~~products in a medicinal dosage form~~] to medical cannabis cardholders.

541 (b) If the recipient of one of the initial [~~10~~] licenses described in Subsection (1) ceases

542 operations for any reason or otherwise abandons the license, the department may but is not  
543 required to grant the vacant license to another applicant based on an analysis as described in  
544 Subsection (2)(a).

545 (3) If there are more qualified applicants than the number of available licenses for  
546 cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the  
547 applicants and award the limited number of licenses described in Subsections (1) and (2) to the  
548 applicants that best demonstrate:

549 (a) experience with establishing and successfully operating a business that involves:

550 (i) complying with a regulatory environment;

551 (ii) tracking inventory; and

552 (iii) training, evaluating, and monitoring employees;

553 (b) an operating plan that will best ensure the safety and security of patrons and the  
554 community;

555 (c) positive connections to the local community; and

556 (d) the extent to which the applicant can reduce the cost to patients of cannabis in a  
557 medicinal dosage form or cannabis products in a medicinal dosage form.

558 (4) The department may conduct a face-to-face interview with an applicant for a  
559 license that the department evaluates under Subsection (3).

560 Section 6. Section **4-41a-301** is amended to read:

561 **4-41a-301. Cannabis production establishment agent -- Registration.**

562 (1) An individual may not act as a cannabis production establishment agent unless the  
563 department registers the individual as a cannabis production establishment agent.

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

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

569 (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
570 Practice Act;

571 (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
572 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

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

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

578 (4) (a) The department shall, within 15 business days after the day on which the  
579 department receives a complete application from a cannabis production establishment on  
580 behalf of a prospective cannabis production establishment agent, register and issue a cannabis  
581 production establishment agent registration card to the prospective agent if the cannabis  
582 production establishment:

583 (i) provides to the department:

584 (A) the prospective agent's name and address;

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

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

588 (ii) pays a fee to the department in an amount that, subject to Subsection [4-41a-104\(5\)](#),  
589 the department sets in accordance with Section [63J-1-504](#).

590 (b) [~~Each~~] Except for an applicant reapplying for a cannabis production establishment  
591 agent registration card within less than one year after the expiration of the applicant's previous  
592 cannabis production establishment agent registration card, each prospective agent described in  
593 Subsection (4)(a) shall:

594 (i) submit to the department:

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

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

599 (ii) consent to a fingerprint background check by:

600 (A) the Bureau of Criminal Identification; and

601 (B) the Federal Bureau of Investigation.

602 (c) The Bureau of Criminal Identification shall:

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

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

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

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

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

617 (d) The department shall:

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

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

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

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

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

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

630 (a) a certification standard that the department develops; or

631 (b) a ~~[third-party]~~ certification standard that the department ~~[designates by rule, in~~  
632 ~~accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act]~~ has reviewed and  
633 approved.

634 (7) (a) The department shall ensure that the certification standard described in  
635 Subsection (6) includes training:

636 ~~[(a)]~~ (i) in Utah medical cannabis law;

637 ~~[(b)]~~ (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

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

641 ~~[(d)]~~ (iv) for an independent cannabis testing laboratory agent, in cannabis testing best  
642 practices.

643 (b) The department shall review the training described in Subsection (7)(a) annually or  
644 as often as necessary to ensure compliance with this section.

645 (8) For an individual who holds or applies for a cannabis production establishment  
646 agent registration card:

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

649 (b) the department shall revoke or refuse to issue the card if the individual is convicted

650 under state or federal law of:

651 (i) a felony; or

652 (ii) after December 3, 2018, a misdemeanor for drug distribution.

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

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

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

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

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

662 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section  
663 63J-1-504; and

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

666 Section 7. Section 4-41a-302 is amended to read:

667 **4-41a-302. Cannabis production establishment agent registration card --**  
668 **Rebuttable presumption.**

669 (1) A cannabis production establishment agent whom the department registers under  
670 Section 4-41a-301 shall carry the individual's cannabis production establishment agent  
671 registration card with the agent at all times when:

672 (a) the agent is on the premises of a cannabis production establishment where the agent  
673 is registered;

674 (b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in  
675 a medicinal dosage form, or a medical cannabis device between:

676 (i) two cannabis production establishments; or

677 (ii) a cannabis production establishment and~~[(A)]~~ a medical cannabis pharmacy; ~~[or]~~  
678 and

679 ~~[(B) the state central fill medical cannabis pharmacy, and]~~

680 (c) if the cannabis production establishment agent is an agent of a cannabis  
681 ~~[cultivating]~~ cultivation facility, the agent is transporting raw cannabis plants to a cannabis  
682 processing facility or an independent cannabis testing laboratory.

683 (2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage  
684 form, a cannabis product in a medicinal dosage form, or a medical cannabis device and  
685 produces the registration card in the agent's possession in compliance with Subsection (1)  
686 while handling, at a cannabis production establishment, or transporting the cannabis, cannabis  
687 product, or medical cannabis device in compliance with Subsection (1):

688 (a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis  
689 product, or medical cannabis device legally; and

690 (b) a law enforcement officer does not have probable cause, based solely on the agent's  
691 possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage  
692 form, or medical cannabis device in compliance with Subsection (1), to believe that the  
693 individual is engaging in illegal activity.

694 (3) (a) A cannabis production establishment agent who fails to carry the agent's  
695 cannabis production establishment agent registration card in accordance with Subsection (1) is:

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

697 (A) guilty of an infraction; and

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

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

700 (A) guilty of a class C misdemeanor; and

701 (B) subject to a \$750 fine.

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

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

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

711 Section 8. Section ~~4-41a-403~~ is amended to read:

712 **4-41a-403. Advertising.**

713 (1) ~~[A]~~ Except as provided in Subsection (2), (3), or (4), a cannabis production  
714 establishment may not advertise to the general public in any medium.

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

717 (3) A cannabis production establishment may maintain a website that:

718 (a) contains information about the establishment and employees; and

719 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis  
720 devices.

721 (4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis  
722 production establishment may use signage on the outside of the cannabis production  
723 establishment that:

724 (a) includes only:

725 (i) the cannabis production establishment's name and hours of operation; and

726 (ii) a green cross;

727 (b) does not exceed four feet by five feet in size; and

728 (c) complies with local ordinances regulating signage.

729 Section 9. Section ~~4-41a-404~~ is amended to read:

730 **4-41a-404. Cannabis, cannabis product, or medical cannabis device**

731 **transportation.**

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

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

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

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

741 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter  
742 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall  
743 possess a transportation manifest that:

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

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

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

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

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

756 (i) between a cannabis cultivation facility and:

757 (A) another cannabis cultivation facility; or

758 (B) a cannabis processing facility; and  
759 (ii) between a cannabis processing facility and:  
760 (A) another cannabis processing facility;  
761 (B) an independent cannabis testing laboratory; or  
762 (C) a medical cannabis pharmacy~~[, or]~~;  
763 ~~[(D) the state central fill medical cannabis pharmacy.]~~  
764 (4) (a) It is unlawful for a registered cannabis production establishment agent to make a  
765 transport described in this section with a manifest that does not meet the requirements of this  
766 section.  
767 (b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:  
768 (i) guilty of an infraction; and  
769 (ii) subject to a \$100 fine.  
770 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not  
771 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
772 underlying the violation described in Subsection (4)(b).  
773 (d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis  
774 product, or medical cannabis devices than the manifest identifies, except for a de minimis  
775 administrative error:  
776 (i) the penalty described in Subsection (4)(b) does not apply; and  
777 (ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled  
778 Substances Act.  
779 (5) Nothing in this section prevents the department from taking administrative  
780 enforcement action against a cannabis production establishment or another person for failing to  
781 make a transport in compliance with the requirements of this section.  
782 Section 10. Section **4-41a-406** is amended to read:  
783 **4-41a-406. Local control.**  
784 (1) As used in this section:

785 (a) "Land use decision" means the same as that term is defined in Sections 10-9a-103  
786 and 17-27a-103.

787 (b) "Land use permit" means the same as that term is defined in Sections 10-9a-103  
788 and 17-27a-103.

789 (c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103  
790 and 17-27a-103.

791 [(H)] (2) (a) If a municipality's or county's zoning ordinances provide for an industrial  
792 zone, [~~the municipality or county shall ensure that the ordinances allow for cannabis~~  
793 ~~production establishments in at least one type of industrial zone.~~] the operation of a cannabis  
794 production establishment shall be a permitted industrial use in any industrial zone unless the  
795 municipality or county has designated by ordinance, before an individual submits a land use  
796 permit application for a cannabis production establishment, at least one industrial zone in  
797 which the operation of a cannabis production establishment is a permitted use.

798 (b) If a municipality's or county's zoning ordinances provide for an agricultural zone,  
799 [~~the municipality or county shall ensure that the ordinances allow for cannabis production~~  
800 ~~establishments in at least one type of agricultural zone.~~] the operation of a cannabis production  
801 establishment shall be a permitted agricultural use in any agricultural zone unless the  
802 municipality or county has designated by ordinance, before an individual submits a land use  
803 permit application for a cannabis production establishment, at least one agricultural zone in  
804 which the operation of a cannabis production establishment is a permitted use.

805 (c) The operation of a cannabis production establishment shall be a permitted use on  
806 land that the municipality or county has not zoned.

807 [(2)(a)] (3) A municipality or county may not [~~deny or revoke a land use permit to~~  
808 ~~operate a cannabis production facility~~];

809 (a) on the sole basis that the applicant or cannabis production establishment violates  
810 federal law regarding the legal status of cannabis[~~-(b) A municipality or county may not~~],  
811 deny or revoke;

812           (i) a land use permit to operate a cannabis production facility; or  
813           (ii) a business license to operate a cannabis production facility [~~on the sole basis that~~  
814 ~~the applicant or cannabis production establishment violates federal law regarding the legal~~  
815 ~~status of cannabis.];~~  
816           (b) require a certain distance between a cannabis production establishment and:  
817           (i) another cannabis production establishment;  
818           (ii) a medical cannabis pharmacy;  
819           (iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or  
820           (iv) an outlet, as that term is defined in Section 32B-1-202; or  
821           (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use  
822 regulation against a cannabis production establishment that was not in effect on the day on  
823 which the cannabis production establishment submitted a complete land use application.  
824           (4) An applicant for a land use permit to operate a cannabis production establishment  
825 shall comply with the land use requirements and application process described in:  
826           (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act,  
827 including Section 10-9a-528; and  
828           (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act,  
829 including Section 17-27a-525.  
830           Section 11. Section **4-41a-501** is amended to read:  
831           **4-41a-501. Cannabis cultivation facility -- Operating requirements.**  
832           (1) A cannabis cultivation facility shall ensure that any cannabis growing at the  
833 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation  
834 facility perimeter.  
835           (2) A cannabis cultivation facility shall use a unique identifier that is connected to the  
836 cannabis cultivation facility's inventory control system to identify:  
837           (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each  
838 cannabis plant;

- 839 (b) each unique harvest of cannabis plants;
- 840 (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, [~~the~~
- 841 ~~state central fill medical cannabis pharmacy,~~] a cannabis processing facility, or an independent
- 842 cannabis testing laboratory; and
- 843 (d) any excess, contaminated, or deteriorated cannabis of which the cannabis
- 844 cultivation facility disposes.

845 Section 12. Section **4-41a-701** is amended to read:

846 **4-41a-701. Cannabis and cannabis product testing.**

847 (1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis

848 processing facility unless an independent cannabis testing laboratory has tested a representative

849 sample of the cannabis or cannabis product to determine that the presence of contaminants,

850 including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material,

851 does not exceed an amount that is safe for human consumption.

852 (2) A cannabis processing facility may not offer any cannabis or cannabis products for

853 sale to a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy,~~] and a

854 medical cannabis pharmacy [~~and the state central fill medical cannabis pharmacy~~] may not

855 offer any cannabis or cannabis product for sale unless an independent cannabis testing

856 laboratory has tested a representative sample of the cannabis or cannabis product to determine:

857 (a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the

858 cannabis or cannabis product; and

859 (ii) the amount of any other cannabinoid in the cannabis or cannabis product that the

860 label claims the cannabis or cannabis product contains;

861 (b) that the presence of contaminants, including mold, fungus, pesticides, microbial

862 contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for

863 human consumption; and

864 (c) for a cannabis product that is manufactured using a process that involves extraction

865 using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that

866 is not safe for human consumption.

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

869 (a) may determine the amount of any substance described in Subsections (2)(b) and (c)  
870 that is safe for human consumption; and

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

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

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

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

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

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

883 Section 13. Section **4-41a-901** is enacted to read:

884 **Part 9. Academic Medical Cannabis Research**

885 **4-41a-901. Academic medical cannabis research -- License.**

886 (1) A medical cannabis research licensee may, subject to department rules described in  
887 Subsection (4), obtain from a cannabis production establishment, and possess, cannabis for  
888 academic medical cannabis research.

889 (2) The department shall license a research university to obtain and possess cannabis  
890 for the purpose of academic medical cannabis research if the research university submits to the  
891 department:

892 (a) the location where the research university intends to conduct the research;

893 (b) the research university's research plan; and  
894 (c) the name of the employee of the research university who will:  
895 (i) supervise the obtaining of cannabis;  
896 (ii) be responsible to possess and secure the cannabis; and  
897 (iii) oversee the academic research.  
898 (3) The department shall maintain a list of each medical cannabis research licensee.  
899 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
900 Administrative Rulemaking Act, to:  
901 (a) establish requirements for a licensee to:  
902 (i) participate in academic medical cannabis research;  
903 (ii) obtain from a cannabis production establishment, and possess, cannabis for  
904 academic medical cannabis research; and  
905 (b) set sampling and testing procedures.  
906 (5) A medical cannabis research licensee shall provide to the department written  
907 consent allowing a representative of the department and local law enforcement to enter all  
908 premises where the licensee possesses or stores cannabis for the purpose of:  
909 (a) conducting a physical inspection; or  
910 (b) ensuring compliance with the requirements of this chapter.  
911 (6) An individual who has been convicted of a drug related felony within the last 10  
912 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis  
913 research licensee's license under this part.  
914 (7) The department may set a fee, in accordance with Subsection [4-2-103\(2\)](#), for the  
915 application for a medical cannabis research license.  
916 Section 14. Section **4-41a-902** is enacted to read:  
917 **4-41a-902. Cannabis production establishment product for academic research.**  
918 A cannabis production establishment may sell cannabis and cannabis products to a  
919 medical cannabis research licensee for the purpose of academic research.

920 Section 15. Section **4-41a-903** is enacted to read:

921 **4-41a-903. Unlawful acts.**

922 (1) It is unlawful for a person who is not operating under the license of a medical  
923 cannabis research licensee to obtain or possess cannabis for academic medical cannabis  
924 research.

925 (2) It is unlawful for a cannabis production establishment to offer, sell, or otherwise  
926 provide cannabis or cannabis products for the purpose of academic research to an entity that is  
927 not a medical cannabis research licensee.

928 (3) The department may seize from a medical cannabis research licensee and destroy  
929 cannabis or cannabis products that do not comply with this chapter.

930 Section 16. Section **10-9a-528** is enacted to read:

931 **10-9a-528. Cannabis production establishments and medical cannabis**  
932 **pharmacies.**

933 (1) As used in this section:

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

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

938 (2) (a) (i) A municipality may not regulate a cannabis production establishment in  
939 conflict with:

940 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable  
941 jurisprudence; and

942 (B) this chapter.

943 (ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

944 (A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence;

945 and

946 (B) this chapter.

947 (b) The Department of Agriculture and Food has plenary authority to license programs  
948 or entities that operate a cannabis production establishment.

949 (c) The Department of Health has plenary authority to license programs or entities that  
950 operate a medical cannabis pharmacy.

951 (3) (a) Within the time period described in Subsection (3)(b), a municipality shall  
952 prepare and adopt a land use regulation, development agreement, or land use decision in  
953 accordance with this title and:

954 (i) regarding a cannabis production establishment, Section [4-41a-406](#); or

955 (ii) regarding a medical cannabis pharmacy, Section [26-61a-507](#).

956 (b) A municipality shall take the action described in Subsection (3)(a):

957 (i) before January 1, 2021, within 45 days after the day on which the municipality  
958 receives a petition for the action; and

959 (ii) after January 1, 2021, in accordance with Subsection [10-9a-509.5\(2\)](#).

960 Section 17. Section **15A-5-103** is amended to read:

961 **15A-5-103. Nationally recognized codes incorporated by reference.**

962 The following codes are incorporated by reference into the State Fire Code:

963 (1) the International Fire Code, 2018 edition, excluding appendices, as issued by the  
964 International Code Council, Inc., except as amended by Part 2, Statewide Amendments and  
965 Additions to International Fire Code Incorporated as Part of State Fire Code;

966 (2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control  
967 and Fire Protection of Commercial Cooking Operations, 2017 edition, except as amended by  
968 Part 3, Amendments and Additions to National Fire Protection Association Incorporated as  
969 Part of State Fire Code; ~~and~~

970 (3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training  
971 Evolutions, 2012 edition, except as amended by Part 3, Amendments and Additions to National  
972 Fire Protection Association Incorporated as Part of State Fire Code~~[-];~~ and

973 (4) National Fire Protection Association, NFPA 1, Chapter 38, Marijuana Growing,

974 Processing, and Extraction Facilities, 2018 edition.

975 Section 18. Section **17-27a-525** is enacted to read:

976 **17-27a-525. Cannabis production establishments and medical cannabis**  
977 **pharmacies.**

978 (1) As used in this section:

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

981 (b) "Medical cannabis pharmacy" means the same as that term is defined in Section  
982 [26-61a-102](#).

983 (2) (a) (i) A county may not regulate a cannabis production establishment in conflict  
984 with:

985 (A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable  
986 jurisprudence; and

987 (B) this chapter.

988 (ii) A county may not regulate a medical cannabis pharmacy in conflict with:

989 (A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence;  
990 and

991 (B) this chapter.

992 (b) The Department of Agriculture and Food has plenary authority to license programs  
993 or entities that operate a cannabis production establishment.

994 (c) The Department of Health has plenary authority to license programs or entities that  
995 operate a medical cannabis pharmacy.

996 (3) (a) Within the time period described in Subsection (3)(b), a county shall prepare  
997 and adopt a land use regulation, development agreement, or land use decision in accordance  
998 with this title and:

999 (i) regarding a cannabis production establishment, Section [4-41a-406](#); or

1000 (ii) regarding a medical cannabis pharmacy, Section [26-61a-507](#).

1001 (b) A county shall take the action described in Subsection (3)(a):  
1002 (i) before January 1, 2021, within 45 days after the day on which the county receives a  
1003 petition for the action; and

1004 (ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

1005 Section 19. Section **26-61a-102** is amended to read:

1006 **26-61a-102. Definitions.**

1007 As used in this chapter:

1008 (1) "Blister" means a plastic cavity or pocket used to contain no more than a single  
1009 dose of cannabis or a cannabis product in a blister pack.

1010 (2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each  
1011 containing no more than a single dose of cannabis or a cannabis product.

1012 (3) "Cannabis" means marijuana.

1013 (4) "Cannabis cultivation facility" means the same as that term is defined in Section  
1014 4-41a-102.

1015 (5) "Cannabis processing facility" means the same as that term is defined in Section  
1016 4-41a-102.

1017 (6) "Cannabis product" means a product that:

1018 (a) is intended for human use; and

1019 (b) contains cannabis or tetrahydrocannabinol.

1020 (7) "Cannabis production establishment" means the same as that term is defined in  
1021 Section 4-41a-102.

1022 [~~(7)~~] (8) "Cannabis production establishment agent" means the same as that term is  
1023 defined in Section 4-41a-102.

1024 [~~(8)~~] (9) "Cannabis production establishment agent registration card" means the same  
1025 as that term is defined in Section 4-41a-102.

1026 [~~(9)~~] (10) "Community location" means a public or private school, a licensed child-care  
1027 facility or preschool, a church, a public library, a public playground, or a public park.

1028           ~~[(10)]~~ (11) "Department" means the Department of Health.

1029           ~~[(11)]~~ (12) "Designated caregiver" means an individual:

1030           (a) whom an individual with a medical cannabis patient card or a medical cannabis

1031 guardian card designates as the patient's caregiver; and

1032           (b) who registers with the department under Section [26-61a-202](#).

1033           ~~[(12)]~~ (13) "Dosing parameters" means quantity, routes, and frequency of

1034 administration for a recommended treatment of cannabis in a medicinal dosage form or a

1035 cannabis product in a medicinal dosage form.

1036           (14) "Financial institution" means a bank, trust company, savings institution, or credit

1037 union, chartered and supervised under state or federal law.

1038           (15) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy

1039 that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis

1040 shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the

1041 state central patient portal facilitates.

1042           ~~[(13)]~~ (16) "Independent cannabis testing laboratory" means the same as that term is

1043 defined in Section [4-41a-102](#).

1044           ~~[(14)]~~ (17) "Inventory control system" means the system described in Section

1045 [4-41a-103](#).

1046           ~~[(15)]~~ "~~Local health department~~" means the same as that term is defined in Section

1047 [26A-1-102](#).]

1048           ~~[(16)]~~ "~~Local health department distribution agent~~" means an agent designated and

1049 ~~registered to distribute state central fill shipments under Sections [26-61a-606](#) and [26-61a-607](#);~~

1050           ~~[(17)]~~ (18) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

1051           ~~[(18)]~~ (19) "Medical cannabis" means cannabis in a medicinal dosage form or a

1052 cannabis product in a medicinal dosage form.

1053           ~~[(19)]~~ (20) "Medical cannabis card" means a medical cannabis patient card, a medical

1054 cannabis guardian card, or a medical cannabis caregiver card.

1055 ~~[(20)]~~ (21) "Medical cannabis cardholder" means a holder of a medical cannabis card.

1056 ~~[(21)]~~ (22) "Medical cannabis caregiver card" means an ~~[official]~~ electronic document  
1057 that a cardholder may print or store on an electronic device or a physical card or document that:

1058 (a) the department issues to an individual whom a medical cannabis patient cardholder  
1059 or a medical cannabis guardian cardholder designates as a designated caregiver; and

1060 (b) is connected to the electronic verification system.

1061 (23) "Medical cannabis courier" means a courier that:

1062 (a) the department licenses in accordance with Section [26-61a-604](#); and

1063 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical  
1064 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

1065 ~~[(22)]~~ (24) (a) "Medical cannabis device" means a device that an individual uses to  
1066 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal  
1067 dosage form.

1068 (b) "Medical cannabis device" does not include a device that:

1069 (i) facilitates cannabis combustion; or

1070 (ii) an individual uses to ingest substances other than cannabis.

1071 ~~[(23)]~~ (25) "Medical cannabis guardian card" means an ~~[official]~~ electronic document  
1072 that a cardholder may print or store on an electronic device or a physical card or document that:

1073 (a) the department issues to the parent or legal guardian of a minor with a qualifying  
1074 condition; and

1075 (b) is connected to the electronic verification system.

1076 ~~[(24)]~~ (26) "Medical cannabis patient card" means an ~~[official]~~ electronic document  
1077 that a cardholder may print or store on an electronic device or a physical card or document that:

1078 (a) the department issues to an individual with a qualifying condition; and

1079 (b) is connected to the electronic verification system.

1080 ~~[(25)]~~ (27) "Medical cannabis pharmacy" means a person that:

1081 (a) (i) acquires or intends to acquire:

1082 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage  
1083 form from a cannabis processing facility; or

1084 (B) a medical cannabis device; or

1085 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal  
1086 dosage form, or a medical cannabis device; and

1087 (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a  
1088 medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

1089 ~~[(26)]~~ (28) "Medical cannabis pharmacy agent" means an individual who:

1090 (a) is an employee of a medical cannabis pharmacy; and

1091 (b) who holds a valid medical cannabis pharmacy agent registration card.

1092 ~~[(27)]~~ (29) "Medical cannabis pharmacy agent registration card" means a registration  
1093 card issued by the department that authorizes an individual to act as a medical cannabis  
1094 pharmacy agent.

1095 (30) "Medical cannabis shipment" means a shipment of medical cannabis or a medical  
1096 cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis  
1097 courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical  
1098 cannabis order that the state central patient portal facilitates.

1099 ~~[(28)]~~ (31) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a  
1100 cannabis product in a medicinal dosage form, or a medical cannabis device.

1101 ~~[(29)]~~ (32) (a) "Medicinal dosage form" means:

1102 (i) for processed medical cannabis or a medical cannabis product, the following with a  
1103 specific and consistent cannabinoid content:

1104 (A) a tablet;

1105 (B) a capsule;

1106 (C) a concentrated oil;

1107 (D) a liquid suspension;

1108 (E) a topical preparation;

- 1109 (F) a transdermal preparation;
- 1110 (G) a sublingual preparation;
- 1111 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or  
1112 rectangular cuboid shape; or
- 1113 (I) for use only after the individual's qualifying condition has failed to substantially  
1114 respond to at least two other forms described in this Subsection [~~(29)~~] (32)(a)(i), a resin or  
1115 wax;
- 1116 (ii) for unprocessed cannabis flower, a blister pack, with each individual blister:
- 1117 (A) containing a specific and consistent weight that does not exceed one gram and that  
1118 varies by no more than 10% from the stated weight; and
- 1119 (B) after December 31, 2020, labeled with a barcode that provides information  
1120 connected to an inventory control system and the individual blister's content and weight; and
- 1121 (iii) a form measured in grams, milligrams, or milliliters.
- 1122 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:
- 1123 (i) the medical cannabis cardholder has recently removed from the blister pack  
1124 described in Subsection [~~(29)~~] (32)(a)(ii) for use; and
- 1125 (ii) does not exceed the quantity described in Subsection [~~(29)~~] (32)(a)(ii).
- 1126 (c) "Medicinal dosage form" does not include:
- 1127 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in  
1128 Subsection [~~(29)~~] (32)(b); or
- 1129 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis  
1130 on a nail or other metal object that is heated by a flame, including a blowtorch.
- 1131 (33) "Payment provider" means an entity that contracts with a cannabis production  
1132 establishment or medical cannabis pharmacy to facilitate transfers of funds between the  
1133 establishment or pharmacy and other businesses or individuals.
- 1134 [~~(30)~~] (34) "Pharmacy medical provider" means the medical provider required to be on  
1135 site at a medical cannabis pharmacy under Section 26-61a-403.

- 1136           ~~[(31)]~~ (35) "Provisional patient card" means a card that:
- 1137           (a) the department issues to a minor with a qualifying condition for whom:
- 1138           (i) a qualified medical provider has recommended a medical cannabis treatment; and
- 1139           (ii) the department issues a medical cannabis guardian card to the minor's parent or
- 1140 legal guardian; and
- 1141           (b) is connected to the electronic verification system.
- 1142           ~~[(32)]~~ (36) "Qualified medical provider" means an individual who is qualified to
- 1143 recommend treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).
- 1144           ~~[(33)] "Qualified Distribution Enterprise Fund" means the enterprise fund created in~~
- 1145 ~~Section [26-61a-110](#).]~~
- 1146           ~~[(34)]~~ (37) "Qualified Patient Enterprise Fund" means the enterprise fund created in
- 1147 Section [26-61a-109](#).
- 1148           ~~[(35)]~~ (38) "Qualifying condition" means a condition described in Section [26-61a-104](#).
- 1149           ~~[(36)] "State central fill agent" means an employee of the state central fill medical~~
- 1150 ~~cannabis pharmacy that the department registers in accordance with Section [26-61a-602](#).]~~
- 1151           ~~[(37)] "State central fill medical cannabis pharmacy" means the central fill pharmacy~~
- 1152 ~~that the department creates in accordance with Section [26-61a-601](#).]~~
- 1153           (39) "State central patient portal" means the website the department creates, in
- 1154 accordance with Section [26-61a-601](#), to facilitate patient safety, education, and an electronic
- 1155 medical cannabis order.
- 1156           ~~[(38)]~~ (40) "State central [~~fill medical provider~~] patient portal medical provider" means
- 1157 a physician or pharmacist that the [~~state central fill medical cannabis pharmacy~~] department
- 1158 employs in relation to the state central patient portal to consult with medical cannabis
- 1159 cardholders in accordance with Section [~~26-61a-601~~] [26-61a-602](#).
- 1160           ~~[(39)] "State central fill shipment" means a shipment of cannabis in a medicinal dosage~~
- 1161 ~~form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state~~
- 1162 ~~central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis~~

1163 cardholder in a local health department.]

1164 [~~(40)~~] (41) "State electronic verification system" means the system described in Section  
1165 26-61a-103.

1166 (42) "Valid form of photo identification" means a valid United States federal- or  
1167 state-issued photo identification, including:

1168 (a) a driver license;

1169 (b) a United States passport;

1170 (c) a United States passport card; or

1171 (d) a United States military identification card.

1172 Section 20. Section **26-61a-103** is amended to read:

1173 **26-61a-103. Electronic verification system.**

1174 (1) The Department of Agriculture and Food, the department, the Department of Public  
1175 Safety, and the Department of Technology Services shall:

1176 (a) enter into a memorandum of understanding in order to determine the function and  
1177 operation of the state electronic verification system in accordance with Subsection (2);

1178 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah  
1179 Procurement Code, to develop a request for proposals for a third-party provider to develop and  
1180 maintain the state electronic verification system in coordination with the Department of  
1181 Technology Services; and

1182 (c) select a third-party provider who:

1183 (i) meets the requirements contained in the request for proposals issued under  
1184 Subsection (1)(b); and

1185 (ii) may not have any commercial or ownership interest in a cannabis production  
1186 establishment or a medical cannabis pharmacy.

1187 (2) The Department of Agriculture and Food, the department, the Department of Public  
1188 Safety, and the Department of Technology Services shall ensure that, on or before March 1,  
1189 2020, the state electronic verification system described in Subsection (1):

1190 (a) allows an individual, with the individual's qualified medical provider in the qualified  
1191 medical provider's office, to apply for a medical cannabis patient card or, if applicable, a  
1192 medical cannabis guardian card;

1193 (b) allows an individual to apply to renew a medical cannabis patient card or a medical  
1194 cannabis guardian card in accordance with Section 26-61a-201;

1195 (c) allows a qualified medical provider to:

1196 (i) access dispensing and card status information regarding a patient:

1197 (A) with whom the qualified medical provider has a provider-patient relationship; and

1198 (B) for whom the qualified medical provider has recommended or is considering  
1199 recommending a medical cannabis card;

1200 (ii) electronically recommend, during a visit with a patient, treatment with cannabis in a  
1201 medicinal dosage form or a cannabis product in a medicinal dosage form and optionally  
1202 recommend dosing parameters;

1203 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or  
1204 medical cannabis guardian cardholder:

1205 (A) for the qualified medical provider who originally recommended a medical cannabis  
1206 treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

1207 (B) for a qualified medical provider who did not originally recommend the medical  
1208 cannabis treatment, during a face-to-face visit with a patient; and

1209 ~~[(iv) at the request of a medical cannabis cardholder, initiate a state central fill  
1210 shipment in accordance with Section 26-61a-603;]~~

1211 (iv) notate a determination of physical difficulty or undue hardship, described in  
1212 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

1213 (d) connects with:

1214 (i) an inventory control system that a medical cannabis pharmacy ~~[and the state central~~  
1215 ~~fill medical cannabis pharmacy use]~~ uses to track in real time and archive purchases of any  
1216 cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a

1217 medical cannabis device, including:

1218       (A) the time and date of each purchase;

1219       (B) the quantity and type of cannabis, cannabis product, or medical cannabis device

1220 purchased;

1221       (C) any cannabis production establishment, any medical cannabis pharmacy, or [~~the~~

1222 ~~state central fill~~] any medical cannabis [~~pharmacy~~] courier associated with the cannabis,

1223 cannabis product, or medical cannabis device; and

1224       (D) the personally identifiable information of the medical cannabis cardholder who

1225 made the purchase; and

1226       (ii) any commercially available inventory control system that a cannabis production

1227 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of

1228 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah

1229 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to

1230 track and confirm compliance;

1231       (e) provides access to:

1232       (i) the department to the extent necessary to carry out the department's functions and

1233 responsibilities under this chapter;

1234       (ii) the Department of Agriculture and Food to the extent necessary to carry out the

1235 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter

1236 41a, Cannabis Production Establishments; and

1237       (iii) the Division of Occupational and Professional Licensing to the extent necessary to

1238 carry out the functions and responsibilities related to the participation of the following in the

1239 recommendation and dispensing of medical cannabis:

1240       (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1241       (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

1242 Practice Act;

1243       (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

1244 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or  
1245 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
1246 Assistant Act;

1247 (f) provides access to and interaction with the state central ~~[fill medical cannabis~~  
1248 ~~pharmacy, state central fill agents, and local health department distribution agents, to facilitate~~  
1249 ~~the state central fill shipment process]~~ patient portal;

1250 (g) provides access to state or local law enforcement:

1251 (i) during a traffic stop for the purpose of determining if the individual subject to the  
1252 traffic stop is in compliance with state medical cannabis law; or

1253 (ii) after obtaining a warrant; and

1254 (h) creates a record each time a person accesses the database that identifies the person  
1255 who accesses the database and the individual whose records the person accesses.

1256 (3) The department may release ~~[de-identified]~~ limited data that the system collects for  
1257 the purpose of:

1258 (a) conducting medical and other department approved research; ~~[and]~~  
1259 (b) providing the report required by Section [26-61a-703](#)~~[-];~~ and  
1260 other official department purposes.

1261 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
1262 Administrative Rulemaking Act, to establish:

1263 (a) the limitations on access to the data in the state electronic verification system as  
1264 described in this section; and

1265 (b) standards and procedures to ensure accurate identification of an individual  
1266 requesting information or receiving information in this section.

1267 (5) (a) Any person who knowingly and intentionally releases any information in the  
1268 state electronic verification system in violation of this section is guilty of a third degree felony.

1269 (b) Any person who negligently or recklessly releases any information in the state  
1270 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1271 (6) (a) Any person who obtains or attempts to obtain information from the state  
1272 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1273 (b) Any person who obtains or attempts to obtain information from the state electronic  
1274 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third  
1275 degree felony.

1276 (7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and  
1277 intentionally use, release, publish, or otherwise make available to any other person information  
1278 obtained from the state electronic verification system for any purpose other than a purpose  
1279 specified in this section.

1280 (b) Each separate violation of this Subsection (7) is:

1281 (i) a third degree felony; and

1282 (ii) subject to a civil penalty not to exceed \$5,000.

1283 (c) The department shall determine a civil violation of this Subsection (7) in  
1284 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1285 (d) Civil penalties assessed under this Subsection (7) shall be deposited into the  
1286 General Fund.

1287 (e) This Subsection (7) does not prohibit a person who obtains information from the  
1288 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1289 (i) including the information in the person's medical chart or file for access by a person  
1290 authorized to review the medical chart or file;

1291 (ii) providing the information to a person in accordance with the requirements of the  
1292 Health Insurance Portability and Accountability Act of 1996; or

1293 (iii) discussing or sharing that information about the patient with the patient.

1294 Section 21. Section **26-61a-106** is amended to read:

1295 **26-61a-106. Qualified medical provider registration -- Continuing education --**  
1296 **Treatment recommendation.**

1297 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a

1298 medical cannabis treatment unless the department registers the individual as a qualified  
1299 medical provider in accordance with this section.

1300 (b) An individual who meets the qualifications in Subsections [26-61a-106\(2\)\(a\)\(iii\)](#)  
1301 and (iv) may recommend a medical cannabis treatment without registering under Subsection  
1302 (1)(a) until January 1, 2021.

1303 (2) (a) The department shall, within 15 days after the day on which the department  
1304 receives an application from an individual, register and issue a qualified medical provider  
1305 registration card to the individual if the individual:

1306 (i) provides to the department the individual's name and address;

1307 (ii) provides to the department a report detailing the individual's completion of the  
1308 applicable continuing education requirement described in Subsection (3);

1309 (iii) provides to the department evidence that the individual:

1310 (A) has the authority to write a prescription;

1311 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah  
1312 Controlled Substances Act; and

1313 (C) possesses the authority, in accordance with the individual's scope of practice, to  
1314 prescribe a Schedule II controlled substance;

1315 (iv) provides to the department evidence that the individual is:

1316 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
1317 Practice Act;

1318 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
1319 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1320 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant  
1321 Act, whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),  
1322 includes the recommending of medical cannabis, and whose supervising physician is a  
1323 qualified medical provider; and

1324 (v) pays the department a fee in an amount that:

- 1325 (A) the department sets, in accordance with Section [63J-1-504](#); and  
1326 (B) does not exceed \$300 for an initial registration.
- 1327 (b) The department may not register an individual as a qualified medical provider if the  
1328 individual is:
- 1329 (i) a pharmacy medical provider [~~or a state central fill medical provider~~]; or  
1330 (ii) an owner, officer, director, board member, employee, or agent of a cannabis  
1331 production establishment [~~or~~], a medical cannabis pharmacy, or a medical cannabis courier.
- 1332 (3) (a) An individual shall complete the continuing education described in this  
1333 Subsection (3) in the following amounts:
- 1334 (i) for an individual as a condition precedent to registration, four hours; and  
1335 (ii) for a qualified medical provider as a condition precedent to renewal, four hours  
1336 every two years.
- 1337 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:
- 1338 (i) complete continuing education:
- 1339 (A) regarding the topics described in Subsection (3)(d); and  
1340 (B) offered by the department under Subsection (3)(c) or an accredited or approved  
1341 continuing education provider that the department recognizes as offering continuing education  
1342 appropriate for the recommendation of cannabis to patients; and
- 1343 (ii) make a continuing education report to the department in accordance with a process  
1344 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah  
1345 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and  
1346 Professional Licensing and:
- 1347 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,  
1348 Nurse Practice Act, the Board of Nursing;
- 1349 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical  
1350 Practice Act, the Physicians Licensing Board;
- 1351 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah

1352 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;  
1353 and

1354 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
1355 Assistant Act, the Physician Assistant Licensing Board.

1356 (c) The department may, in consultation with the Division of Occupational and  
1357 Professional Licensing, develop the continuing education described in this Subsection (3).

1358 (d) The continuing education described in this Subsection (3) may discuss:

1359 (i) the provisions of this chapter;

1360 (ii) general information about medical cannabis under federal and state law;

1361 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,  
1362 including risks and benefits;

1363 (iv) recommendations for medical cannabis as it relates to the continuing care of a  
1364 patient in pain management, risk management, potential addiction, or palliative care; and

1365 (v) best practices for recommending the form and dosage of medical cannabis products  
1366 based on the qualifying condition underlying a medical cannabis recommendation.

1367 (4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may  
1368 not recommend a medical cannabis treatment to more than 175 of the qualified medical  
1369 provider's patients at the same time, as determined by the number of medical cannabis cards  
1370 under the qualified medical provider's name in the state electronic verification system.

1371 (b) Except as provided in Subsection (4)(c), a qualified medical provider may  
1372 recommend a medical cannabis treatment to up to 300 of the qualified medical provider's  
1373 patients at any given time, as determined by the number of medical cannabis cards under the  
1374 qualified medical provider's name in the state electronic verification system, if:

1375 (i) the appropriate American medical board has certified the qualified medical provider  
1376 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and  
1377 palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

1378 (ii) a licensed business employs or contracts with the qualified medical provider for the

1379 specific purpose of providing hospice and palliative care.

1380 (c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in  
1381 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for  
1382 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of  
1383 100 patients per authorization, not to exceed three authorizations.

1384 (ii) The Division of Occupational and Professional Licensing shall grant the  
1385 authorization described in Subsection (4)(c)(i) if:

1386 (A) the petitioning qualified medical provider pays a \$100 fee;

1387 (B) the division performs a review that includes the qualified medical provider's  
1388 medical cannabis recommendation activity in the state electronic verification system, relevant  
1389 information related to patient demand, and any patient medical records that the division  
1390 determines would assist in the division's review; and

1391 (C) after the review described in this Subsection (4)(c)(ii), the division determines that  
1392 granting the authorization would not adversely affect public safety, adversely concentrate the  
1393 overall patient population among too few qualified medical providers, or adversely concentrate  
1394 the use of medical cannabis among the provider's patients.

1395 (5) A qualified medical provider may recommend medical cannabis to an individual  
1396 under this chapter only in the course of a qualified medical provider-patient relationship after  
1397 the qualifying medical provider has completed and documented in the patient's medical record  
1398 a thorough assessment of the patient's condition and medical history based on the appropriate  
1399 standard of care for the patient's condition.

1400 (6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not  
1401 advertise that the qualified medical provider recommends medical cannabis treatment.

1402 (b) For purposes of Subsection (6)(a), the communication of the following, through a  
1403 website does not constitute advertising:

1404 (i) a green cross;

1405 (ii) a qualifying condition that the qualified medical provider treats; or

1406 (iii) a scientific study regarding medical cannabis use.

1407 (7) (a) A qualified medical provider registration card expires two years after the day on  
1408 which the department issues the card.

1409 (b) The department shall renew a qualified medical provider's registration card if the  
1410 provider:

1411 (i) applies for renewal;

1412 (ii) is eligible for a qualified medical provider registration card under this section,  
1413 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

1414 (iii) certifies to the department in a renewal application that the information in  
1415 Subsection (2)(a) is accurate or updates the information;

1416 (iv) submits a report detailing the completion of the continuing education requirement  
1417 described in Subsection (3); and

1418 (v) pays the department a fee in an amount that:

1419 (A) the department sets, in accordance with Section [63J-1-504](#); and

1420 (B) does not exceed \$50 for a registration renewal.

1421 (8) The department may revoke the registration of a qualified medical provider who  
1422 fails to maintain compliance with the requirements of this section.

1423 (9) A qualified medical provider may not receive any compensation or benefit for the  
1424 qualified medical provider's medical cannabis treatment recommendation from:

1425 (a) a cannabis production establishment or an owner, officer, director, board member,  
1426 employee, or agent of a cannabis production establishment;

1427 (b) a medical cannabis pharmacy or an owner, officer, director, board member,  
1428 employee, or agent of a medical cannabis pharmacy; or

1429 (c) a qualified medical provider or pharmacy medical provider.

1430 Section 22. Section **26-61a-107** is amended to read:

1431 **26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No**  
1432 **private right of action.**

1433 (1) An individual described in Subsection (2) is not subject to the following solely for  
1434 violating a federal law or regulation that would otherwise prohibit recommending, prescribing,  
1435 or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the  
1436 United States Food and Drug Administration has not approved:

1437 (a) civil or criminal liability; or

1438 (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58,  
1439 Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58,  
1440 Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician  
1441 Assistant Act.

1442 (2) The limitations of liability described in Subsection (1) apply to:

1443 (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
1444 Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
1445 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed  
1446 under Title 58, Chapter 70a, Utah Physician Assistant Act:

1447 (i) (A) whom the department has registered as a qualified medical provider; and

1448 (B) who recommends treatment with cannabis in a medicinal dosage form or a  
1449 cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

1450 (ii) before January 1, 2021, who:

1451 (A) has the authority to write a prescription; and

1452 (B) recommends a medical cannabis treatment to a patient who has a qualifying  
1453 condition; and

1454 (b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

1455 (i) whom the department has registered as a pharmacy medical provider [~~or a state~~  
1456 ~~central fill medical provider~~]; and

1457 (ii) who dispenses, in a medical cannabis pharmacy [~~or the state central fill medical~~  
1458 ~~cannabis pharmacy~~], treatment with cannabis in a medicinal dosage form or a cannabis product  
1459 in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

1460 (3) Nothing in this section or chapter reduces or in any way negates the duty of an  
1461 individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a  
1462 patient:

1463 (a) who may have a qualifying condition; and

1464 (b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has  
1465 recommended or might consider recommending a treatment with cannabis or a cannabis  
1466 product; or

1467 (ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the  
1468 dosing or dispensing of cannabis or a cannabis product.

1469 Section 23. Section **26-61a-109** is amended to read:

1470 **26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.**

1471 (1) There is created an enterprise fund known as the "Qualified Patient Enterprise  
1472 Fund."

1473 (2) The fund created in this section is funded from:

1474 (a) money the department deposits into the fund under this chapter;

1475 (b) appropriations the Legislature makes to the fund; and

1476 (c) the interest described in Subsection (3).

1477 (3) Interest earned on the fund shall be deposited into the fund.

1478 (4) The department may only use money in the fund to fund the department's  
1479 responsibilities under this chapter[, ~~except for the responsibilities described in Subsection~~  
1480 ~~26-61a-110(4)~~].

1481 (5) The department shall set fees authorized under this chapter in amounts that the  
1482 department anticipates are necessary, in total, to cover the department's cost to implement this  
1483 chapter.

1484 Section 24. Section **26-61a-111** is amended to read:

1485 **26-61a-111. Nondiscrimination for medical care or government employment --**  
1486 **Notice to prospective and current public employees.**

1487 (1) For purposes of medical care, including an organ or tissue transplant, a patient's  
1488 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis  
1489 product in a medicinal dosage form:

1490 (a) is considered the equivalent of the authorized use of any other medication used at  
1491 the discretion of a physician; and

1492 (b) does not constitute the use of an illicit substance or otherwise disqualify an  
1493 individual from needed medical care.

1494 (2) (a) Notwithstanding any other provision of law and except as provided in  
1495 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical  
1496 cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or  
1497 political subdivision treats employee use of [~~opoids and opiates~~] any prescribed controlled  
1498 substance.

1499 (b) Subsection (2)(a) does not apply where the application of Subsection (2)(a) would  
1500 jeopardize federal funding, a federal security clearance, or any other federal background  
1501 determination required for the employee's position.

1502 (3) (a) (i) A state employer or a political subdivision employer shall take the action  
1503 described in Subsection (3)(a)(ii) before:

1504 (A) giving to a current employee an assignment or duty that arises from or directly  
1505 relates to an obligation under this chapter; or

1506 (B) hiring a prospective employee whose assignments or duties would include an  
1507 assignment or duty that arises from or directly relates to an obligation under this chapter.

1508 (ii) The employer described in Subsection (3)(a)(i) shall give the employee or  
1509 prospective employee described in Subsection (3)(a)(i) a written notice that notifies the  
1510 employee or prospective employee:

1511 (A) that the employee's or prospective employee's job duties may require the employee  
1512 or prospective employee to engage in conduct which is in violation of the criminal laws of the  
1513 United States; and

1514 (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i),  
1515 although the employee or prospective employee is entitled to the protections of Title 67,  
1516 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to  
1517 carry out an assignment or duty that may be a violation of the criminal laws of the United  
1518 States with respect to the manufacture, sale, or distribution of cannabis.

1519 (b) The Department of Human Resource Management shall create, revise, and publish  
1520 the form of the notice described in Subsection (3)(a).

1521 (c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice  
1522 described in Subsection (3)(a) may not:

1523 (i) claim in good faith that the employee's actions violate or potentially violate the laws  
1524 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

1525 (ii) refuse to carry out a directive that the employee reasonably believes violates the  
1526 criminal laws of the United States with respect to the manufacture, sale, or distribution of  
1527 cannabis.

1528 (d) An employer of an employee who has signed the notice described in Subsection  
1529 (3)(a) may not take retaliatory action as defined in Section 67-19a-101 against a current  
1530 employee who refuses to sign the notice described in Subsection (3)(a).

1531 Section 25. Section 26-61a-115 is enacted to read:

1532 **26-61a-115. Analogous to prescribed controlled substances.**

1533 When an employee, officer, or agent of the state or a political subdivision makes a  
1534 finding, determination, or otherwise considers an individual's possession or use of cannabis, a  
1535 cannabis product, or a medical cannabis device, the employee, officer, or agent may not  
1536 consider the individual's possession or use any differently than the lawful possession or use of  
1537 any prescribed controlled substance, if the individual's possession or use complies with:

1538 (1) this chapter;

1539 (2) Title 4, Chapter 41a, Cannabis Production Establishments; or

1540 (3) Subsection 58-37-3.7(2) or (3).

1541 Section 26. Section **26-61a-201** is amended to read:

1542 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**  
1543 **application -- Fees -- Studies.**

1544 (1) On or before March 1, 2020, the department shall, within 15 days after the day on  
1545 which an individual who satisfies the eligibility criteria in this section or Section **26-61a-202**  
1546 submits an application in accordance with this section or Section **26-61a-202**:

1547 (a) issue a medical cannabis patient card to an individual described in Subsection

1548 (2)(a);

1549 (b) issue a medical cannabis guardian card to an individual described in Subsection

1550 (2)(b);

1551 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1552 (d) issue a medical cannabis caregiver card to an individual described in Subsection

1553 **26-61a-202(4).**

1554 (2) (a) An individual is eligible for a medical cannabis patient card if:

1555 (i) (A) the individual is at least 21 years old; or

1556 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate  
1557 use board under Section **26-61a-105**, and the compassionate use board recommends department  
1558 approval of the petition;

1559 (ii) the individual is a Utah resident;

1560 (iii) the individual's qualified medical provider recommends treatment with medical  
1561 cannabis in accordance with Subsection (4);

1562 (iv) the individual signs an acknowledgment stating that the individual received the  
1563 information described in Subsection (8); and

1564 (v) the individual pays to the department a fee in an amount that, subject to Subsection  
1565 **26-61a-109(5)**, the department sets in accordance with Section **63J-1-504**.

1566 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1567 (A) is at least 18 years old;

- 1568 (B) is a Utah resident;
- 1569 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical  
1570 provider recommends a medical cannabis treatment, the individual petitions the compassionate  
1571 use board under Section 26-61a-105, and the compassionate use board recommends department  
1572 approval of the petition;
- 1573 (D) the individual signs an acknowledgment stating that the individual received the  
1574 information described in Subsection (8);
- 1575 (E) pays to the department a fee in an amount that, subject to Subsection  
1576 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the  
1577 criminal background check described in Section 26-61a-203; and
- 1578 (F) the individual has not been convicted of a misdemeanor or felony drug distribution  
1579 offense under either state or federal law, unless the individual completed any imposed sentence  
1580 six months or more before the day on which the individual applies for a medical cannabis  
1581 guardian card.
  - 1582 (ii) The department shall notify the Department of Public Safety of each individual that  
1583 the department registers for a medical cannabis guardian card.
- 1584 (c) (i) A minor is eligible for a provisional patient card if:
  - 1585 (A) the minor has a qualifying condition;
  - 1586 (B) the minor's qualified medical provider recommends a medical cannabis treatment  
1587 to address the minor's qualifying condition;
  - 1588 (C) the minor's parent or legal guardian petitions the compassionate use board under  
1589 Section 26-61a-105, and the compassionate use board recommends department approval of the  
1590 petition; and
  - 1591 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card  
1592 under Subsection (2)(b).
- 1593 (ii) The department shall automatically issue a provisional patient card to the minor  
1594 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis

1595 guardian card to the minor's parent or legal guardian.

1596 (3) (a) An individual who is eligible for a medical cannabis card described in  
1597 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the  
1598 department:

1599 (i) through an electronic application connected to the state electronic verification  
1600 system;

1601 (ii) with the recommending qualified medical provider while in the recommending  
1602 qualified medical provider's office; and

1603 (iii) with information including:

1604 (A) the applicant's name, gender, age, and address;

1605 (B) the number of the applicant's valid form of photo identification [~~that is a valid~~  
1606 ~~United States federal- or state-issued photo identification, including a driver license, a United~~  
1607 ~~States passport, a United States passport card, or a United States military identification card~~];

1608 (C) for a medical cannabis guardian card, the name, gender, and age of the minor  
1609 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;  
1610 and

1611 (D) for a provisional patient card, the name of the minor's parent or legal guardian who  
1612 holds the associated medical cannabis guardian card.

1613 (b) The department shall ensure that a medical cannabis card the department issues  
1614 under this section contains the information described in Subsection (3)(a)(iii).

1615 (c) (i) If a qualified medical provider determines that, because of age, illness, or  
1616 disability, a medical cannabis patient cardholder requires assistance in administering the  
1617 medical cannabis treatment that the qualified medical provider recommends, the qualified  
1618 medical provider may indicate the cardholder's need in the state electronic verification system.

1619 (ii) If a qualified medical provider makes the indication described in Subsection  
1620 (3)(c)(i):

1621 (A) the department shall add a label to the relevant medical cannabis patient card

1622 indicating the cardholder's need for assistance; and

1623 (B) any adult who is 21 years old or older and who is physically present with the  
1624 cardholder at the time the cardholder needs to use the recommended medical cannabis  
1625 treatment may handle the medical cannabis treatment and any associated medical cannabis  
1626 device as needed to assist the cardholder in administering the recommended medical cannabis  
1627 treatment, including in the event of an emergency medical condition under Subsection  
1628 [26-61a-204\(2\)](#).

1629 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

1630 (A) ingest or inhale medical cannabis;

1631 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside  
1632 of the immediate area where the cardholder is present or with an intent other than to provide  
1633 assistance to the cardholder; or

1634 (C) possess, transport, or handle medical cannabis or a medical cannabis device when  
1635 the cardholder is not in the process of being dosed with medical cannabis.

1636 (4) To recommend a medical cannabis treatment to a patient or to renew a  
1637 recommendation, a qualified medical provider shall:

1638 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in  
1639 a medicinal dosage form:

1640 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal  
1641 guardian's valid form of identification described in Subsection (3)(a);

1642 (ii) review any record related to the patient and, for a minor patient, the patient's parent  
1643 or legal guardian in:

1644 (A) the state electronic verification system; and

1645 (B) the controlled substance database created in Section [58-37f-201](#); and

1646 (iii) consider the recommendation in light of the patient's qualifying condition and  
1647 history of medical cannabis and controlled substance use; and

1648 (b) state in the qualified medical provider's recommendation that the patient:

1649 (i) suffers from a qualifying condition, including the type of qualifying condition; and  
1650 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis  
1651 product in a medicinal dosage form.

1652 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the  
1653 department issues under this section is valid for the lesser of:

1654 (i) an amount of time that the qualified medical provider determines; or

1655 (ii) (A) for the first issuance, 30 days; or

1656 (B) for a renewal, six months.

1657 (b) (i) A medical cannabis card that the department issues in relation to a terminal  
1658 illness described in Section 26-61a-104 does not expire.

1659 (ii) The recommending qualified medical provider may revoke a recommendation that  
1660 the provider made in relation to a terminal illness described in Section 26-61a-104 if the  
1661 medical cannabis cardholder no longer has the terminal illness.

1662 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is  
1663 renewable if:

1664 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or  
1665 (b); or

1666 (ii) the cardholder received the medical cannabis card through the recommendation of  
1667 the compassionate use board under Section 26-61a-105.

1668 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

1669 (i) using the application process described in Subsection (3); or

1670 (ii) through phone or video conference with the qualified medical provider who made  
1671 the recommendation underlying the card, at the qualifying medical provider's discretion.

1672 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall  
1673 pay to the department a renewal fee in an amount that:

1674 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section  
1675 63J-1-504; and

1676 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in  
1677 comparison to the original application process.

1678 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional  
1679 patient card renews automatically at the time the minor's parent or legal guardian renews the  
1680 parent or legal guardian's associated medical cannabis guardian card.

1681 (e) The department may revoke a medical cannabis guardian card if the cardholder  
1682 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense  
1683 under either state or federal law.

1684 (7) (a) A cardholder under this section shall carry the cardholder's valid medical  
1685 cannabis card with the patient's name.

1686 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may  
1687 purchase, in accordance with this chapter and the recommendation underlying the card,  
1688 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a  
1689 medical cannabis device.

1690 (ii) A cardholder under this section may possess or transport, in accordance with this  
1691 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a  
1692 cannabis product in a medicinal dosage form, or a medical cannabis device.

1693 (iii) To address the qualifying condition underlying the medical cannabis treatment  
1694 recommendation:

1695 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use  
1696 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,  
1697 or a medical cannabis device; and

1698 (B) a medical cannabis guardian cardholder may assist the associated provisional  
1699 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis  
1700 product in a medicinal dosage form, or a medical cannabis device.

1701 (c) If ~~[neither]~~ a licensed medical cannabis pharmacy ~~[nor the state central fill medical~~  
1702 ~~cannabis pharmacy]~~ is not operating within the state after January 1, 2021, a cardholder under

1703 this section is not subject to prosecution for the possession of:

1704 (i) no more than 113 grams of marijuana in a medicinal dosage form;

1705 (ii) an amount of cannabis product in a medicinal dosage form that contains no more

1706 than 20 grams of tetrahydrocannabinol; or

1707 (iii) marijuana drug paraphernalia.

1708 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,

1709 Utah Administrative Rulemaking Act, a process to provide information regarding the following

1710 to an individual receiving a medical cannabis card:

1711 (a) risks associated with medical cannabis treatment;

1712 (b) the fact that a condition's listing as a qualifying condition does not suggest that

1713 medical cannabis treatment is an effective treatment or cure for that condition, as described in

1714 Subsection [26-61a-104](#)(1); and

1715 (c) other relevant warnings and safety information that the department determines.

1716 (9) The department may establish procedures by rule, in accordance with Title 63G,

1717 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance

1718 provisions of this section.

1719 (10) (a) A person may submit[;] to the department a request to conduct a [medical]

1720 research study using medical cannabis cardholder data that the state electronic verification

1721 system contains.

1722 (b) The department shall review a request described in Subsection (10)(a) to determine

1723 whether an institutional review board, as that term is defined in Section [26-61-102](#), could

1724 approve the [medical] research study [is valid].

1725 (c) [~~If the department makes a determination under Subsection (10)(b) that the medical~~

1726 ~~research study is valid,]~~ At the time an individual applies for a medical cannabis card, the

1727 department shall notify [each relevant] the individual:

1728 (i) of how the individual's information will be used as a cardholder [asking for];

1729 (ii) that by applying for a medical cannabis card, unless the individual withdraws

1730 consent under Subsection (10)(d), the individual consents to the use of the individual's  
 1731 information for external research; and

1732 (iii) that the individual may withdraw consent for the use of the individual's  
 1733 information for external research at any time, including at the time of application.

1734 (d) An applicant may, through the medical cannabis card application, and a medical  
 1735 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or  
 1736 cardholder's consent to participate in [the study] external research at any time.

1737 ~~[(d)]~~ (e) The department may release, for the purposes of a study described in this  
 1738 Subsection (10), information about a cardholder under this section who consents to participate  
 1739 under Subsection (10)(c).

1740 (f) If an individual withdraws consent under Subsection (10)(d), the withdrawal of  
 1741 consent:

1742 (i) applies to external research that is initiated after the withdrawal of consent; and

1743 (ii) does not apply to research that was initiated before the withdrawal of consent.

1744 ~~[(e)]~~ (g) The department may establish standards for a medical research study's  
 1745 validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
 1746 Rulemaking Act.

1747 Section 27. Section **26-61a-202** is amended to read:

1748 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**  
 1749 **Revocation.**

1750 (1) A cardholder described in Section **26-61a-201** may designate, through the state  
 1751 central patient portal, up to two individuals to serve as a designated caregiver for the  
 1752 cardholder if a qualified medical provider notates in the electronic verification system that the  
 1753 provider determines that, due to physical difficulty or undue hardship, including concerns of  
 1754 distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical  
 1755 cannabis treatment that the qualified medical provider recommends.

1756 (2) An individual that the department registers as a designated caregiver under this

1757 section:

1758 (a) may carry a valid medical cannabis caregiver card;

1759 (b) in accordance with this chapter, may purchase, possess, transport, or assist the  
1760 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal  
1761 dosage form, or a medical cannabis device on behalf of the designating medical cannabis  
1762 cardholder;

1763 (c) may not charge a fee to an individual to act as the individual's designated caregiver  
1764 or for a service that the designated caregiver provides in relation to the role as a designated  
1765 caregiver;

1766 (d) may accept reimbursement from the designating medical cannabis cardholder for  
1767 direct costs the designated caregiver incurs for assisting with the designating cardholder's  
1768 medicinal use of cannabis; and

1769 (e) if [~~neither~~] a licensed medical cannabis pharmacy [~~nor the state central fill medical~~  
1770 ~~cannabis pharmacy~~] is not operating within the state after January 1, 2021, is not subject to  
1771 prosecution for the possession of:

1772 (i) no more than 113 grams of marijuana in a medicinal dosage form;

1773 (ii) an amount of cannabis product in a medicinal dosage form that contains no more  
1774 than 20 grams of tetrahydrocannabinol; or

1775 (iii) marijuana drug paraphernalia.

1776 (3) (a) The department shall:

1777 (i) within 15 days after the day on which an individual submits an application in  
1778 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1779 (A) is designated as a caregiver under Subsection (1);

1780 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1781 (C) complies with this section; and

1782 (ii) notify the Department of Public Safety of each individual that the department  
1783 registers as a designated caregiver.

1784 (b) The department shall ensure that a medical cannabis caregiver card contains the  
1785 information described in Subsection (5)(b).

1786 (4) An individual is eligible for a medical cannabis caregiver card if the individual:

1787 (a) is at least 21 years old;

1788 (b) is a Utah resident;

1789 (c) pays to the department a fee in an amount that, subject to Subsection

1790 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the  
1791 criminal background check described in Section 26-61a-203;

1792 (d) signs an acknowledgment stating that the applicant received the information  
1793 described in Subsection 26-61a-201(8); and

1794 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is  
1795 a felony under either state or federal law, unless the individual completes any imposed sentence  
1796 two or more years before the day on which the individual submits the application.

1797 (5) An eligible applicant for a medical cannabis caregiver card shall:

1798 (a) submit an application for a medical cannabis caregiver card to the department  
1799 through an electronic application connected to the state electronic verification system; and

1800 (b) submit the following information in the application described in Subsection (5)(a):

1801 (i) the applicant's name, gender, age, and address;

1802 (ii) the name, gender, age, and address of the cardholder described in Section

1803 26-61a-201 who designated the applicant; and

1804 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,  
1805 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical  
1806 cannabis guardian cardholder.

1807 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the  
1808 department issues under this section is valid for the lesser of:

1809 (a) an amount of time that the cardholder described in Section 26-61a-201 who  
1810 designated the caregiver determines; or

1811 (b) the amount of time remaining before the card of the cardholder described in Section  
1812 **26-61a-201** expires.

1813 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the  
1814 designated caregiver's medical cannabis caregiver card renews automatically at the time the  
1815 cardholder described in Section **26-61a-201** who designated the caregiver:

- 1816 (i) renews the cardholder's card; and
- 1817 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1818 (b) The department shall provide a method in the card renewal process to allow a  
1819 cardholder described in Section **26-61a-201** who has designated a caregiver to:

- 1820 (i) signify that the cardholder renews the caregiver's designation;
- 1821 (ii) remove a caregiver's designation; or
- 1822 (iii) designate a new caregiver.

1823 (8) The department may revoke a medical cannabis caregiver card if the designated  
1824 caregiver:

- 1825 (a) violates this chapter; or
- 1826 (b) is convicted under state or federal law of:
  - 1827 (i) a felony; or
  - 1828 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1829 Section 28. Section **26-61a-203** is amended to read:

1830 **26-61a-203. Designated caregiver -- Guardian -- Criminal background check.**

1831 (1) [Each] Except for an applicant reapplying for a medical cannabis card within less  
1832 than one year after the expiration of the applicant's previous medical cannabis card, each  
1833 applicant for a medical cannabis guardian card under Section **26-61a-201** or a medical cannabis  
1834 caregiver card under Section **26-61a-202** shall:

- 1835 (a) submit to the department, at the time of application:
  - 1836 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and
  - 1837 (ii) a signed waiver in accordance with Subsection **53-10-108(4)** acknowledging the

1838 registration of the applicant's fingerprints in the Federal Bureau of Investigation Next  
1839 Generation Identification System's Rap Back Service; and  
1840 (b) consent to a fingerprint background check by:  
1841 (i) the Bureau of Criminal Identification; and  
1842 (ii) the Federal Bureau of Investigation.  
1843 (2) The Bureau of Criminal Identification shall:  
1844 (a) check the fingerprints the applicant submits under Subsection (1)(a) against the  
1845 applicable state, regional, and national criminal records databases, including the Federal  
1846 Bureau of Investigation Next Generation Identification System;  
1847 (b) report the results of the background check to the department;  
1848 (c) maintain a separate file of fingerprints that applicants submit under Subsection  
1849 (1)(a) for search by future submissions to the local and regional criminal records databases,  
1850 including latent prints;  
1851 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
1852 Generation Identification System's Rap Back Service for search by future submissions to  
1853 national criminal records databases, including the Next Generation Identification System and  
1854 latent prints; and  
1855 (e) establish a privacy risk mitigation strategy to ensure that the department only  
1856 receives notifications for an individual with whom the department maintains an authorizing  
1857 relationship.  
1858 (3) The department shall:  
1859 (a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an  
1860 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the  
1861 Bureau of Criminal Identification or another authorized agency provides under this section; and  
1862 (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal  
1863 Identification.  
1864 Section 29. Section **26-61a-204** is amended to read:

1865           **26-61a-204. Medical cannabis card -- Patient and designated caregiver**

1866 **requirements -- Rebuttable presumption.**

1867           (1) (a) A medical cannabis cardholder who possesses cannabis in a medicinal dosage  
1868 form or a cannabis product in a medicinal dosage form that the cardholder purchased under this  
1869 chapter shall:

1870           (i) carry at all times the cardholder's medical cannabis card;

1871           (ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a  
1872 medicinal dosage form, a label that identifies that the cannabis or cannabis product:

1873           (A) was sold from a licensed medical cannabis pharmacy [~~or the state central fill~~  
1874 ~~medical cannabis pharmacy~~]; and

1875           (B) includes an identification number that links the cannabis or cannabis product to the  
1876 inventory control system; and

1877           (iii) possess not more than:

1878           (A) 113 grams of unprocessed cannabis; or

1879           (B) an amount of cannabis product that contains 20 grams of total composite  
1880 tetrahydrocannabinol.

1881           (b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form  
1882 or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

1883           (i) guilty of an infraction; and

1884           (ii) subject to a \$100 fine.

1885           (c) A medical cannabis cardholder who possesses between 113 and 226 grams of  
1886 unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40  
1887 grams of total composite tetrahydrocannabinol is:

1888           (i) guilty of a class B misdemeanor; and

1889           (ii) subject to a fine of \$1,000.

1890           (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is  
1891 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the

1892 conduct underlying the penalty described in Subsection (1)(b) or (c).

1893 (e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed  
1894 cannabis or a total amount of cannabis product that contains more than 40 grams of total  
1895 composite tetrahydrocannabinol is subject to the penalties described in Title 58, Chapter 37,  
1896 Utah Controlled Substances Act.

1897 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same  
1898 as that term is defined in Section [31A-22-627](#).

1899 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder or a  
1900 provisional patient cardholder may not use, in public view, cannabis or a cannabis product.

1901 (c) In the event of an emergency medical condition, an individual described in  
1902 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical  
1903 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a  
1904 medicinal dosage form or a cannabis product in a medicinal dosage form.

1905 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis  
1906 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a  
1907 medical cannabis device that corresponds with the cannabis or cannabis product:

1908 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,  
1909 cannabis product, or medical cannabis device legally; and

1910 (b) there is no probable cause, based solely on the cardholder's possession of the  
1911 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical  
1912 cannabis device, to believe that the cardholder is engaging in illegal activity.

1913 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a  
1914 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis  
1915 device, and the individual represents to the law enforcement officer that the individual holds a  
1916 valid medical cannabis card, but the individual does not have the medical cannabis card in the  
1917 individual's possession at the time of the stop by the law enforcement officer, the law  
1918 enforcement officer shall attempt to access the state electronic verification system to determine

1919 whether the individual holds a valid medical cannabis card.

1920 (b) If the law enforcement officer is able to verify that the individual described in  
1921 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

1922 (i) may not arrest or take the individual into custody for the sole reason that the  
1923 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a  
1924 medicinal dosage form, or a medical cannabis device; and

1925 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1926 Section 30. Section **26-61a-301** is amended to read:

1927 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

1928 (1) A person may not operate as a medical cannabis pharmacy without a license that  
1929 the department issues under this part.

1930 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department  
1931 shall[;] issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,  
1932 Chapter 6a, Utah Procurement Code[;].

1933 (ii) The department may not issue a license to operate a medical cannabis pharmacy to  
1934 an applicant who is not eligible for a license under this section.

1935 (b) An applicant is eligible for a license under this section if the applicant submits to  
1936 the department:

1937 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will  
1938 operate the medical cannabis pharmacy;

1939 (ii) the name and address of an individual who:

1940 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis  
1941 pharmacy; or

1942 (B) has the power to direct or cause the management or control of a proposed cannabis  
1943 production establishment;

1944 (iii) ~~[evidence]~~ a statement that the applicant ~~[has obtained]~~ will obtain and ~~[maintains]~~  
1945 maintain a performance bond that a surety authorized to transact surety business in the state

1946 issues in an amount of at least \$125,000 for each application that the applicant submits to the  
1947 department;

1948 (iv) an operating plan that:

1949 (A) complies with Section 26-61a-304; ~~and~~

1950 (B) includes operating procedures to comply with the operating requirements for a  
1951 medical cannabis pharmacy described in this chapter and with a relevant municipal or county  
1952 law that is consistent with Section 26-61a-507; and

1953 (C) the department approves;

1954 ~~[(v) if the municipality or county where the proposed medical cannabis pharmacy~~  
1955 ~~would be located requires a local land use permit, a copy of the person's approved application~~  
1956 ~~for the local land use permit; and]~~

1957 ~~[(vi)]~~ (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the  
1958 department sets in accordance with Section 63J-1-504[-]; and

1959 (vi) a description of any investigation or adverse action taken by any licensing  
1960 jurisdiction, government agency, law enforcement agency, or court in any state for any  
1961 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations  
1962 or businesses.

1963 (c) (i) A person may not locate a medical cannabis pharmacy:

1964 (A) within 200 feet of a community location; or

1965 (B) in or within 600 feet of ~~[an area]~~ a district that the relevant municipality or county  
1966 has zoned as primarily residential.

1967 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured  
1968 from the nearest entrance to the medical cannabis pharmacy establishment by following the  
1969 shortest route of ordinary pedestrian travel to the property boundary of the community location  
1970 or residential area.

1971 (iii) The department may grant a waiver to reduce the proximity requirements in  
1972 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible

1973 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

1974 ~~[(ii)]~~ (iv) An applicant for a license under this section shall provide evidence of  
1975 compliance with the proximity ~~[requirement]~~ requirements described in Subsection (2)(c)(i).

1976 ~~[(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a~~  
1977 ~~permitted use in all zoning districts within a municipality or county.]~~

1978 (d) The department may not issue a license to an eligible applicant that the department  
1979 has selected to receive a license until the selected eligible applicant obtains the performance  
1980 bond described in Subsection (2)(b)(iii).

1981 (e) If the department receives more than one application for a medical cannabis  
1982 pharmacy within the same city or town, the department shall consult with the local land use  
1983 authority before approving any of the applications pertaining to that city or town.

1984 (3) If the department ~~[determines that]~~ selects an applicant ~~[is eligible]~~ for a medical  
1985 cannabis pharmacy license under this section, the department shall:

1986 (a) charge the applicant an initial license fee in an amount that, subject to Subsection  
1987 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

1988 (b) notify the Department of Public Safety of the license approval and the names of  
1989 each individual described in Subsection (2)(b)(ii).

1990 (4) The department may not issue a license to operate a medical cannabis pharmacy to  
1991 an applicant if an individual described in Subsection (2)(b)(ii):

1992 (a) has been convicted under state or federal law of:

1993 (i) a felony; or

1994 (ii) after December 3, 2018, a misdemeanor for drug distribution; ~~[or]~~

1995 (b) is younger than 21 years old~~[-];~~ or

1996 (c) after the effective date of this bill until January 1, 2023, is actively serving as a  
1997 legislator.

1998 (5) If an applicant for a medical cannabis pharmacy license under this section holds a  
1999 license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a,

2000 Cannabis Production Establishments, the department:

2001 (a) shall consult with the Department of Agriculture and Food regarding the applicant;  
2002 and

2003 (b) may not give preference to the applicant based on the applicant's status as a holder  
2004 of a license described in this Subsection (5).

2005 (6) The department may revoke a license under this part if:

2006 (a) the medical cannabis pharmacy does not begin operations within one year after the  
2007 day on which the department issues the initial license;

2008 (b) the medical cannabis pharmacy makes the same violation of this chapter three  
2009 times; ~~or~~

2010 (c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is  
2011 active, under state or federal law of:

2012 (i) a felony; or

2013 (ii) after December 3, 2018, a misdemeanor for drug distribution~~[-];~~ or

2014 (d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at  
2015 the time of application, or fails to supplement the information described in Subsection  
2016 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the  
2017 application.

2018 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,  
2019 if the municipality or county where the licensed medical cannabis pharmacy will be located  
2020 requires a local land use permit, shall submit to the department a copy of the licensee's  
2021 approved application for the land use permit within 120 days after the day on which the  
2022 department issues the license.

2023 (b) If a licensee fails to submit to the department a copy the licensee's approved land  
2024 use permit application in accordance with Subsection (7)(a), the department may revoke the  
2025 licensee's license.

2026 ~~[(7)]~~ (8) The department shall deposit the proceeds of a fee imposed by this section in

2027 the Qualified Patient Enterprise Fund.

2028 ~~[(8)]~~ (9) The department shall begin accepting applications under this part on or before  
2029 March 1, 2020.

2030 ~~[(9)]~~ (10) (a) The department's authority to issue a license under this section is plenary  
2031 and is not subject to review.

2032 (b) Notwithstanding Subsection (2), the decision of the department to award a license  
2033 to an applicant is not subject to:

2034 (i) Title 63G, Chapter 6a, Part 16, Protests; or

2035 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2036 Section 31. Section **26-61a-302** is amended to read:

2037 **26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal**  
2038 **background checks.**

2039 (1) Each applicant ~~[for]~~ to whom the department issues a notice of intent to award a  
2040 license to operate as a medical cannabis pharmacy shall submit, ~~[at the time of application]~~  
2041 before the department may award the license, from each individual who has a financial or  
2042 voting interest of 2% or greater in the applicant or who has the power to direct or cause the  
2043 management or control of the applicant:

2044 (a) a fingerprint card in a form acceptable to the Department of Public Safety;

2045 (b) a signed waiver in accordance with Subsection ~~53-10-108~~(4) acknowledging the  
2046 registration of the individual's fingerprints in the Federal Bureau of Investigation Next  
2047 Generation Identification System's Rap Back Service; and

2048 (c) consent to a fingerprint background check by:

2049 (i) the Bureau of Criminal Identification; and

2050 (ii) the Federal Bureau of Investigation.

2051 (2) The Bureau of Criminal Identification shall:

2052 (a) check the fingerprints the applicant submits under Subsection (1) against the  
2053 applicable state, regional, and national criminal records databases, including the Federal

2054 Bureau of Investigation Next Generation Identification System;

2055 (b) report the results of the background check to the department;

2056 (c) maintain a separate file of fingerprints that applicants submit under Subsection (1)

2057 for search by future submissions to the local and regional criminal records databases, including

2058 latent prints;

2059 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next

2060 Generation Identification System's Rap Back Service for search by future submissions to

2061 national criminal records databases, including the Next Generation Identification System and

2062 latent prints; and

2063 (e) establish a privacy risk mitigation strategy to ensure that the department only

2064 receives notifications for an individual with whom the department maintains an authorizing

2065 relationship.

2066 (3) The department shall:

2067 (a) assess an individual who submits fingerprints under Subsection (1) a fee in an

2068 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the

2069 Bureau of Criminal Identification or another authorized agency provides under this section; and

2070 (b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal

2071 Identification.

2072 Section 32. Section **26-61a-304** is amended to read:

2073 **26-61a-304. Operating plan.**

2074 A person applying for a medical cannabis pharmacy license shall submit to the

2075 department a proposed operation plan for the medical cannabis pharmacy that complies with

2076 this section and that includes:

2077 (1) a description of the physical characteristics of the proposed facility, including a

2078 floor plan and an architectural elevation;

2079 (2) a description of the credentials and experience of:

2080 (a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

- 2081 (b) any highly skilled or experienced prospective employee;
- 2082 (3) the medical cannabis pharmacy's employee training standards;
- 2083 (4) a security plan;
- 2084 (5) a description of the medical cannabis pharmacy's inventory control system,
- 2085 including a plan to make the inventory control system compatible with the state electronic
- 2086 verification system; ~~[and]~~
- 2087 (6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a
- 2088 manner that is sanitary and preserves the integrity of the cannabis[-]; and
- 2089 (7) a description of the proposed medical cannabis pharmacy's strategic plan for
- 2090 opening the medical cannabis pharmacy, including gauging appropriate timing based on:
- 2091 (a) the supply of medical cannabis and medical cannabis products, in consultation with
- 2092 the Department of Agriculture and Food; and
- 2093 (b) the quantity and condition of the population of medical cannabis cardholders, in
- 2094 consultation with the department.

2095 Section 33. Section **26-61a-305** is amended to read:

2096 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**  
2097 **pharmacies.**

2098 (1) (a) Except as provided in ~~[Subsection]~~ Subsections (1)(b) or (d), if a sufficient  
2099 number of applicants apply, the department ~~[may not]~~ shall issue ~~[more than seven]~~ 14 medical  
2100 cannabis pharmacy licenses in accordance with this section.

2101 ~~[(b) (i) In addition to the licenses described in Subsection (1)(a), the department shall~~  
2102 ~~issue an eighth license if the state central fill medical cannabis pharmacy:]~~

2103 ~~[(A) is not operational by January 1, 2021; or]~~

2104 ~~[(B) ceases operations after January 1, 2021.]~~

2105 ~~[(ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the~~  
2106 ~~department shall issue a ninth license if the state central fill medical cannabis pharmacy:]~~

2107 ~~[(A) is not operational by July 1, 2021; or]~~

2108           ~~[(B) ceases operations after July 1, 2021.]~~

2109           ~~[(iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii),~~

2110 ~~the department shall issue a tenth license if the state central fill medical cannabis pharmacy:]~~

2111           ~~[(A) is not operational by January 1, 2022; or]~~

2112           ~~[(B) ceases operations after January 1, 2022.]~~

2113           ~~[(iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and~~

2114 ~~(iii), if a final order of a court enjoins or invalidates the operation of the state central fill~~

2115 ~~medical cannabis pharmacy.]~~

2116           (b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy

2117 license, the department shall issue a medical cannabis pharmacy license to each qualified

2118 applicant.

2119           (c) The department may issue the licenses described in Subsection (1)(a) in two phases

2120 in accordance with this Subsection (1)(c).

2121           (i) Using one procurement process, the department may issue eight licenses to an initial

2122 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis

2123 pharmacies.

2124           (ii) If the department issues licenses in two phases in accordance with this Subsection

2125 (1)(c), the department shall:

2126           (A) divide the state into no less than four geographic regions;

2127           (B) issue at least one license in each geographic region during each phase of issuing

2128 licenses; and

2129           (C) complete the process of issuing medical cannabis pharmacy licenses no later than

2130 July 1, 2020.

2131           (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in

2132 addition to the licenses described in Subsection (1)(a) if the department determines, in

2133 consultation with the Department of Agriculture and Food and after an annual or more frequent

2134 analysis of the current and anticipated market for medical cannabis, that each additional license

2135 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical  
2136 cannabis cardholders.

2137 (ii) The department shall:

2138 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2139 make rules to establish criteria and processes for the consultation, analysis, and application for  
2140 a license described in Subsection (1)(d)(i);

2141 (B) before November 30, 2020, report on the rules described in Subsection  
2142 (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

2143 (C) report to the Executive Appropriations Committee of the Legislature before each  
2144 time the department issues an additional license under Subsection (1)(d)(i) regarding the results  
2145 of the consultation and analysis described in Subsection (1)(d)(i) and the application of the  
2146 criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

2147 (2) (a) If there are more qualified applicants than there are available licenses for  
2148 medical cannabis pharmacies, the department shall:

2149 ~~[(a)]~~ (i) evaluate each applicant and award the license to the applicant that best  
2150 demonstrates:

2151 ~~[(i)]~~ (A) experience with establishing and successfully operating a business that  
2152 involves complying with a regulatory environment, tracking inventory, and training, evaluating,  
2153 and monitoring employees;

2154 ~~[(ii)]~~ (B) an operating plan that will best ensure the safety and security of patrons and  
2155 the community;

2156 ~~[(iii)]~~ (C) positive connections to the local community;

2157 ~~[(iv)]~~ (D) the suitability of the proposed location and the location's accessibility for  
2158 qualifying patients; ~~[and]~~

2159 ~~[(v)]~~ (E) the extent to which the applicant can reduce the cost of cannabis or cannabis  
2160 products for patients; and

2161 (F) a strategic plan described in Subsection [26-61a-304\(7\)](#) that has a comparatively

2162 high likelihood of success; and  
2163           ~~(b)~~ (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably  
2164 maximize access to the largest number of medical cannabis cardholders.  
2165           (b) In making the evaluation described in Subsection (2)(a), the department may give  
2166 increased consideration to applicants who indicate a willingness to:  
2167           (i) operate as a home delivery medical cannabis pharmacy that accepts electronic  
2168 medical cannabis orders that the state central patient portal facilitates; and  
2169           (ii) accept payments through:  
2170           (A) a payment provider that the Division of Finance approves, in consultation with the  
2171 state treasurer, in accordance with Section [26-61a-603](#); or  
2172           (B) a financial institution in accordance with Subsection [26-61a-603](#)(4).  
2173           (3) The department may conduct a face-to-face interview with an applicant for a  
2174 license that the department evaluates under Subsection (2).  
2175           (4) (a) The department may designate a medical cannabis pharmacy as a home delivery  
2176 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's  
2177 operating plan demonstrates the functional and technical ability to:  
2178           (i) safely conduct transactions for medical cannabis shipments;  
2179           (ii) accept electronic medical cannabis orders that the state central patient portal  
2180 facilitates; and  
2181           (iii) accept payments through:  
2182           (A) a payment provider that the Division of Finance approves, in consultation with the  
2183 state treasurer, in accordance with Section [26-61a-603](#); or  
2184           (B) a financial institution in accordance with Subsection [26-61a-603](#)(4).  
2185           (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy  
2186 shall identify in the applicant's operating plan any information relevant to the department's  
2187 evaluation described in Subsection (4)(a), including:  
2188           (i) the name and contact information of the payment provider;

2189 (ii) the nature of the relationship between the prospective licensee and the payment  
2190 provider;

2191 (iii) the processes of the following to safely and reliably conduct transactions for  
2192 medical cannabis shipments:

2193 (A) the prospective licensee; and

2194 (B) the electronic payment provider or the financial institution described in Subsection  
2195 (4)(a)(iii); and

2196 (iv) the ability of the licensee to comply with the department's rules regarding the  
2197 secure transportation and delivery of medical cannabis or medical cannabis product to a  
2198 medical cannabis cardholder.

2199 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy  
2200 that the department designates as a home delivery medical cannabis pharmacy may deliver  
2201 medical cannabis shipments in accordance with this chapter.

2202 Section 34. Section **26-61a-401** is amended to read:

2203 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

2204 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical  
2205 cannabis pharmacy unless the department registers the individual as a medical cannabis  
2206 pharmacy agent.

2207 (2) Except as provided in Section **26-61a-403**, ~~[the following individuals, regardless of~~  
2208 ~~the individual's status as]~~ a qualified medical provider~~;~~ may not act as a medical cannabis  
2209 pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis  
2210 pharmacy, or have the power to direct or cause the management or control of a medical  
2211 cannabis pharmacy~~;~~.

2212 ~~[(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse~~  
2213 ~~Practice Act;]~~

2214 ~~[(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or~~  
2215 ~~Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or]~~

2216 ~~[(c) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician~~  
2217 ~~Assistant Act.]~~

2218 (3) (a) The department shall, within 15 days after the day on which the department  
2219 receives a complete application from a medical cannabis pharmacy on behalf of a prospective  
2220 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent  
2221 registration card to the prospective agent if the medical cannabis pharmacy:

2222 (i) provides to the department:

2223 (A) the prospective agent's name and address;

2224 (B) the name and location of the licensed medical cannabis pharmacy where the  
2225 prospective agent seeks to act as the medical cannabis pharmacy agent; and

2226 (C) the submission required under Subsection (3)(b); and

2227 (ii) pays a fee to the department in an amount that, subject to Subsection  
2228 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2229 (b) ~~[Each]~~ Except for an applicant reapplying for a medical cannabis pharmacy agent  
2230 registration card within less than one year after the expiration of the applicant's previous  
2231 medical cannabis pharmacy agent registration card, each prospective agent described in  
2232 Subsection (3)(a) shall:

2233 (i) submit to the department:

2234 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

2235 (B) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the  
2236 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next  
2237 Generation Identification System's Rap Back Service; and

2238 (ii) consent to a fingerprint background check by:

2239 (A) the Bureau of Criminal Identification; and

2240 (B) the Federal Bureau of Investigation.

2241 (c) The Bureau of Criminal Identification shall:

2242 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against

2243 the applicable state, regional, and national criminal records databases, including the Federal  
2244 Bureau of Investigation Next Generation Identification System;

2245 (ii) report the results of the background check to the department;

2246 (iii) maintain a separate file of fingerprints that prospective agents submit under  
2247 Subsection (3)(b) for search by future submissions to the local and regional criminal records  
2248 databases, including latent prints;

2249 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2250 Generation Identification System's Rap Back Service for search by future submissions to  
2251 national criminal records databases, including the Next Generation Identification System and  
2252 latent prints; and

2253 (v) establish a privacy risk mitigation strategy to ensure that the department only  
2254 receives notifications for an individual with whom the department maintains an authorizing  
2255 relationship.

2256 (d) The department shall:

2257 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an  
2258 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the  
2259 Bureau of Criminal Identification or another authorized agency provides under this section; and

2260 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal  
2261 Identification.

2262 (4) The department shall designate, on an individual's medical cannabis pharmacy  
2263 agent registration card the name of the medical cannabis pharmacy where the individual is  
2264 registered as an agent.

2265 (5) A medical cannabis pharmacy agent shall comply with a certification standard that  
2266 the department develops in collaboration with the Division of Occupational and Professional  
2267 Licensing and the Board of Pharmacy, or a third-party certification standard that the department  
2268 designates by rule, in collaboration with the Division of Occupational and Professional  
2269 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

2270 Administrative Rulemaking Act.

2271 (6) The department shall ensure that the certification standard described in Subsection  
2272 (5) includes training in:

2273 (a) Utah medical cannabis law; and

2274 (b) medical cannabis pharmacy best practices.

2275 (7) The department may revoke the medical cannabis pharmacy agent registration card  
2276 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual  
2277 who:

2278 (a) violates the requirements of this chapter; or

2279 (b) is convicted under state or federal law of:

2280 (i) a felony; or

2281 (ii) after December 3, 2018, a misdemeanor for drug distribution.

2282 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the  
2283 day on which the department issues or renews the card.

2284 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the  
2285 agent:

2286 (i) is eligible for a medical cannabis pharmacy agent registration card under this  
2287 section;

2288 (ii) certifies to the department in a renewal application that the information in  
2289 Subsection (3)(a) is accurate or updates the information; and

2290 (iii) pays to the department a renewal fee in an amount that:

2291 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with  
2292 Section 63J-1-504; and

2293 (B) may not exceed the cost of the relatively lower administrative burden of renewal in  
2294 comparison to the original application process.

2295 Section 35. Section 26-61a-403 is amended to read:

2296 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

2297 (1) (a) A medical cannabis pharmacy:  
2298 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy  
2299 Practice Act, as a pharmacy medical provider;  
2300 (ii) may employ a physician who has the authority to write a prescription and is  
2301 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah  
2302 Osteopathic Medical Practice Act, as a pharmacy medical provider;  
2303 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)  
2304 works onsite during all business hours; and  
2305 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as  
2306 the pharmacist-in-charge to oversee the operation of and generally supervise the medical  
2307 cannabis pharmacy.  
2308 (b) An individual may not serve as a pharmacy medical provider unless the department  
2309 registers the individual as a pharmacy medical provider in accordance with Subsection (2).  
2310 (2) (a) The department shall, within 15 days after the day on which the department  
2311 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy  
2312 medical provider, register and issue a pharmacy medical provider registration card to the  
2313 prospective pharmacy medical provider if the medical cannabis pharmacy:  
2314 (i) provides to the department:  
2315 (A) the prospective pharmacy medical provider's name and address;  
2316 (B) the name and location of the licensed medical cannabis pharmacy where the  
2317 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;  
2318 (C) a report detailing the completion of the continuing education requirement described  
2319 in Subsection (3); and  
2320 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is  
2321 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the  
2322 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical  
2323 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2324 (ii) pays a fee to the department in an amount that, subject to Subsection  
2325 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2326 (b) The department may not register a qualified medical provider or a state central ~~[fH]~~  
2327 patient portal medical provider as a pharmacy medical provider.

2328 (3) (a) A pharmacy medical provider shall complete the continuing education described  
2329 in this Subsection (3) in the following amounts:

2330 (i) as a condition precedent to registration, four hours; and  
2331 (ii) as a condition precedent to renewal of the registration, four hours every two years.

2332 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

2333 (i) complete continuing education:

2334 (A) regarding the topics described in Subsection (3)(d); and  
2335 (B) offered by the department under Subsection (3)(c) or an accredited or approved  
2336 continuing education provider that the department recognizes as offering continuing education  
2337 appropriate for the medical cannabis pharmacy practice; and

2338 (ii) make a continuing education report to the department in accordance with a process  
2339 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah  
2340 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and  
2341 Professional Licensing and:

2342 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,  
2343 Pharmacy Practice Act, the Board of Pharmacy;

2344 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical  
2345 Practice Act, the Physicians Licensing Board; and

2346 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah  
2347 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

2348 (c) The department may, in consultation with the Division of Occupational and  
2349 Professional Licensing, develop the continuing education described in this Subsection (3).

2350 (d) The continuing education described in this Subsection (3) may discuss:

- 2351 (i) the provisions of this chapter;
- 2352 (ii) general information about medical cannabis under federal and state law;
- 2353 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
- 2354 including risks and benefits;
- 2355 (iv) recommendations for medical cannabis as it relates to the continuing care of a
- 2356 patient in pain management, risk management, potential addiction, and palliative care; or
- 2357 (v) best practices for recommending the form and dosage of a medical cannabis
- 2358 product based on the qualifying condition underlying a medical cannabis recommendation.

2359 (4) (a) A pharmacy medical provider registration card expires two years after the day  
2360 on which the department issues or renews the card.

2361 (b) A pharmacy medical provider may renew the provider's registration card if the  
2362 provider:

- 2363 (i) is eligible for a pharmacy medical provider registration card under this section;
- 2364 (ii) certifies to the department in a renewal application that the information in
- 2365 Subsection (2)(a) is accurate or updates the information;
- 2366 (iii) submits a report detailing the completion of the continuing education requirement
- 2367 described in Subsection (3); and
- 2368 (iv) pays to the department a renewal fee in an amount that:
- 2369 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
- 2370 Section 63J-1-504; and
- 2371 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
- 2372 comparison to the original application process.

2373 Section 36. Section 26-61a-502 is amended to read:

2374 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**  
2375 **Reporting -- Form of cannabis or cannabis product.**

2376 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this  
2377 chapter:

2378 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired  
2379 from a cannabis processing facility that is licensed under Section 4-41a-201;

2380 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy  
2381 acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

2382 (iii) a medical cannabis device; or

2383 (iv) educational material related to the medical use of cannabis.

2384 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to  
2385 an individual with:

2386 (i) a medical cannabis card; and

2387 (ii) a corresponding valid form of photo identification [~~that is a valid United States~~  
2388 ~~federal or state-issued photo identification, including a driver license, a United States passport,~~  
2389 ~~a United States passport card, or a United States military identification card~~].

2390 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a  
2391 cannabis-based drug that the United States Food and Drug Administration has approved.

2392 (2) A medical cannabis pharmacy may not dispense:

2393 (a) to a medical cannabis cardholder in any one [~~12~~] 28-day period, more than the  
2394 lesser of:

2395 [~~(i) an amount sufficient to provide 14 days of treatment based on the dosing~~  
2396 ~~parameters that the relevant qualified medical provider recommends, or]~~

2397 [~~(ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form~~  
2398 ~~and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol~~  
2399 ~~in the cannabis, or]~~

2400 [~~(B) an amount of cannabis products that is in a medicinal dosage form and that~~  
2401 ~~contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;]~~

2402 [~~(b) to a medical cannabis cardholder whose primary residence is located more than~~  
2403 ~~100 miles from the nearest medical cannabis pharmacy or local health department, in any one~~  
2404 ~~28-day period, more than the lesser of:]~~

2405 (i) an amount sufficient to provide 30 days of treatment based on the dosing parameters  
2406 that the relevant qualified medical provider recommends; or

2407 (ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage  
2408 form and that carries a label clearly displaying the amount of tetrahydrocannabinol and  
2409 cannabidiol in the cannabis; or

2410 (B) an amount of cannabis products that is in a medicinal dosage form and that  
2411 contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

2412 ~~[(c)]~~ (b) to an individual whose qualified medical provider did not recommend dosing  
2413 parameters, until the individual consults with the pharmacy medical provider in accordance  
2414 with Subsection (4), any cannabis or cannabis products.

2415 (3) An individual with a medical cannabis card may not purchase:

2416 (a) more cannabis or cannabis products than the amounts designated in Subsection (2)  
2417 in any one ~~[12-day]~~ 28-day period; or

2418 (b) if the relevant qualified medical provider did not recommend dosing parameters,  
2419 until the individual consults with the pharmacy medical provider in accordance with  
2420 Subsection (4), any cannabis or cannabis products.

2421 (4) If a qualified medical provider recommends treatment with medical cannabis or a  
2422 cannabis product but does not provide dosing parameters:

2423 (a) the qualified medical provider shall document in the recommendation:

2424 (i) an evaluation of the qualifying condition underlying the recommendation;

2425 (ii) prior treatment attempts with cannabis and cannabis products; and

2426 (iii) the patient's current medication list; and

2427 (b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal  
2428 dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider  
2429 shall:

2430 (i) review pertinent medical records, including the qualified medical provider

2431 documentation described in Subsection (4)(a); and

2432 (ii) unless the pertinent medical records show dosing parameters from a state central  
2433 patient portal medical provider in accordance with Subsection (5), after completing the review  
2434 described in Subsection (4)(b)(i) and consulting with the recommending qualified medical  
2435 provider as needed, determine the best course of treatment through consultation with the  
2436 cardholder regarding:

2437 (A) the patient's qualifying condition underlying the recommendation from the  
2438 qualified medical provider;

2439 (B) indications for available treatments;

2440 (C) dosing parameters; and

2441 (D) potential adverse reactions.

2442 (5) (a) A state central patient portal medical provider may provide the consultation and  
2443 make the determination described in Subsection (4)(b) for a medical cannabis patient  
2444 cardholder regarding an electronic order that the state central patient portal facilitates.

2445 (b) The state central patient portal medical provider described in Subsection (5)(a)  
2446 shall document the dosing parameters determined under Subsection (5)(a) in the pertinent  
2447 medical records.

2448 [~~5~~] (6) A medical cannabis pharmacy shall:

2449 (a) (i) access the state electronic verification system before dispensing cannabis or a  
2450 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,  
2451 where applicable, the associated patient has met the maximum amount of cannabis or cannabis  
2452 products described in Subsection (2); and

2453 (ii) if the verification in Subsection [~~5~~] (6)(a)(i) indicates that the individual has met  
2454 the maximum amount described in Subsection (2):

2455 (A) decline the sale; and

2456 (B) notify the qualified medical provider who made the underlying recommendation;

2457 (b) submit a record to the state electronic verification system each time the medical  
2458 cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

2459 (c) package any cannabis or cannabis product that is in a blister pack in a container

2460 that:

2461 (i) complies with Subsection 4-41a-602(2);

2462 (ii) is tamper-resistant and tamper-evident; and

2463 (iii) opaque; and

2464 (d) for a product that is a cube that is designed for ingestion through chewing or  
2465 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks  
2466 of over-consumption.

2467 ~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(6)]~~ (7)(b), a medical cannabis  
2468 pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device  
2469 that is intentionally designed or constructed to resemble a cigarette.

2470 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms  
2471 cannabis material into a vapor without the use of a flame and that delivers cannabis to an  
2472 individual's respiratory system.

2473 ~~[(7)]~~ (8) A medical cannabis pharmacy may not give, at no cost, a product that the  
2474 medical cannabis pharmacy is allowed to sell under Subsection (1).

2475 ~~[(8)]~~ (9) The department may impose a uniform fee on each medical cannabis  
2476 cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection  
2477 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

2478 Section 37. Section 26-61a-503 is amended to read:

2479 **26-61a-503. Partial filling.**

2480 (1) As used in this section, "partially fill" means to provide less than the full amount of  
2481 cannabis or cannabis product that the qualified medical provider recommends, if the qualified  
2482 medical provider recommended specific dosing parameters.

2483 (2) A pharmacy medical provider may partially fill a recommendation for a medical  
2484 cannabis treatment at the request of the qualified medical provider who issued the medical  
2485 cannabis treatment recommendation or the medical cannabis cardholder.

2486 (3) The department shall make rules, in collaboration with the Division of  
2487 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with  
2488 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date,  
2489 quantity supplied, and quantity remaining of a partially filled medical cannabis treatment  
2490 recommendation.

2491 (4) A pharmacy medical provider who is a pharmacist may, upon the request of a  
2492 medical cannabis cardholder, determine different dosing parameters, subject to the dosing  
2493 limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical  
2494 cannabis treatment recommendation if:

2495 (a) the pharmacy medical provider determined dosing parameters for the partial fill  
2496 under Subsection 26-61a-502(4) or (5); and

2497 (b) the medical cannabis cardholder reports that:

2498 (i) the partial fill did not substantially affect the qualifying condition underlying the  
2499 medical cannabis recommendation; or

2500 (ii) the patient experienced an adverse reaction to the partial fill or was otherwise  
2501 unable to successfully use the partial fill.

2502 Section 38. Section 26-61a-505 is amended to read:

2503 **26-61a-505. Advertising.**

2504 (1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may  
2505 not advertise in any medium.

2506 (2) ~~[(A)]~~ Notwithstanding any municipal or county ordinance prohibiting signage, a  
2507 medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy  
2508 that:

2509 (a) includes only:

2510 ~~[(a)]~~ (i) the medical cannabis pharmacy's name and hours of operation; and

2511 ~~[(b)]~~ (ii) a green cross[-];

2512 (b) does not exceed four feet by five feet in size; and

2513 (c) complies with local ordinances regulating signage.

2514 (3) A medical cannabis pharmacy may maintain a website that includes information  
2515 about:

2516 (a) the location and hours of operation of the medical cannabis pharmacy;

2517 (b) a product or service available at the medical cannabis pharmacy;

2518 (c) personnel affiliated with the medical cannabis pharmacy;

2519 (d) best practices that the medical cannabis pharmacy upholds; and

2520 (e) educational material related to the medical use of cannabis.

2521 Section 39. Section **26-61a-506** is amended to read:

2522 **26-61a-506. Cannabis, cannabis product, or medical cannabis device**

2523 **transportation.**

2524 (1) Only the following individuals may transport cannabis in a medicinal dosage form,  
2525 a cannabis product in a medicinal dosage form, or a medical cannabis device under this  
2526 chapter:

2527 (a) a registered medical cannabis pharmacy agent;

2528 [~~(b) a registered state central fill agent;~~]

2529 [~~(c)~~] (b) a registered medical cannabis courier [~~for a state central fill shipment~~  
2530 ~~described in Section 26-61a-605~~] agent; or

2531 [~~(d)~~] (c) a medical cannabis cardholder who is transporting a medical cannabis  
2532 treatment that the cardholder is authorized to transport.

2533 (2) Except for an individual with a valid medical cannabis card under this chapter who  
2534 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an  
2535 individual described in Subsection (1) shall possess a transportation manifest that:

2536 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
2537 cannabis device to a relevant inventory control system;

2538 (b) includes origin and destination information for cannabis, a cannabis product, or a  
2539 medical cannabis device that the individual is transporting; and

2540 (c) identifies the departure and arrival times and locations of the individual  
2541 transporting the cannabis, cannabis product, or medical cannabis device.

2542 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may  
2543 establish by rule, in collaboration with the Division of Occupational and Professional Licensing  
2544 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative  
2545 Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a  
2546 cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the  
2547 cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

2548 (b) The transportation described in Subsection ~~[(3)(a)]~~ (1)(a) is limited to  
2549 transportation~~[(i)]~~ between a medical cannabis pharmacy and:

2550 (i) another medical cannabis pharmacy; ~~and~~ or

2551 (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

2552 ~~[(ii) between the state central fill medical cannabis pharmacy and:]~~

2553 ~~[(A) another state central fill medical cannabis pharmacy location; or]~~

2554 ~~[(B) a local health department.]~~

2555 (4) (a) It is unlawful for a registered medical cannabis pharmacy agent~~[-]~~ or a registered  
2556 ~~[state central fill] medical cannabis courier agent[-]~~ or a courier described in Section  
2557 26-61a-605 to make a transport described in this section with a manifest that does not meet the  
2558 requirements of this section.

2559 (b) Except as provided in Subsection (4)(d), an agent ~~[or courier]~~ who violates  
2560 Subsection (4)(a) is:

2561 (i) guilty of an infraction; and

2562 (ii) subject to a \$100 fine.

2563 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not  
2564 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
2565 underlying the violation described in Subsection (4)(b).

2566 (d) If the individual described in Subsection (4)(a) is transporting more cannabis,

2567 cannabis product, or medical cannabis devices than the manifest identifies, except for a de  
2568 minimis administrative error:

2569 (i) this chapter does not apply; and

2570 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled  
2571 Substances Act.

2572 Section 40. Section ~~26-61a-507~~ is amended to read:

2573 **26-61a-507. Local control.**

2574 [~~(1)(a)(i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or~~  
2575 ~~maintain a license under Section 26-61a-301, a person shall demonstrate that the intended~~  
2576 ~~medical cannabis pharmacy location is located at least:]~~

2577 [~~(A) 600 feet from a community location's property boundary following the shortest~~  
2578 ~~route of ordinary pedestrian travel;]~~

2579 [~~(B) 200 feet from the patron entrance to the community location's property boundary;~~  
2580 ~~and]~~

2581 [~~(C) 600 feet from an area zoned primarily residential.]~~

2582 [~~(ii) A municipal or county land use authority may recommend in writing that the~~  
2583 ~~department waive the community location proximity requirement described in Subsection~~  
2584 ~~(1)(a)(i).]~~

2585 (1) The operation of a medical cannabis pharmacy:

2586 (a) shall be a permitted use:

2587 (i) in any zone, overlay, or district within the municipality or county except for a  
2588 primarily residential zone; and

2589 (ii) on land that the municipality or county has not zoned; and

2590 (b) is subject to the land use regulations, as defined in Sections 10-9a-103 and  
2591 17-27a-103, that apply in the underlying zone.

2592 [~~(b)(i) (2) A municipality or county may not [deny or revoke a land use permit to~~  
2593 ~~operate a medical cannabis pharmacy]:~~

2594           (a) on the sole basis that the applicant or medical cannabis pharmacy violates federal  
2595 law regarding the legal status of cannabis[~~-(ii) A municipality or county may not~~], deny or  
2596 revoke;

2597           (i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to  
2598 operate a medical cannabis pharmacy; or

2599           (ii) a business license to operate a medical cannabis pharmacy [~~on the sole basis that~~  
2600 ~~the applicant or medical cannabis pharmacy violates federal law regarding the legal status of~~  
2601 ~~cannabis.~~];

2602           (b) require a certain distance between a medical cannabis pharmacy and:

2603           (i) another medical cannabis pharmacy;

2604           (ii) a cannabis production establishment;

2605           (iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

2606           (iv) an outlet, as that term is defined in Section 32B-1-202; or

2607           (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use  
2608 regulation against a medical cannabis pharmacy that was not in effect on the day on which the  
2609 medical cannabis pharmacy submitted a complete land use application.

2610           ~~[(2)]~~ (3) A municipality or county may enact an ordinance that:

2611           (a) is not in conflict with this chapter; and

2612           (b) governs the time, place, or manner of medical cannabis pharmacy operations in the  
2613 municipality or county.

2614           (4) An applicant for a land use permit to operate a medical cannabis pharmacy shall  
2615 comply with the land use requirements and application process described in:

2616           (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act,  
2617 including Section 10-9a-528; and

2618           (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act,  
2619 including Section 17-27a-525.

2620           Section 41. Section 26-61a-601 is repealed and reenacted to read:

2621 **26-61a-601. State central patient portal -- Department duties.**

2622 (1) On or before July 1, 2020, the department shall establish or contract to establish, in  
2623 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as  
2624 described in this section.

2625 (2) The state central patient portal shall:

2626 (a) authenticate each user to ensure the user is a valid medical cannabis patient  
2627 cardholder;

2628 (b) allow a medical cannabis patient cardholder to:

2629 (i) obtain and download the cardholder's medical cannabis card;

2630 (ii) review the cardholder's medical cannabis purchase history; and

2631 (iii) manage the cardholder's personal information, including withdrawing consent for  
2632 the use of the cardholder's information for a study described in Subsection [26-61a-201\(10\)](#);

2633 (c) if the cardholder's qualified medical provider recommended the use of medical  
2634 cannabis without providing dosing parameters and the cardholder has not yet received the  
2635 counseling or consultation required in Subsection [26-61a-502\(4\)](#):

2636 (i) alert the cardholder of the outstanding need for consultation; and

2637 (ii) provide the cardholder with access to the contact information for each state central  
2638 patient portal medical provider and each pharmacy medical provider;

2639 (d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis  
2640 order to a home delivery medical cannabis pharmacy;

2641 (e) prohibit a patient from completing an electronic medical cannabis order described  
2642 in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection  
2643 [26-61a-501\(2\)\(a\)](#) or (b);

2644 (f) provide educational information to medical cannabis patient cardholders regarding  
2645 the state's medical cannabis laws and regulatory programs and other relevant information  
2646 regarding medical cannabis; and

2647 (g) allow the patient to designate up to two caregivers who may receive a medical

2648 cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in  
2649 accordance with this chapter.

2650 (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah  
2651 Administrative Rulemaking Act, to implement the state central patient portal.

2652 Section 42. Section **26-61a-602** is repealed and reenacted to read:

2653 **26-61a-602. State central patient portal medical provider.**

2654 (1) In relation to the state central patient portal:

2655 (a) the department may only employ, as a state central patient portal medical provider:

2656 (i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

2657 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title

2658 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2659 (b) if the department employs a state central patient portal medical provider, ensure  
2660 that a state central patient portal medical provider is available during normal business hours.

2661 (2) A state central patient portal medical provider may:

2662 (a) provide consultations to medical cannabis cardholders and qualified medical  
2663 providers; and

2664 (b) determine dosing parameters in accordance with Subsection **26-61a-502(5)**.

2665 Section 43. Section **26-61a-603** is repealed and reenacted to read:

2666 **26-61a-603. Payment provider for electronic medical cannabis transactions.**

2667 (1) A cannabis production establishment seeking to use a payment provider, a medical  
2668 cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy shall submit to

2669 the Division of Finance and the state treasurer information regarding the payment provider the

2670 prospective licensee will use to conduct financial transactions related to medical cannabis,

2671 including:

2672 (a) the name and contact information of the payment provider;

2673 (b) the nature of the relationship between the establishment, pharmacy, or prospective  
2674 pharmacy and the payment provider; and

2675 (c) for a prospective home delivery medical cannabis pharmacy, the processes the  
2676 prospective licensee and the payment provider have in place to safely and reliably conduct  
2677 financial transactions for medical cannabis shipments.

2678 (2) The Division of Finance shall, in consultation with the state treasurer:

2679 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2680 make rules to establish standards for identifying payment providers that demonstrate the  
2681 functional and technical ability to safely conduct financial transactions related to medical  
2682 cannabis, including medical cannabis shipments;

2683 (b) review submissions the Division of Finance and the state treasurer receive under  
2684 Subsection (1);

2685 (c) approve a payment provider that meets the standards described in Subsection (2)(a);  
2686 and

2687 (d) establish a list of approved payment providers.

2688 (3) Any licensed cannabis production establishment, licensed medical cannabis  
2689 pharmacy, or medical cannabis courier may use a payment provider that the Division of  
2690 Finance approves, in consultation with the state treasurer, to conduct transactions related to the  
2691 establishment's, pharmacy's, or courier's respective medical cannabis business.

2692 (4) If Congress passes legislation that allows a cannabis-related business to facilitate  
2693 payments through or deposit funds in a financial institution, a cannabis production  
2694 establishment or a medical cannabis pharmacy may facilitate payments through or deposit  
2695 funds in a financial institution in addition to or instead of a payment provider that the Division  
2696 of Finance approves, in consultation with the state treasurer, under this section.

2697 Section 44. Section **26-61a-604** is repealed and reenacted to read:

2698 **26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis**  
2699 **couriers -- License.**

2700 (1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2701 Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home

2702 delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the  
2703 state central patient portal facilitates, including rules regarding the safe and controlled delivery  
2704 of medical cannabis shipments.

2705 (2) A person may not operate as a medical cannabis courier without a license that the  
2706 department issues under this section.

2707 (3) (a) Subject to Subsections (5) and (6), the department shall issue a license to  
2708 operate as a medical cannabis courier to an applicant who is eligible for a license under this  
2709 section.

2710 (b) An applicant is eligible for a license under this section if the applicant submits to  
2711 the department:

2712 (i) the name and address of an individual who:

2713 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis  
2714 pharmacy; or

2715 (B) has the power to direct or cause the management or control of a proposed cannabis  
2716 production establishment;

2717 (ii) an operating plan that includes operating procedures to comply with the operating  
2718 requirements for a medical cannabis courier described in this chapter; and

2719 (iii) an application fee in an amount that, subject to Subsection [26-61a-109\(5\)](#), the  
2720 department sets in accordance with Section [63J-1-504](#).

2721 (4) If the department determines that an applicant is eligible for a license under this  
2722 section, the department shall:

2723 (a) charge the applicant an initial license fee in an amount that, subject to Subsection  
2724 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

2725 (b) notify the Department of Public Safety of the license approval and the names of  
2726 each individual described in Subsection (3)(b)(ii).

2727 (5) The department may not issue a license to operate as a medical cannabis courier to  
2728 an applicant if an individual described in Subsection (3)(b)(ii):

2729           (a) has been convicted under state or federal law of:  
2730           (i) a felony; or  
2731           (ii) after the effective date of this bill, a misdemeanor for drug distribution; or  
2732           (b) is younger than 21 years old.  
2733           (6) The department may revoke a license under this part if:  
2734           (a) the medical cannabis courier does not begin operations within one year after the day  
2735 on which the department issues the initial license;  
2736           (b) the medical cannabis courier makes the same violation of this chapter three times;  
2737 or  
2738           (c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is  
2739 active, under state or federal law of:  
2740           (i) a felony; or  
2741           (ii) after the effective date of this bill, a misdemeanor for drug distribution.  
2742           (7) The department shall deposit the proceeds of a fee imposed by this section in the  
2743 Qualified Patient Enterprise Fund.  
2744           (8) The department shall begin accepting applications under this section on or before  
2745 July 1, 2020.  
2746           (9) The department's authority to issue a license under this section is plenary and is not  
2747 subject to review.  
2748           (10) Each applicant for a license as a medical cannabis courier shall submit, at the time  
2749 of application, from each individual who has a financial or voting interest of 2% or greater in  
2750 the applicant or who has the power to direct or cause the management or control of the  
2751 applicant:  
2752           (a) a fingerprint card in a form acceptable to the Department of Public Safety;  
2753           (b) a signed waiver in accordance with Subsection [53-10-108](#)(4) acknowledging the  
2754 registration of the individual's fingerprints in the Federal Bureau of Investigation Next  
2755 Generation Identification System's Rap Back Service; and

- 2756 (c) consent to a fingerprint background check by:  
2757 (i) the Bureau of Criminal Identification; and  
2758 (ii) the Federal Bureau of Investigation.  
2759 (11) The Bureau of Criminal Identification shall:  
2760 (a) check the fingerprints the applicant submits under Subsection (10) against the  
2761 applicable state, regional, and national criminal records databases, including the Federal  
2762 Bureau of Investigation Next Generation Identification System;  
2763 (b) report the results of the background check to the department;  
2764 (c) maintain a separate file of fingerprints that applicants submit under Subsection (10)  
2765 for search by future submissions to the local and regional criminal records databases, including  
2766 latent prints;  
2767 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2768 Generation Identification System's Rap Back Service for search by future submissions to  
2769 national criminal records databases, including the Next Generation Identification System and  
2770 latent prints; and  
2771 (e) establish a privacy risk mitigation strategy to ensure that the department only  
2772 receives notifications for an individual with whom the department maintains an authorizing  
2773 relationship.  
2774 (12) The department shall:  
2775 (a) assess an individual who submits fingerprints under Subsection (10) a fee in an  
2776 amount that the department sets in accordance with Section 63J-1-504 for the services that the  
2777 Bureau of Criminal Identification or another authorized agency provides under this section; and  
2778 (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal  
2779 Identification.  
2780 (13) The department shall renew a license under this section every year if, at the time  
2781 of renewal:  
2782 (a) the licensee meets the requirements of this section; and

2783 (b) the licensee pays the department a license renewal fee in an amount that, subject to  
2784 Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

2785 (14) A person applying for a medical cannabis courier license shall submit to the  
2786 department a proposed operating plan that complies with this section and that includes:

2787 (a) a description of the physical characteristics of any proposed facilities, including a  
2788 floor plan and an architectural elevation, and delivery vehicles;

2789 (b) a description of the credentials and experience of each officer, director, or owner of  
2790 the proposed medical cannabis courier;

2791 (c) the medical cannabis courier's employee training standards;

2792 (d) a security plan; and

2793 (e) storage and delivery protocols, both short and long term, to ensure that medical  
2794 cannabis shipments are stored and delivered in a manner that is sanitary and preserves the  
2795 integrity of the cannabis.

2796 Section 45. Section **26-61a-605** is amended to read:

2797 **26-61a-605. Medical cannabis shipment transportation.**

2798 (1) The [~~state central fill medical cannabis pharmacy~~] department shall ensure that [~~the~~  
2799 ~~state central fill~~] each home delivery medical cannabis pharmacy is capable of delivering,  
2800 directly or through a medical cannabis courier, medical cannabis shipments in a secure  
2801 manner [~~, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and~~  
2802 ~~a medical cannabis device to each local health department in the state within two business days~~  
2803 ~~after the day on which the state central fill medical cannabis pharmacy receives a request for a~~  
2804 ~~state central fill shipment resulting from a recommendation of a qualified medical provider~~  
2805 ~~under Section 26-61a-603~~].

2806 (2) (a) [~~The department~~] A home delivery medical cannabis pharmacy may contract  
2807 with a [~~private entity for the entity to serve as a courier for the state central fill medical~~  
2808 ~~cannabis pharmacy, delivering state central fill~~] licensed medical cannabis courier to deliver  
2809 medical cannabis shipments to [~~local health departments for distribution to medical cannabis~~

2810 ~~cardholders]~~ fulfill electronic medical cannabis orders that the state central patient portal  
2811 facilitates.

2812 (b) If [~~the department]~~ a home delivery medical cannabis pharmacy enters into a  
2813 contract described in Subsection (2)(a), the [~~department]~~ pharmacy shall:

2814 [(i) ~~issue the contract described in Subsection (2)(a) in accordance with Title 63G,~~  
2815 ~~Chapter 6a, Utah Procurement Code;~~]

2816 [(ii) (i) impose security and personnel requirements on the [contracted private entity]  
2817 medical cannabis courier sufficient to ensure the security and safety of [~~state central filh]~~  
2818 medical cannabis shipments; and

2819 [(iii) (ii) provide regular oversight of the [contracted private entity] medical cannabis  
2820 courier.

2821 (3) Except for an individual with a valid medical cannabis card who transports a  
2822 shipment the individual receives, an individual may not transport a [~~state central filh]~~ medical  
2823 cannabis shipment unless the individual is:

2824 (a) a registered [~~state central filh]~~ medical cannabis pharmacy agent; or

2825 (b) [~~an]~~ a registered agent of the [private] medical cannabis courier described in  
2826 Subsection (2).

2827 (4) An individual transporting a [~~state central filh]~~ medical cannabis shipment under  
2828 Subsection (3) shall possess a transportation manifest that:

2829 (a) includes a unique identifier that links the [~~state central filh]~~ medical cannabis  
2830 shipment to a relevant inventory control system;

2831 (b) includes origin and destination information for [~~a state central filh]~~ the medical  
2832 cannabis shipment the individual is transporting; and

2833 (c) indicates the departure and arrival times and locations of the individual transporting  
2834 the [~~state central filh]~~ medical cannabis shipment.

2835 (5) In addition to the requirements in Subsections (3) and (4), the department may  
2836 establish by rule, in collaboration with the Division of Occupational and Professional Licensing

2837 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative  
2838 Rulemaking Act, requirements for transporting [~~state central fill~~] medical cannabis shipments  
2839 that are related to safety for human consumption of cannabis or a cannabis product.

2840 (6) (a) It is unlawful for an individual to transport a [~~state central fill~~] medical cannabis  
2841 shipment with a manifest that does not meet the requirements of Subsection (4).

2842 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection  
2843 (6)(a) is:

2844 (i) guilty of an infraction; and

2845 (ii) subject to a \$100 fine.

2846 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not  
2847 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
2848 underlying the violation described in Subsection (6)(b).

2849 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,  
2850 cannabis product, or medical cannabis devices than the manifest identifies, except for a de  
2851 minimis administrative error:

2852 (i) this chapter does not apply; and

2853 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled  
2854 Substances Act.

2855 Section 46. Section **26-61a-606** is amended to read:

2856 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**  
2857 **card -- Rebuttable presumption.**

2858 (1) An individual may not serve as a [~~local health department distribution~~] medical  
2859 cannabis courier agent unless:

2860 (a) the individual is an employee of a [~~local health department~~] licensed medical  
2861 cannabis courier; and

2862 (b) the department registers the individual as a [~~local health department distribution~~]  
2863 medical cannabis courier agent.

2864 (2) (a) The department shall, within 15 days after the day on which the department  
2865 receives a complete application from a [~~local health department~~] medical cannabis courier on  
2866 behalf of a [~~prospective local health department distribution~~] medical cannabis courier agent,  
2867 register and issue a [~~local health department distribution~~] medical cannabis courier agent  
2868 registration card to the prospective agent if the [~~local health department~~] medical cannabis  
2869 courier:

2870 (i) provides to the department:

2871 (A) the prospective agent's name and address;

2872 (B) the name and [~~location~~] address of the [~~local health department where the~~  
2873 ~~prospective agent seeks to act as a local health department distribution agent~~] medical cannabis  
2874 courier; [~~and~~]

2875 (C) the name and address of each home delivery medical cannabis pharmacy with  
2876 which the medical cannabis courier contracts to deliver medical cannabis shipments; and

2877 [~~€~~] (D) the submission required under Subsection (2)(b); [~~and~~]

2878 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal  
2879 law of:

2880 (A) a felony; or

2881 (B) after December 3, 2018, a misdemeanor for drug distribution[-]; and

2882 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),  
2883 the department sets in accordance with Section 63J-1-504.

2884 (b) [~~Each~~] Except for an applicant reapplying for a medical cannabis courier agent  
2885 registration card within less than one year after the expiration of the applicant's previous  
2886 medical cannabis courier agent registration card, each prospective agent described in  
2887 Subsection (2)(a) shall:

2888 (i) submit to the department:

2889 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

2890 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

2891 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next  
2892 Generation Identification System's Rap Back Service; and  
2893 (ii) consent to a fingerprint background check by:  
2894 (A) the Bureau of Criminal Identification; and  
2895 (B) the Federal Bureau of Investigation.  
2896 (c) The Bureau of Criminal Identification shall:  
2897 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against  
2898 the applicable state, regional, and national criminal records databases, including the Federal  
2899 Bureau of Investigation Next Generation Identification System;  
2900 (ii) report the results of the background check to the department;  
2901 (iii) maintain a separate file of fingerprints that prospective agents submit under  
2902 Subsection (2)(b) for search by future submissions to the local and regional criminal records  
2903 databases, including latent prints;  
2904 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
2905 Generation Identification System's Rap Back Service for search by future submissions to  
2906 national criminal records databases, including the Next Generation Identification System and  
2907 latent prints; and  
2908 (v) establish a privacy risk mitigation strategy to ensure that the department only  
2909 receives notifications for an individual with whom the department maintains an authorizing  
2910 relationship.  
2911 (d) The department shall:  
2912 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an  
2913 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the  
2914 Bureau of Criminal Identification or another authorized agency provides under this section; and  
2915 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal  
2916 Identification.  
2917 (3) The department shall designate on an individual's [~~local health department~~

2918 ~~distribution]~~ medical cannabis courier agent registration card the name of the [~~local health~~  
2919 ~~department]~~ medical cannabis courier where the individual is registered as an agent and each  
2920 home delivery medical cannabis courier for which the medical cannabis courier delivers  
2921 medical cannabis shipments.

2922 (4) (a) A [~~local health department distribution]~~ medical cannabis courier agent shall  
2923 comply with a certification standard that the department develops, in collaboration with the  
2924 Division of Occupational and Professional Licensing and the Board of Pharmacy, or a  
2925 third-party certification standard that the department designates by rule in collaboration with  
2926 the Division of Occupational and Professional Licensing and the Board of Pharmacy and in  
2927 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2928 (b) The department shall ensure that the certification standard described in Subsection  
2929 (4)(a) includes training in:

2930 (i) Utah medical cannabis law;  
2931 (ii) the [~~state central fill]~~ medical cannabis [~~pharmacy]~~ shipment process; and  
2932 (iii) [~~local health department distribution]~~ medical cannabis courier agent best  
2933 practices.

2934 (5) (a) A medical cannabis courier agent registration card expires two years after the  
2935 day on which the department issues or renews the card.

2936 (b) A medical cannabis courier agent may renew the agent's registration card if the  
2937 agent:

2938 (i) is eligible for a medical cannabis courier agent registration card under this section;

2939 (ii) certifies to the department in a renewal application that the information in

2940 Subsection (2)(a) is accurate or updates the information; and

2941 (iii) pays to the department a renewal fee in an amount that:

2942 (A) subject to Subsection [26-61a-109\(5\)](#), the department sets in accordance with

2943 Section [63J-1-504](#); and

2944 (B) may not exceed the cost of the relatively lower administrative burden of renewal in

2945 comparison to the original application process.

2946 [~~(5)~~] (6) The department may revoke or refuse to issue or renew the [~~local health~~  
2947 ~~department distribution~~] medical cannabis courier agent registration card of an individual who:

2948 (a) violates the requirements of this chapter; or

2949 (b) is convicted under state or federal law of:

2950 (i) a felony; or

2951 (ii) after December 3, 2018, a misdemeanor for drug distribution.

2952 [~~(6)~~] (7) A [~~local health department distribution~~] medical cannabis courier agent [~~who~~  
2953 ~~whom~~] the department has registered under this section shall carry the agent's [~~local health~~  
2954 ~~department distribution~~] medical cannabis courier agent registration card with the agent at all  
2955 times when:

2956 (a) the agent is on the premises of the [~~local health department~~] medical cannabis  
2957 courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

2958 (b) the agent is handling a medical cannabis shipment [~~of cannabis or cannabis product~~  
2959 ~~from the state central fill medical cannabis pharmacy~~].

2960 [~~(7)~~] (8) If a [~~local health department distribution~~] medical cannabis courier agent  
2961 handling a medical cannabis shipment [~~of cannabis or cannabis product from the state central~~  
2962 ~~fill medical cannabis pharmacy~~] possesses the shipment in compliance with Subsection [~~(6)~~]  
2963 (7):

2964 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and

2965 (b) there is no probable cause, based solely on the agent's possession of the medical  
2966 cannabis shipment [~~containing medical cannabis in medicinal dosage form, a cannabis product~~  
2967 ~~in medicinal dosage form, or a medical cannabis device,~~] that the agent is engaging in illegal  
2968 activity.

2969 [~~(8)~~] (9) (a) A [~~local health department distribution~~] medical cannabis courier agent  
2970 who violates Subsection [~~(6)~~] (7) is:

2971 (i) guilty of an infraction; and

2972 (ii) subject to a \$100 fine.

2973 (b) An individual who is guilty of a violation described in Subsection ~~[(8)(a)]~~ (9)(a) is

2974 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the

2975 conduct underlying the violation described in Subsection ~~[(8)(a)]~~ (9)(a).

2976 Section 47. Section **26-61a-607** is amended to read:

2977 **26-61a-607. Home delivery of medical cannabis shipments.**

2978 ~~[(1) Each local health department shall designate:]~~

2979 ~~[(a) one or more of the local health department's locations as a state central fill~~

2980 ~~shipment distribution location; and]~~

2981 ~~[(b) a sufficient number of personnel to ensure that at least one individual is available~~

2982 ~~at all times during business hours:]~~

2983 ~~[(i) whom the department has registered as a local health department distribution agent;~~

2984 ~~and]~~

2985 ~~[(ii) to distribute state central fill shipments to medical cannabis cardholders in~~

2986 ~~accordance with this section.]~~

2987 ~~[(2)]~~ (1) An individual may not ~~retrieve a~~ receive and a medical cannabis pharmacy

2988 agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from

2989 ~~[the state central fill]~~ a home delivery medical cannabis pharmacy [at a local health

2990 department] unless:

2991 (a) the individual receiving the shipment presents:

2992 ~~[(a)]~~ (i) a valid form of photo identification [that is a valid United States federal- or

2993 state-issued photo identification, including a driver license, a United States passport, a United

2994 States passport card, or a United States military identification card]; and

2995 ~~[(b)]~~ (ii) a valid medical cannabis card under the same name that appears on the valid

2996 form of photo identification [described in Subsection (2)(a).]; and

2997 (b) the delivery occurs at the medical cannabis cardholder's home address that is on file

2998 in the state electronic verification system.

2999           ~~[(3)]~~ (2) Before a ~~[local health department distribution]~~ medical cannabis pharmacy  
3000 agent or a medical cannabis courier agent distributes a ~~[state central fill]~~ medical cannabis  
3001 shipment to a medical cannabis cardholder, the ~~[local health department distribution]~~ agent  
3002 shall:

- 3003           (a) verify the shipment information using the state electronic verification system;
- 3004           (b) ensure that the individual satisfies the identification requirements in Subsection

3005 ~~[(2)]~~ (1);

- 3006           (c) verify that payment is complete; and
- 3007           (d) record the completion of the shipment transaction in the electronic verification
- 3008 system.

3009           ~~[(4)]~~ (3) The ~~[local health department]~~ medical cannabis courier shall:

- 3010           (a) (i) store each ~~[state central fill]~~ medical cannabis shipment ~~[that the local health~~  
3011 ~~department receives,]~~ in a secure manner until the recipient medical cannabis cardholder  
3012 ~~[retrieves]~~ receives the shipment or the ~~[local health department]~~ medical cannabis courier  
3013 returns the shipment to the ~~[state central fill]~~ home delivery medical cannabis pharmacy in  
3014 accordance with Subsection ~~[(5), in a single, secure, locked area that is equipped with a~~  
3015 ~~security system that detects and records entry into the area]~~ (4); and

- 3016           (ii) ensure that only a ~~[local health department distribution]~~ medical cannabis courier  
3017 agent is able to access the ~~[area]~~ medical cannabis shipment until the recipient medical  
3018 cannabis cardholder receives the shipment;

- 3019           (b) return any ~~[unclaimed state central fill]~~ undelivered medical cannabis shipment to  
3020 the ~~[state central fill]~~ home delivery medical cannabis pharmacy, in accordance with  
3021 Subsection ~~[(5)(a)]~~ (4), after the ~~[local health department]~~ medical cannabis courier has  
3022 possessed the ~~[state central fill]~~ shipment for 10 business days; and

- 3023           (c) return any ~~[state central fill]~~ medical cannabis shipment to the ~~[state central fill]~~  
3024 home delivery medical cannabis pharmacy, in accordance with Subsection ~~[(5)(b)]~~ (4), if a  
3025 medical cannabis cardholder ~~[returns]~~ refuses to accept the shipment ~~[to the local health~~

3026 department after retrieving the shipment].

3027 ~~[(5)] (4)~~ (a) If a ~~[local health department]~~ medical cannabis courier or home delivery  
 3028 medical cannabis pharmacy agent returns an ~~[unclaimed state central fill]~~ undelivered medical  
 3029 cannabis shipment ~~[under Subsection (4)(b)]~~ that remains unopened, the ~~[state central fill]~~  
 3030 home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment ~~[for~~  
 3031 ~~another state central fill shipment]~~.

3032 (b) If a ~~[local health department]~~ medical cannabis courier or home delivery medical  
 3033 cannabis pharmacy agent returns ~~[a returned state central fill]~~ an undelivered or refused  
 3034 medical cannabis shipment under Subsection ~~[(4)(c)]~~ (3) that appears to be opened in any way,  
 3035 the ~~[state central fill]~~ home delivery medical cannabis pharmacy shall dispose of the ~~[returned]~~  
 3036 shipment by:

3037 (i) rendering the ~~[state central fill]~~ shipment unusable and unrecognizable before  
 3038 transporting the shipment from the ~~[state central fill]~~ home delivery medical cannabis  
 3039 pharmacy; and

3040 (ii) disposing of the ~~[state central fill]~~ shipment in accordance with:

3041 (A) federal and state laws, rules, and regulations related to hazardous waste;

3042 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

3043 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

3044 (D) other regulations that the department makes in accordance with Title 63G, Chapter  
 3045 3, Utah Administrative Rulemaking Act.

3046 Section 48. Section **26-61a-702** is amended to read:

3047 **26-61a-702. Enforcement -- Fine -- Citation.**

3048 (1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter  
 3049 or an applicable administrative rule:

3050 (i) revoke the medical cannabis pharmacy license;

3051 (ii) refuse to renew the medical cannabis pharmacy license; or

3052 (iii) assess the medical cannabis pharmacy an administrative penalty.

3053 (b) The department may, for a medical cannabis pharmacy agent's or [~~state central fill~~]  
3054 medical cannabis courier agent's violation of this chapter:

3055 (i) revoke the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis  
3056 courier agent registration card;

3057 (ii) refuse to renew the medical cannabis pharmacy agent or [~~state central fill~~] medical  
3058 cannabis courier agent registration card; or

3059 (iii) assess the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis  
3060 courier agent an administrative penalty.

3061 (2) The department shall deposit an administrative penalty imposed under this section  
3062 into the General Fund.

3063 (3) For a person subject to an uncontested citation, a stipulated settlement, or a finding  
3064 of a violation in an adjudicative proceeding under this section, the department may:

3065 (a) for a fine amount not already specified in law, assess the person a fine of up to  
3066 \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule  
3067 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

3068 (b) order the person to cease and desist from the action that creates a violation.

3069 (4) The department may not revoke a medical cannabis pharmacy's license or a medical  
3070 cannabis courier's license without first directing the medical cannabis pharmacy or a medical  
3071 cannabis courier's license to appear before an adjudicative proceeding conducted under Title  
3072 63G, Chapter 4, Administrative Procedures Act.

3073 (5) If, within 20 calendar days after the day on which the department issues a citation  
3074 for a violation of this chapter, the person that is the subject of the citation fails to request a  
3075 hearing to contest the citation, the citation becomes the department's final order.

3076 (6) The department may, for a person who fails to comply with a citation under this  
3077 section:

3078 (a) refuse to issue or renew the person's license or agent registration card; or

3079 (b) suspend, revoke, or place on probation the person's license or agent registration

3080 card.

3081 (7) (a) Except where a criminal penalty is expressly provided for a specific violation of  
3082 this chapter, if an individual violates a provision of this chapter, the individual is:

3083 (i) guilty of an infraction; and

3084 (ii) subject to a \$100 fine.

3085 (b) An individual who is guilty of a violation described in Subsection (7)(a) is not  
3086 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
3087 underlying the violation described in Subsection (7)(a).

3088 Section 49. Section ~~26-61a-703~~ is amended to read:

3089 **26-61a-703. Report.**

3090 (1) By the November interim meeting each year beginning in 2020, the department  
3091 shall report to the Health and Human Services Interim Committee on:

3092 (a) the number of applications and renewal applications filed for medical cannabis  
3093 cards;

3094 (b) the number of qualifying patients and designated caregivers;

3095 (c) the nature of the debilitating medical conditions of the qualifying patients;

3096 (d) the age and county of residence of cardholders;

3097 (e) the number of medical cannabis cards revoked;

3098 (f) the number of practitioners providing recommendations for qualifying patients;

3099 (g) the number of license applications and renewal license applications received;

3100 (h) the number of licenses the department has issued in each county;

3101 (i) the number of licenses the department has revoked;

3102 (j) the quantity [~~and timeliness of state central fill~~] of medical cannabis shipments[-  
3103 ~~including the amount of time between recommendation to~~] that the state central [~~fill medical~~  
3104 ~~cannabis pharmacy and arrival of a state central fill shipment at a local health department~~]  
3105 patient portal facilitates;

3106 [~~(k) the market share of state central fill shipments;~~]

3107 (k) the number of overall purchases of medical cannabis and medical cannabis products  
3108 from each medical cannabis pharmacy;

3109 (l) the expenses incurred and revenues generated from the medical cannabis program;  
3110 and

3111 [~~(m) the expenses incurred and revenues generated from the state central fill medical~~  
3112 ~~cannabis pharmacy, including a profit and loss statement; and]~~

3113 [~~(n)~~ (m) an analysis of product availability[, including the price differential between  
3114 comparable products,] in medical cannabis pharmacies [and the state central fill medical  
3115 cannabis pharmacy].

3116 (2) The department may not include personally identifying information in the report  
3117 described in this section.

3118 Section 50. Section **30-3-10** is amended to read:

3119 **30-3-10. Custody of a child -- Custody factors.**

3120 (1) If a married couple having one or more minor children are separated, or the married  
3121 couple's marriage is declared void or dissolved, the court shall enter, and has continuing  
3122 jurisdiction to modify, an order of custody and parent-time.

3123 (2) In determining any form of custody and parent-time under Subsection (1), the court  
3124 shall consider the best interest of the child and may consider among other factors the court  
3125 finds relevant, the following for each parent:

3126 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional  
3127 abuse, involving the child, the parent, or a household member of the parent;

3128 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet  
3129 the developmental needs of the child, including the child's:

3130 (i) physical needs;

3131 (ii) emotional needs;

3132 (iii) educational needs;

3133 (iv) medical needs; and

- 3134 (v) any special needs;
- 3135 (c) the parent's capacity and willingness to function as a parent, including:
  - 3136 (i) parenting skills;
  - 3137 (ii) co-parenting skills, including:
    - 3138 (A) ability to appropriately communicate with the other parent;
    - 3139 (B) ability to encourage the sharing of love and affection; and
    - 3140 (C) willingness to allow frequent and continuous contact between the child and the
    - 3141 other parent, except that, if the court determines that the parent is acting to protect the child
    - 3142 from domestic violence, neglect, or abuse, the parent's protective actions may be taken into
    - 3143 consideration; and
    - 3144 (iii) ability to provide personal care rather than surrogate care;
  - 3145 (d) in accordance with Subsection (10), the past conduct and demonstrated moral
  - 3146 character of the parent;
  - 3147 (e) the emotional stability of the parent;
  - 3148 (f) the parent's inability to function as a parent because of drug abuse, excessive
  - 3149 drinking, or other causes;
  - 3150 (g) whether the parent has intentionally exposed the child to pornography or material
  - 3151 harmful to minors, as "material" and "harmful to minors" are defined in Section [76-10-1201](#);
  - 3152 (h) the parent's reasons for having relinquished custody or parent-time in the past;
  - 3153 (i) duration and depth of desire for custody or parent-time;
  - 3154 (j) the parent's religious compatibility with the child;
  - 3155 (k) the parent's financial responsibility;
  - 3156 (l) the child's interaction and relationship with step-parents, extended family members
  - 3157 of other individuals who may significantly affect the child's best interests;
  - 3158 (m) who has been the primary caretaker of the child;
  - 3159 (n) previous parenting arrangements in which the child has been happy and
  - 3160 well-adjusted in the home, school, and community;

- 3161 (o) the relative benefit of keeping siblings together;
- 3162 (p) the stated wishes and concerns of the child, taking into consideration the child's
- 3163 cognitive ability and emotional maturity;
- 3164 (q) the relative strength of the child's bond with the parent, meaning the depth, quality,
- 3165 and nature of the relationship between the parent and the child; and
- 3166 (r) any other factor the court finds relevant.
- 3167 (3) There is a rebuttable presumption that joint legal custody, as defined in Section
- 3168 [30-3-10.1](#), is in the best interest of the child, except in cases when there is:
- 3169 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
- 3170 abuse involving the child, a parent, or a household member of the parent;
- 3171 (b) special physical or mental needs of a parent or child, making joint legal custody
- 3172 unreasonable;
- 3173 (c) physical distance between the residences of the parents, making joint decision
- 3174 making impractical in certain circumstances; or
- 3175 (d) any other factor the court considers relevant including those listed in this section
- 3176 and Section [30-3-10.2](#).
- 3177 (4) (a) The person who desires joint legal custody shall file a proposed parenting plan
- 3178 in accordance with Sections [30-3-10.8](#) and [30-3-10.9](#).
- 3179 (b) A presumption for joint legal custody may be rebutted by a showing by a
- 3180 preponderance of the evidence that it is not in the best interest of the child.
- 3181 (5) (a) A child may not be required by either party to testify unless the trier of fact
- 3182 determines that extenuating circumstances exist that would necessitate the testimony of the
- 3183 child be heard and there is no other reasonable method to present the child's testimony.
- 3184 (b) (i) The court may inquire of the child's and take into consideration the child's
- 3185 desires regarding future custody or parent-time schedules, but the expressed desires are not
- 3186 controlling and the court may determine the child's custody or parent-time otherwise.
- 3187 (ii) The desires of a child 14 years of age or older shall be given added weight, but is

3188 not the single controlling factor.

3189 (c) (i) If an interview with a child is conducted by the court pursuant to Subsection  
3190 (5)(b), the interview shall be conducted by the judge in camera.

3191 (ii) The prior consent of the parties may be obtained but is not necessary if the court  
3192 finds that an interview with a child is the only method to ascertain the child's desires regarding  
3193 custody.

3194 (6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a  
3195 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining  
3196 whether a substantial change has occurred for the purpose of modifying an award of custody.

3197 (b) The court may not consider the disability of a parent as a factor in awarding custody  
3198 or modifying an award of custody based on a determination of a substantial change in  
3199 circumstances, unless the court makes specific findings that:

3200 (i) the disability significantly or substantially inhibits the parent's ability to provide for  
3201 the physical and emotional needs of the child at issue; and

3202 (ii) the parent with a disability lacks sufficient human, monetary, or other resources  
3203 available to supplement the parent's ability to provide for the physical and emotional needs of  
3204 the child at issue.

3205 (c) Nothing in this section may be construed to apply to adoption proceedings under  
3206 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

3207 (7) This section does not establish a preference for either parent solely because of the  
3208 gender of the parent.

3209 (8) This section establishes neither a preference nor a presumption for or against joint  
3210 physical custody or sole physical custody, but allows the court and the family the widest  
3211 discretion to choose a parenting plan that is in the best interest of the child.

3212 (9) When an issue before the court involves custodial responsibility in the event of a  
3213 deployment of one or both parents who are servicemembers, and the servicemember has not yet  
3214 been notified of deployment, the court shall resolve the issue based on the standards in Sections

3215 78B-20-306 through 78B-20-309.

3216 (10) In considering the past conduct and demonstrated moral standards of each party  
3217 under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

3218 (a) consider or treat a parent's lawful possession or use of cannabis in a medicinal  
3219 dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in  
3220 accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter  
3221 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the  
3222 court would consider or treat the lawful possession or use of ~~[an opioid or opiate]~~ any  
3223 prescribed controlled substance; or

3224 (b) discriminate against a parent because of the parent's status as a:

3225 (i) cannabis production establishment agent, as that term is defined in Section  
3226 4-41a-102;

3227 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

3228 (iii) ~~[state central fill]~~ medical cannabis courier agent, as that term is defined in Section  
3229 26-61a-102; or

3230 (iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah  
3231 Medical Cannabis Act.

3232 Section 51. Section 58-17b-302 is amended to read:

3233 **58-17b-302. License required -- License classifications for pharmacy facilities.**

3234 (1) A license is required to act as a pharmacy, except:

3235 (a) as specifically exempted from licensure under Section 58-1-307; and

3236 (b) for the operation of a medical cannabis pharmacy ~~[or the state central fill medical~~  
3237 ~~cannabis pharmacy]~~ under Title 26, Chapter 61a, Utah Medical Cannabis Act.

3238 (2) The division shall issue a pharmacy license to a facility that qualifies under this  
3239 chapter in the classification of a:

3240 (a) class A pharmacy;

3241 (b) class B pharmacy;

- 3242 (c) class C pharmacy;
- 3243 (d) class D pharmacy;
- 3244 (e) class E pharmacy; or
- 3245 (f) dispensing medical practitioner clinic pharmacy.
- 3246 (3) (a) Each place of business shall require a separate license.
- 3247 (b) If multiple pharmacies exist at the same address, a separate license shall be required
- 3248 for each pharmacy.
- 3249 (4) (a) The division may further define or supplement the classifications of pharmacies.
- 3250 (b) The division may impose restrictions upon classifications to protect the public
- 3251 health, safety, and welfare.
- 3252 (5) Each pharmacy~~[, including the state central fill medical cannabis pharmacy,]~~ shall
- 3253 have a pharmacist-in-charge, except as otherwise provided by rule.
- 3254 (6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy,
- 3255 the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities
- 3256 of the pharmacy, regardless of the form of the business organization.
- 3257 Section 52. Section **58-17b-310** is amended to read:
- 3258 **58-17b-310. Continuing education.**
- 3259 (1) The division in collaboration with the board may establish by rule continuing
- 3260 education requirements for each classification of licensure under this chapter.
- 3261 (2) The division shall accept and apply toward an hour requirement that the division
- 3262 establishes under Subsection (1) continuing education that a pharmacist completes in
- 3263 accordance with ~~[Sections]~~ Section 26-61a-403 ~~[and 26-61a-601]~~.
- 3264 Section 53. Section **58-17b-502** is amended to read:
- 3265 **58-17b-502. Unprofessional conduct.**
- 3266 (1) "Unprofessional conduct" includes:
- 3267 (a) willfully deceiving or attempting to deceive the division, the board, or their agents
- 3268 as to any relevant matter regarding compliance under this chapter;

- 3269 (b) except as provided in Subsection (2):
- 3270 (i) paying or offering rebates to practitioners or any other health care providers, or
- 3271 receiving or soliciting rebates from practitioners or any other health care provider; or
- 3272 (ii) paying, offering, receiving, or soliciting compensation in the form of a commission,
- 3273 bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care
- 3274 provider, for the purpose of obtaining referrals;
- 3275 (c) misbranding or adulteration of any drug or device or the sale, distribution, or
- 3276 dispensing of any outdated, misbranded, or adulterated drug or device;
- 3277 (d) engaging in the sale or purchase of drugs or devices that are samples or packages
- 3278 bearing the inscription "sample" or "not for resale" or similar words or phrases;
- 3279 (e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug
- 3280 Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has
- 3281 left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section
- 3282 58-17b-503, or the manufacturer's sealed container, as defined in rule;
- 3283 (f) an act in violation of this chapter committed by a person for any form of
- 3284 compensation if the act is incidental to the person's professional activities, including the
- 3285 activities of a pharmacist, pharmacy intern, or pharmacy technician;
- 3286 (g) violating:
- 3287 (i) the federal Controlled Substances Act, Title II, P.L. 91-513;
- 3288 (ii) Title 58, Chapter 37, Utah Controlled Substances Act; or
- 3289 (iii) rules or regulations adopted under either act;
- 3290 (h) requiring or permitting pharmacy interns or technicians to engage in activities
- 3291 outside the scope of practice for their respective license classifications, as defined in this
- 3292 chapter and division rules made in collaboration with the board, or beyond their scope of
- 3293 training and ability;
- 3294 (i) administering:
- 3295 (i) without appropriate training, as defined by rule;

- 3296 (ii) without a physician's order, when one is required by law; and
- 3297 (iii) in conflict with a practitioner's written guidelines or written protocol for
- 3298 administering;
- 3299 (j) disclosing confidential patient information in violation of the provisions of the
- 3300 Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.
- 3301 1936, as amended, or other applicable law;
- 3302 (k) engaging in the practice of pharmacy without a licensed pharmacist designated as
- 3303 the pharmacist-in-charge;
- 3304 (l) failing to report to the division any adverse action taken by another licensing
- 3305 jurisdiction, government agency, law enforcement agency, or court for conduct that in
- 3306 substance would be considered unprofessional conduct under this section;
- 3307 (m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage
- 3308 form which is regularly and commonly available from a manufacturer in quantities and
- 3309 strengths prescribed by a practitioner;
- 3310 (n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act,
- 3311 when dispensing a self-administered hormonal contraceptive under a standing order; and
- 3312 (o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.
- 3313 (2) Subsection (1)(b) does not apply to:
- 3314 (a) giving or receiving a price discount based on purchase volume;
- 3315 (b) passing along a pharmaceutical manufacturer's rebate; or
- 3316 (c) providing compensation for services to a veterinarian.
- 3317 (3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
- 3318 61a, Utah Medical Cannabis Act:
- 3319 (a) when registered as a pharmacy medical provider, as that term is defined in Section
- 3320 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or
- 3321 (b) when ~~registered~~ acting as a state central ~~fhH~~ patient portal medical provider, as
- 3322 that term is defined in Section 26-61a-102, providing state central ~~fhH~~ patient portal medical

3323 provider services [~~in the state central fill medical cannabis pharmacy~~].

3324 (4) Notwithstanding Subsection (3), the division, in consultation with the board and in  
3325 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
3326 unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

3327 Section 54. Section ~~58-37-3.7~~ is amended to read:

3328 **58-37-3.7. Medical cannabis decriminalization.**

3329 (1) As used in this section:

3330 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

3331 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

3332 (c) "Medical cannabis card" means the same as that term is defined in Section  
3333 26-61a-102.

3334 (d) "Medical cannabis device" means the same as that term is defined in Section  
3335 26-61a-102.

3336 (e) "Medical cannabis pharmacy" means the same as that term is defined in Section  
3337 26-61a-102.

3338 (f) "Medicinal dosage form" means the same as that term is defined in Section  
3339 26-61a-102.

3340 (g) "Qualified medical provider" means the same as that term is defined in Section  
3341 26-61a-102.

3342 (h) "Qualifying condition" means the same as that term is defined in Section  
3343 26-61a-102.

3344 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section  
3345 58-37-3.9.

3346 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or  
3347 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

3348 (a) at the time of the arrest or citation, the individual:

3349 (i) (A) had been diagnosed with a qualifying condition; and

3350 (B) had a pre-existing provider-patient relationship with an advanced practice  
3351 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed  
3352 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,  
3353 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under  
3354 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness  
3355 described in Subsection (2)(a)(i)(A) could benefit from the use in question;

3356 (ii) for possession, was:

3357 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who  
3358 is a minor; or

3359 (B) the spouse of an individual described in Subsection (2)(a)(i); or

3360 (iii) (A) for possession, was a medical cannabis cardholder; or

3361 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying  
3362 condition under the supervision of a medical cannabis guardian cardholder; and

3363 (b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in one of the  
3364 following amounts:

3365 (i) no more than 56 grams by weight of unprocessed cannabis; or

3366 (ii) an amount of cannabis products that contains, in total, no more than 10 grams of  
3367 total composite tetrahydrocannabinol.

3368 (3) An individual is not guilty under this chapter for the use or possession of  
3369 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

3370 (a) at the time of the arrest or citation, the individual:

3371 (i) was not a resident of Utah or has been a resident of Utah for less than 45 days;

3372 (ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis  
3373 card under the laws of another state, district, territory, commonwealth, or insular possession of  
3374 the United States; and

3375 (iii) had been diagnosed with a qualifying condition as described in Section  
3376 [26-61a-104](#); and

3377 (b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in [~~a quantity~~  
3378 ~~described in Subsection 26-61a-502(2).~~] one of the following amounts:

3379 (i) no more than 113 grams by weight of unprocessed cannabis; or

3380 (ii) an amount of cannabis products that contains, in total, no more than 20 grams of  
3381 total composite tetrahydrocannabinol.

3382 Section 55. Section **58-37-3.8** is amended to read:

3383 **58-37-3.8. Enforcement.**

3384 (1) A law enforcement officer, as that term is defined in Section **53-13-103**, except for  
3385 an officially designated drug enforcement task force regarding conduct that is not in accordance  
3386 with Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local  
3387 resources, including the officer's time, to:

3388 (a) effect any arrest or seizure of cannabis, as that term is defined in Section  
3389 **26-61a-102**, or conduct any investigation, on the sole basis of activity the officer believes to  
3390 constitute a violation of federal law if the officer has reason to believe that the activity is in  
3391 compliance with the state medical cannabis laws;

3392 (b) enforce a law that restricts an individual's right to acquire, own, or possess a  
3393 firearm based solely on the individual's possession or use of cannabis in accordance with state  
3394 medical cannabis laws; or

3395 (c) provide any information or logistical support related to an activity described in  
3396 Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

3397 (2) An agency or political subdivision of the state may not take an adverse action  
3398 against a person for providing a professional service to a medical cannabis pharmacy, as that  
3399 term is defined in Section **26-61a-102**, the state central [~~fill medical cannabis pharmacy~~  
3400 patient portal], as that term is defined in Section **26-61a-102**, or a cannabis production  
3401 establishment, as that term is defined in Section **4-41a-102**, on the sole basis that the service is  
3402 a violation of federal law.

3403 Section 56. Section **58-37-3.9** is amended to read:

3404           **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**  
3405 **illness.**

3406           (1) As used in this section:

3407           (a) "Cannabis" means marijuana.

3408           (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

3409           (c) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

3410           (d) "Medical cannabis cardholder" means the same as that term is defined in Section  
3411 [26-61a-102](#).

3412           (e) "Medical cannabis device" means the same as that term is defined in Section  
3413 [26-61a-102](#).

3414           (f) " Medicinal dosage form" means the same as that term is defined in Section  
3415 [26-61a-102](#).

3416           (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic  
3417 description as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

3418           (2) Notwithstanding any other provision of law, except as otherwise provided in this  
3419 section:

3420           (a) an individual is not guilty of a violation of this title for the following conduct if the  
3421 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis  
3422 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

3423           (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,  
3424 selling, or offering to sell cannabis or a cannabis product; or

3425           (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct  
3426 described in Subsection (2)(a)(i); and

3427           (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if  
3428 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,  
3429 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

3430           (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis

3431 device; or

3432 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct  
3433 described in Subsection (2)(b)(i).

3434 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or  
3435 heating of medical cannabis.

3436 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical  
3437 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking  
3438 or combustion of cannabis.

3439 (c) A medical cannabis cardholder who smokes cannabis or engages in any other  
3440 conduct described in Subsection (3)(b):

3441 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah  
3442 Medical Cannabis Act; and

3443 (ii) is subject to charges under this chapter for the use or possession of marijuana,  
3444 tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection  
3445 (3)(b).

3446 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,  
3447 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical  
3448 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a  
3449 penalty described in this chapter for:

3450 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis  
3451 product; or

3452 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3453 Section 57. Section **58-67-304** is amended to read:

3454 **58-67-304. License renewal requirements.**

3455 (1) As a condition precedent for license renewal, each licensee shall, during each  
3456 two-year licensure cycle or other cycle defined by division rule:

3457 (a) complete qualified continuing professional education requirements in accordance

3458 with the number of hours and standards defined by division rule made in collaboration with the  
3459 board;

3460 (b) appoint a contact person for access to medical records and an alternate contact  
3461 person for access to medical records in accordance with Subsection 58-67-302(1)(j);

3462 (c) if the licensee practices medicine in a location with no other persons licensed under  
3463 this chapter, provide some method of notice to the licensee's patients of the identity and  
3464 location of the contact person and alternate contact person for the licensee; and

3465 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,  
3466 successfully complete the educational methods and programs described in Subsection  
3467 58-67-807(4).

3468 (2) If a renewal period is extended or shortened under Section 58-67-303, the  
3469 continuing education hours required for license renewal under this section are increased or  
3470 decreased proportionally.

3471 (3) An application to renew a license under this chapter shall:

3472 (a) require a physician to answer the following question: "Do you perform elective  
3473 abortions in Utah in a location other than a hospital?"; and

3474 (b) immediately following the question, contain the following statement: "For purposes  
3475 of the immediately preceding question, elective abortion means an abortion other than one of  
3476 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is  
3477 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of  
3478 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a  
3479 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where  
3480 the woman is pregnant as a result of rape or incest."

3481 (4) In order to assist the Department of Health in fulfilling its responsibilities relating  
3482 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,  
3483 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the  
3484 division shall, within 30 days after the day on which it renews the physician's license under this

3485 chapter, inform the Department of Health in writing:

3486 (a) of the name and business address of the physician; and

3487 (b) that the physician responded positively to the question described in Subsection

3488 (3)(a).

3489 (5) The division shall accept and apply toward the hour requirement in Subsection

3490 (1)(a) any continuing education that a physician completes in accordance with Sections

3491 [26-61a-106](#), [26-61a-403](#), and [~~26-61a-601~~] [26-61a-602](#).

3492 Section 58. Section **58-67-502** is amended to read:

3493 **58-67-502. Unprofessional conduct.**

3494 (1) "Unprofessional conduct" includes, in addition to the definition in Section

3495 [58-1-501](#):

3496 (a) using or employing the services of any individual to assist a licensee in any manner

3497 not in accordance with the generally recognized practices, standards, or ethics of the

3498 profession, state law, or division rule;

3499 (b) making a material misrepresentation regarding the qualifications for licensure under

3500 Section [58-67-302.7](#) or Section [58-67-302.8](#);

3501 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical

3502 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

3503 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

3504 (2) "Unprofessional conduct" does not include:

3505 (a) in compliance with Section [58-85-103](#):

3506 (i) obtaining an investigational drug or investigational device;

3507 (ii) administering the investigational drug to an eligible patient; or

3508 (iii) treating an eligible patient with the investigational drug or investigational device;

3509 or

3510 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

3511 (i) when registered as a qualified medical provider, as that term is defined in Section

3512 26-61a-102, recommending the use of medical cannabis;

3513 (ii) when registered as a pharmacy medical provider, as that term is defined in Section  
3514 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

3515 (iii) when registered as a state central ~~[fih]~~ patient portal medical provider, as that term  
3516 is defined in Section 26-61a-102, providing state central ~~[fih]~~ patient portal medical provider  
3517 services ~~[in the state central fill medical cannabis pharmacy]~~.

3518 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and  
3519 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
3520 unprofessional conduct for a ~~[pharmacist]~~ physician described in Subsection (2)(b).

3521 Section 59. Section 58-68-304 is amended to read:

3522 **58-68-304. License renewal requirements.**

3523 (1) As a condition precedent for license renewal, each licensee shall, during each  
3524 two-year licensure cycle or other cycle defined by division rule:

3525 (a) complete qualified continuing professional education requirements in accordance  
3526 with the number of hours and standards defined by division rule in collaboration with the  
3527 board;

3528 (b) appoint a contact person for access to medical records and an alternate contact  
3529 person for access to medical records in accordance with Subsection 58-68-302(1)(j);

3530 (c) if the licensee practices osteopathic medicine in a location with no other persons  
3531 licensed under this chapter, provide some method of notice to the licensee's patients of the  
3532 identity and location of the contact person and alternate contact person for access to medical  
3533 records for the licensee in accordance with Subsection 58-68-302(1)(k); and

3534 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,  
3535 successfully complete the educational methods and programs described in Subsection  
3536 58-68-807(4).

3537 (2) If a renewal period is extended or shortened under Section 58-68-303, the  
3538 continuing education hours required for license renewal under this section are increased or

3539 decreased proportionally.

3540 (3) An application to renew a license under this chapter shall:

3541 (a) require a physician to answer the following question: "Do you perform elective  
3542 abortions in Utah in a location other than a hospital?"; and

3543 (b) immediately following the question, contain the following statement: "For purposes  
3544 of the immediately preceding question, elective abortion means an abortion other than one of  
3545 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is  
3546 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of  
3547 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a  
3548 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where  
3549 the woman is pregnant as a result of rape or incest."

3550 (4) In order to assist the Department of Health in fulfilling its responsibilities relating  
3551 to the licensing of an abortion clinic, if a physician responds positively to the question  
3552 described in Subsection (3)(a), the division shall, within 30 days after the day on which it  
3553 renews the physician's license under this chapter, inform the Department of Health in writing:

3554 (a) of the name and business address of the physician; and

3555 (b) that the physician responded positively to the question described in Subsection  
3556 (3)(a).

3557 (5) The division shall accept and apply toward the hour requirement in Subsection  
3558 (1)(a) any continuing education that a physician completes in accordance with Sections  
3559 [26-61a-106](#), [26-61a-403](#), and [~~26-61a-601~~] [26-61a-602](#).

3560 Section 60. Section **58-68-502** is amended to read:

3561 **58-68-502. Unprofessional conduct.**

3562 (1) "Unprofessional conduct" includes, in addition to the definition in Section  
3563 [58-1-501](#):

3564 (a) using or employing the services of any individual to assist a licensee in any manner  
3565 not in accordance with the generally recognized practices, standards, or ethics of the

3566 profession, state law, or division rule;

3567 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical  
3568 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

3569 (c) making a material misrepresentation regarding the qualifications for licensure under  
3570 Section 58-68-302.5; or

3571 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

3572 (2) "Unprofessional conduct" does not include:

3573 (a) in compliance with Section 58-85-103:

3574 (i) obtaining an investigational drug or investigational device;

3575 (ii) administering the investigational drug to an eligible patient; or

3576 (iii) treating an eligible patient with the investigational drug or investigational device;

3577 or

3578 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

3579 (i) when registered as a qualified medical provider, as that term is defined in Section  
3580 26-61a-102, recommending the use of medical cannabis;

3581 (ii) when registered as a pharmacy medical provider, as that term is defined in Section  
3582 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

3583 (iii) when registered as a state central ~~[fill]~~ patient portal medical provider, as that term  
3584 is defined in Section 26-61a-102, providing state central ~~[fill]~~ patient portal medical provider  
3585 services ~~[in the state central fill medical cannabis pharmacy]~~.

3586 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and  
3587 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define  
3588 unprofessional conduct for a ~~[pharmacist]~~ physician described in Subsection (2)(b).

3589 Section 61. Section 59-12-104.10 is amended to read:

3590 **59-12-104.10. Exemption from sales tax for cannabis.**

3591 (1) As used in this section:

3592 (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

3593 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

3594 (c) "Medical cannabis device" means the same as that term is defined in Section  
3595 [26-61a-102](#).

3596 (d) "Medical cannabis pharmacy" means the same as that term is defined in Section  
3597 [26-61a-102](#).

3598 (e) "Medicinal dosage form" means the same as that term is defined in Section  
3599 [26-61a-102](#).

3600 [~~(f) "State central fill medical cannabis pharmacy" means the same as that term is~~  
3601 ~~defined in Section [26-61a-102](#);~~]

3602 (2) In addition to the exemptions described in Section [59-12-104](#), the sale by a licensed  
3603 medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~] of the  
3604 following is not subject to the taxes this chapter imposes:

3605 (a) cannabis in a medicinal dosage form; or

3606 (b) a cannabis product in a medicinal dosage form.

3607 (3) The sale of a medical cannabis device by a medical cannabis pharmacy [~~or the state~~  
3608 ~~central fill medical cannabis pharmacy~~] is subject to the taxes this chapter imposes.

3609 Section 62. Section **78A-2-231** is enacted to read:

3610 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

3611 (1) As used in this section:

3612 (a) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

3613 (b) "Dosing parameters" means the same as that term is defined in Section [26-61a-102](#).

3614 (c) "Medical cannabis" means the same as that term is defined in Section [26-61a-102](#).

3615 (d) "Medical cannabis card" means the same as that term is defined in Section  
3616 [26-61a-102](#).

3617 (e) "Medical cannabis device" means the same as that term is defined in Section  
3618 [26-61a-102](#).

3619 (f) "Qualified medical provider" means the same as that term is defined in Section

3620 [26-61a-102](#).

3621 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner  
3622 makes a finding, determination, or otherwise considers an individual's possession or use of  
3623 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or  
3624 court commissioner may not consider or treat the individual's possession or use any differently  
3625 than the lawful possession or use of any prescribed controlled substance if:

3626 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production  
3627 Establishments;

3628 (b) the individual's possession or use complies with Subsection [58-37-3.7\(2\)](#) or (3); or

3629 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah  
3630 Medical Cannabis Act; and

3631 (ii) the individual reasonably complies with the dosing parameters determined by the  
3632 individual's qualified medical provider or through a consultation described in Subsection  
3633 [26-61a-502\(4\)](#) or (5).

3634 (3) Notwithstanding Sections [77-18-1](#) and [77-2a-3](#), for probation, release, a plea in  
3635 abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of  
3636 Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain  
3637 from the use or possession of medical cannabis, a cannabis product, or a medical cannabis  
3638 device, either directly or through a general prohibition on violating federal law, without an  
3639 exception related to medical cannabis use, if the individual's use or possession complies with:

3640 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

3641 (b) Subsection [58-37-3.7\(2\)](#) or (3).

3642 Section 63. Section **78A-6-115** is amended to read:

3643 **78A-6-115. Hearings -- Record -- County attorney or district attorney**  
3644 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**  
3645 **evidence -- Medical cannabis.**

3646 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result

3647 in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall  
3648 also be made unless dispensed with by the court.

3649 (b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,  
3650 Government Records Access and Management Act, a record of a proceeding made under  
3651 Subsection (1)(a) shall be released by the court to any person upon a finding on the record for  
3652 good cause.

3653 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the  
3654 court shall:

3655 (A) provide notice to all subjects of the record that a request for release of the record  
3656 has been made; and

3657 (B) allow sufficient time for the subjects of the record to respond before making a  
3658 finding on the petition.

3659 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the  
3660 court's jurisdiction over the subjects of the proceeding ended more than 12 months before the  
3661 request.

3662 (iv) For purposes of this Subsection (1)(b):

3663 (A) "record of a proceeding" does not include documentary materials of any type  
3664 submitted to the court as part of the proceeding, including items submitted under Subsection  
3665 (4)(a); and

3666 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal  
3667 guardian, the Division of Child and Family Services, and any other party to the proceeding.

3668 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a  
3669 prosecution district, the district attorney shall represent the state in any proceeding in a minor's  
3670 case.

3671 (b) Subject to the attorney general's prosecutorial discretion in civil enforcement  
3672 actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and  
3673 Family Services, and this chapter, relating to:

3674 (i) protection or custody of an abused, neglected, or dependent child; and  
3675 (ii) petitions for termination of parental rights.

3676 (c) The attorney general shall represent the Division of Child and Family Services in  
3677 actions involving a minor who is not adjudicated as abused or neglected, but who is receiving  
3678 in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be  
3679 construed to affect the responsibility of the county attorney or district attorney to represent the  
3680 state in those matters, in accordance with Subsection (2)(a).

3681 (3) The board may adopt special rules of procedure to govern proceedings involving  
3682 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings  
3683 involving offenses under Section 78A-6-606 are governed by that section regarding suspension  
3684 of driving privileges.

3685 (4) (a) For the purposes of determining proper disposition of the minor in dispositional  
3686 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and  
3687 in hearings upon petitions for termination of parental rights, written reports and other material  
3688 relating to the minor's mental, physical, and social history and condition may be received in  
3689 evidence and may be considered by the court along with other evidence. The court may require  
3690 that the person who wrote the report or prepared the material appear as a witness if the person  
3691 is reasonably available.

3692 (b) For the purpose of determining proper disposition of a minor alleged to be or  
3693 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division  
3694 under Section 78A-6-315 may be received in evidence and may be considered by the court  
3695 along with other evidence. The court may require any person who participated in preparing the  
3696 dispositional report to appear as a witness, if the person is reasonably available.

3697 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the  
3698 commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under  
3699 Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or  
3700 their counsel any information which the party:

- 3701 (i) plans to report to the court at the proceeding; or  
3702 (ii) could reasonably expect would be requested of the party by the court at the  
3703 proceeding.
- 3704 (b) The disclosure required under Subsection (5)(a) shall be made:  
3705 (i) for dispositional hearings under Sections [78A-6-311](#) and [78A-6-312](#), no less than  
3706 five days before the proceeding;  
3707 (ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in  
3708 accordance with Utah Rules of Civil Procedure; and  
3709 (iii) for all other proceedings, no less than five days before the proceeding.
- 3710 (c) If a party to a proceeding obtains information after the deadline in Subsection  
3711 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the  
3712 party certifies to the court that the information was obtained after the deadline.
- 3713 (d) Subsection (5)(a) does not apply to:  
3714 (i) pretrial hearings; and  
3715 (ii) the frequent, periodic review hearings held in a dependency drug court case to  
3716 assess and promote the parent's progress in substance use disorder treatment.
- 3717 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court  
3718 may, in its discretion, consider evidence of statements made by a child under eight years of age  
3719 to a person in a trust relationship.
- 3720 (7) (a) As used in this Subsection (7):  
3721 (i) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).  
3722 (ii) "Dosing parameters" means the same as that term is defined in Section [26-61a-102](#).  
3723 (iii) "Medical cannabis" means the same as that term is defined in Section [26-61a-102](#).  
3724 (iv) "Medical cannabis cardholder" means the same as that term is defined in Section  
3725 [26-61a-102](#).  
3726 (v) "Qualified medical provider" means the same as that term is defined in Section  
3727 [26-61a-102](#).

3728 (b) In any child welfare proceeding in which the court makes a finding, determination,  
3729 or otherwise considers an individual's possession or use of medical cannabis, a cannabis  
3730 product, or a medical cannabis device, the court may not consider or treat the individual's  
3731 possession or use any differently than the lawful possession or use of any prescribed controlled  
3732 substance if the individual's use or possession complies with:

3733 (i) Title 4, Chapter 41a, Cannabis Production Establishments;

3734 (ii) the individual's possession or use complies with Subsection [58-37-3.7\(2\)](#) or (3); or

3735 (iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah  
3736 Medical Cannabis Act; and

3737 (B) the individual reasonably complies with the dosing parameters determined by the  
3738 individual's qualified medical provider or through a consultation described in Subsection  
3739 [26-61a-502\(4\)](#) or (5).

3740 (c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse  
3741 or neglect of a child under Section [78A-6-105](#), nor is it contrary to the best interests of a child,  
3742 if:

3743 (i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or  
3744 guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act,  
3745 and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably  
3746 deviates from the dosing parameters determined by the parent's or guardian's qualified medical  
3747 provider or through a consultation described in Subsection [26-61a-502\(4\)](#) or (5); or

3748 (B) before January 1, 2021, the parent's or guardian's possession or use complies with  
3749 Subsection [58-37-3.7\(2\)](#) or (3); and

3750 (ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise  
3751 had cannabis introduced to the child's body; or

3752 (B) there is no evidence showing a nexus between the parent's or guardian's use of  
3753 medical cannabis or a cannabis product and behavior that would separately constitute abuse or  
3754 neglect of the child.

3755 Section 64. **Repealer.**

3756 This bill repeals:

3757 Section **26-61a-110, Qualified Distribution Enterprise Fund -- Creation.**

3758 Section **26-61a-205, Lost or stolen medical cannabis card.**

3759 Section **26-61a-608, Department to set state central fill medical cannabis pharmacy**  
3760 **prices.**

3761 Section **26-61a-609, Partial filling.**

3762 Section **26-61a-610, Records -- Inspections.**

3763 Section **26-61a-611, Advertising.**

3764 Section **26-65-101, Title.**

3765 Section **26-65-102, Definitions.**

3766 Section **26-65-103, Medicinal dosage form.**

3767 Section **26-65-201, Insurance coverage.**

3768 Section **26-65-202, Rules -- Report to the Legislature.**

3769 Section 65. **Effective date.**

3770 If approved by two-thirds of all the members elected to each house, this bill takes effect  
3771 upon approval by the governor, or the day following the constitutional time limit of Utah  
3772 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
3773 the date of veto override.

3774 Section 66. **Revisor instructions.**

3775 The Legislature intends that the Office of Legislative Research and General Counsel, in  
3776 preparing the Utah Code database for publication, in Section **4-41a-201**, replace the language  
3777 from "the effective date of this bill" to the bill's actual effective date.