

MEDICAL CANNABIS MODIFICATIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions regarding medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ broadens the definition of a "research university" for purposes of academic medical cannabis research;
- ▶ amends a provision regarding disclosure of ownership interest for cannabis production establishments and medical cannabis pharmacies;
- ▶ amends provisions regarding licensing agencies giving consideration to existing license holders when granting additional licenses in certain circumstances;
- ▶ removes a provision limiting the size of signage for cannabis production establishments and medical cannabis pharmacies;
- ▶ identifies the material cannabis cultivation facilities may acquire from industrial hemp cultivators and processors;
- ▶ amends agency reporting requirements to include information regarding testing of cannabis and cannabis products;
- ▶ provides certain immunity from liability for employees and agents of healthcare facilities in certain circumstances;
- ▶ lengthens the validity of an initial medical cannabis card;
- ▶ allows a patient to renew a medical cannabis card for a longer period in certain

29 circumstances;

30 ▶ allows an individual physically present with a medical cannabis patient cardholder
31 in an emergency medical condition to handle medical cannabis to assist the patient

32 in the administration of the medical cannabis;

33 ▶ allows an individual with a certain letter from a medical professional to purchase
34 medical cannabis from a medical cannabis pharmacy during the 2020 calendar year;

35 and

36 ▶ makes technical and conforming changes.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill provides a special effective date.

41 This bill provides a coordination clause.

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

45 **4-41a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

46 **4-41a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

47 **4-41a-501**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

48 **4-41a-802**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

49 Chapter 1

50 **26-61a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

51 **26-61a-107**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

52 **26-61a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

53 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

54 **26-61a-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

55 **26-61a-505**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

56 **Utah Code Sections Affected by Coordination Clause:**

57 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

58 **4-41a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

59 **26-61a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

60 **26-61a-107**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

61 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

62 **26-61a-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5



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

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

66 **4-41a-102. Definitions.**

67 As used in this chapter:

68 (1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and
69 tetrahydrocannabinolic acid.

70 [~~(1)~~] (2) "Cannabis" means the same as that term is defined in Section **26-61a-102**.

71 [~~(2)~~] (3) "Cannabis cultivation facility" means a person that:

- 72 (a) possesses cannabis;
- 73 (b) grows or intends to grow cannabis; and
- 74 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
- 75 processing facility, or a medical cannabis research licensee.

76 [~~(3)~~] (4) "Cannabis cultivation facility agent" means an individual who:

- 77 (a) is an employee of a cannabis cultivation facility; and
- 78 (b) holds a valid cannabis production establishment agent registration card.

79 [~~(4)~~] (5) "Cannabis processing facility" means a person that:

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

- 83 (b) possesses cannabis with the intent to manufacture a cannabis product;
- 84 (c) manufactures or intends to manufacture a cannabis product from unprocessed
- 85 cannabis or a cannabis extract; and
- 86 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
- 87 medical cannabis research licensee.

88 [~~(5)~~] (6) "Cannabis processing facility agent" means an individual who:

- 89 (a) is an employee of a cannabis processing facility; and
- 90 (b) holds a valid cannabis production establishment agent registration card.

91 [~~(6)~~] (7) "Cannabis product" means the same as that term is defined in Section

92 [26-61a-102](#).

93 [~~(7)~~] (8) "Cannabis production establishment" means a cannabis cultivation facility, a

94 cannabis processing facility, or an independent cannabis testing laboratory.

95 [~~(8)~~] (9) "Cannabis production establishment agent" means a cannabis cultivation

96 facility agent, a cannabis processing facility agent, or an independent cannabis testing

97 laboratory agent.

98 [~~(9)~~] (10) "Cannabis production establishment agent registration card" means a

99 registration card that the department issues that:

- 100 (a) authorizes an individual to act as a cannabis production establishment agent; and
- 101 (b) designates the type of cannabis production establishment for which an individual is
- 102 authorized to act as an agent.

103 [~~(10)~~] (11) "Community location" means a public or private school, a licensed

104 child-care facility or preschool, a church, a public library, a public playground, or a public park.

105 [~~(11)~~] (12) "Department" means the Department of Agriculture and Food.

106 [~~(12)~~] (13) "Family member" means a parent, step-parent, spouse, child, sibling,

107 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,

108 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

109 [~~(13)~~] (14) "Independent cannabis testing laboratory" means a person that:

110 (a) conducts a chemical or other analysis of cannabis or a cannabis product; or
111 (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to
112 conduct a chemical or other analysis of the cannabis or cannabis product.

113 ~~[(14)]~~ (15) "Independent cannabis testing laboratory agent" means an individual who:

114 (a) is an employee of an independent cannabis testing laboratory; and

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

116 ~~[(15)]~~ (16) "Inventory control system" means a system described in Section 4-41a-103.

117 ~~[(16)]~~ (17) "Medical cannabis" means the same as that term is defined in Section
118 26-61a-102.

119 ~~[(17)]~~ (18) "Medical cannabis card" means the same as that term is defined in Section
120 26-61a-102.

121 ~~[(18)]~~ (19) "Medical cannabis pharmacy" means the same as that term is defined in
122 Section 26-61a-102.

123 ~~[(19)]~~ (20) "Medical cannabis pharmacy agent" means the same as that term is defined
124 in Section 26-61a-102.

125 ~~[(20)]~~ (21) "Medical cannabis research license" means a license that the department
126 issues to a research university for the purpose of obtaining and possessing medical cannabis for
127 academic research.

128 ~~[(21)]~~ (22) "Medical cannabis research licensee" means a research university that the
129 department licenses to obtain and possess medical cannabis for academic research, in
130 accordance with Section 4-41a-901.

131 ~~[(22)]~~ (23) "Medical cannabis treatment" means the same as that term is defined in
132 Section 26-61a-102.

133 ~~[(23)]~~ (24) "Medicinal dosage form" means the same as that term is defined in Section
134 26-61a-102.

135 ~~[(24)]~~ (25) "Qualified medical provider" means the same as that term is defined in
136 Section 26-61a-102.

137 [(25)] (26) "Qualified Production Enterprise Fund" means the fund created in Section
138 4-41a-104.

139 [(26)] (27) "Research university" means the same as that term is defined in Section
140 53B-7-702 and a private, nonprofit college or university in the state that:

- 141 (a) is accredited by the Northwest Commission on Colleges and Universities;
- 142 (b) grants doctoral degrees; and
- 143 (c) has a laboratory containing or a program researching a schedule I controlled
144 substance described in Section 58-37-4.

145 [(27)] (28) "State electronic verification system" means the system described in Section
146 26-61a-103.

147 [(28)] (29) "Tetrahydrocannabinol" means a substance derived from cannabis or a
148 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

149 [(29)] (30) "Total composite tetrahydrocannabinol" means
150 [~~delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid~~] all detectable forms of
151 tetrahydrocannabinol.

152 Section 2. Section 4-41a-201 is amended to read:

153 **4-41a-201. Cannabis production establishment -- License.**

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

156 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205:

157 (A) for a licensing process that the department initiated before September 23, 2019, the
158 department shall use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, to
159 review and rank applications for a cannabis production establishment license; and

160 (B) for a licensing process that the department initiates after September 23, 2019, the
161 department shall issue a license to operate a cannabis production establishment in accordance
162 with the procedures described in Subsection (2)(a)(iii).

163 (ii) The department may not issue a license to operate a cannabis production

164 establishment to an applicant who is not eligible for a license under this section.

165 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

166 the department shall make rules to specify a transparent and efficient process to:

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

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

169 (C) timely and objectively evaluate applications;

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

171 (E) select applicants to receive a license.

172 (b) An applicant is eligible for a license under this section if the applicant submits to

173 the department:

174 (i) subject to Subsection (2)(c), a proposed name and address, located in a zone

175 described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis

176 production establishment;

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

178 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the

179 proposed cannabis production establishment; [or]

180 (B) for a privately held company, a financial or voting interest in the proposed cannabis

181 production establishment; or

182 ~~(B)~~ (C) the power to direct or cause the management or control of a proposed

183 cannabis production establishment;

184 (iii) an operating plan that:

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

186 (B) includes operating procedures that comply with this chapter and any law the

187 municipality or county in which the person is located adopts that is consistent with Section

188 4-41a-406; and

189 (C) the department approves;

190 (iv) a statement that the applicant will obtain and maintain a performance bond that a

191 surety authorized to transact surety business in the state issues in an amount of at least:
192 (A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or
193 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
194 laboratory for which the applicant applies;
195 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the
196 department sets in accordance with Section 63J-1-504; and
197 (vi) a description of any investigation or adverse action taken by any licensing
198 jurisdiction, government agency, law enforcement agency, or court in any state for any
199 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
200 or businesses.
201 (c) (i) A person may not locate a cannabis production establishment:
202 (A) within 1,000 feet of a community location; or
203 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
204 as primarily residential.
205 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
206 from the nearest entrance to the cannabis production establishment by following the shortest
207 route of ordinary pedestrian travel to the property boundary of the community location or
208 residential area.
209 (iii) The department may grant a waiver to reduce the proximity requirements in
210 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
211 for the applicant to site the proposed cannabis production establishment without the waiver.
212 (iv) An applicant for a license under this section shall provide evidence of compliance
213 with the proximity requirements described in Subsection (2)(c)(i).
214 (3) If the department approves an application for a license under this section:
215 (a) the applicant shall pay the department an initial license fee in an amount that,
216 subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;
217 and

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

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

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

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

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

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

233 (b) has an owner, officer, director, or employee whose family member holds a license
234 or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or
235 a cannabis cultivation facility; or

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

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

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

242 (i) a felony; or

243 (ii) after December 3, 2018, a misdemeanor for drug distribution;

244 (b) is younger than 21 years old; or

245 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

246 (8) (a) If an applicant for a cannabis production establishment license under this
247 section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, ~~[or] the~~
248 department may not give preference to the applicant based on the applicant's status as a holder
249 of the license.

250 (b) If an applicant for a license to operate a cannabis cultivation facility under this
251 section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a,
252 Utah Medical Cannabis Act, the department:

253 ~~[(a)]~~ (i) shall consult with the Department of Health regarding the applicant ~~[if the~~
254 ~~license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis~~
255 ~~Act]; and~~

256 ~~[(b)]~~ (ii) may ~~[not]~~ give ~~[preference]~~ consideration to the applicant based on the
257 applicant's status as a holder of a medical cannabis pharmacy license ~~[described in this~~
258 ~~Subsection (8)].~~ if:

259 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
260 result from the applicant's vertical integration than from a more competitive marketplace; and

261 (B) the department finds multiple other factors, in addition to the existing license, that
262 support granting the new license.

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

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

266 (b) after the cannabis production establishment makes the same violation of this
267 chapter three times;

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

270 (i) a felony; or

271 (ii) after December 3, 2018, a misdemeanor for drug distribution; or

272 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
273 the time of application, or fails to supplement the information described in Subsection
274 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
275 application.

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

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

284 (11) The department shall deposit the proceeds of a fee that the department imposes
285 under this section into the Qualified Production Enterprise Fund.

286 (12) The department shall begin accepting applications under this part on or before
287 January 1, 2020.

288 (13) (a) The department's authority to issue a license under this section is plenary and is
289 not subject to review.

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

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

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

294 Section 3. Section **4-41a-403** is amended to read:

295 **4-41a-403. Advertising.**

296 (1) Except as provided in Subsection (2), (3), or (4), a cannabis production
297 establishment may not advertise to the general public in any medium.

298 (2) A cannabis production establishment may advertise an employment opportunity at

299 the cannabis production establishment.

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

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

302 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
303 devices.

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

307 (a) includes only:

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

309 (ii) a green cross; and

310 [~~(b) does not exceed four feet by five feet in size; and~~]

311 [~~(c)~~] (b) complies with local ordinances regulating signage.

312 Section 4. Section **4-41a-501** is amended to read:

313 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

314 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
315 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation
316 facility perimeter.

317 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the
318 cannabis cultivation facility's inventory control system to identify:

319 (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each
320 cannabis plant;

321 (b) each unique harvest of cannabis plants;

322 (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a
323 cannabis processing facility, or an independent cannabis testing laboratory; and

324 (d) any excess, contaminated, or deteriorated cannabis of which the cannabis
325 cultivation facility disposes.

326 (3) In a cannabis cultivation facility's acquisition of material related to cannabis
327 cultivation, a cannabis cultivation facility may acquire industrial hemp, an industrial hemp
328 product, or industrial hemp waste from an industrial hemp cultivator or processor.

329 Section 5. Section **4-41a-802** is amended to read:

330 **4-41a-802. Report.**

331 (1) At or before the November interim meeting each year, the department shall report to
332 the Health and Human Services Interim Committee on:

333 (a) the number of applications and renewal applications that the department receives
334 under this chapter;

335 (b) the number of each type of cannabis production facility that the department licenses
336 in each county;

337 (c) the amount of cannabis that licensees grow;

338 (d) the amount of cannabis that licensees manufacture into cannabis products;

339 (e) the number of licenses the department revokes under this chapter; ~~and~~

340 (f) the department's operation of an independent cannabis testing laboratory under
341 Section 4-41a-201, including:

342 (i) the cannabis and cannabis products the department tested; and

343 (ii) the results of the tests the department performed; and

344 ~~(f)~~ (g) the expenses incurred and revenues generated under this chapter.

345 (2) The department may not include personally identifying information in the report
346 described in this section.

347 Section 6. Section **26-61a-102** is amended to read:

348 **26-61a-102. Definitions.**

349 As used in this chapter:

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

352 (2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each

353 containing no more than a single dose of cannabis or a cannabis product.

354 (3) "Cannabis" means marijuana.

355 (4) "Cannabis cultivation facility" means the same as that term is defined in Section

356 4-41a-102.

357 (5) "Cannabis processing facility" means the same as that term is defined in Section

358 4-41a-102.

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

360 (a) is intended for human use; and

361 (b) contains cannabis or tetrahydrocannabinol.

362 (7) "Cannabis production establishment" means the same as that term is defined in

363 Section 4-41a-102.

364 (8) "Cannabis production establishment agent" means the same as that term is defined

365 in Section 4-41a-102.

366 (9) "Cannabis production establishment agent registration card" means the same as that

367 term is defined in Section 4-41a-102.

368 (10) "Community location" means a public or private school, a licensed child-care

369 facility or preschool, a church, a public library, a public playground, or a public park.

370 (11) "Department" means the Department of Health.

371 (12) "Designated caregiver" means an individual:

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

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

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

375 (13) "Dosing [~~parameters~~] guidelines" means a quantity[~~, routes,~~] range and frequency

376 of administration for a recommended treatment of medical cannabis [~~in a medicinal dosage~~

377 ~~form or a cannabis product in a medicinal dosage form~~].

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

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

380 (15) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy
381 that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis
382 shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the
383 state central patient portal facilitates.

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

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

387 (18) "Legal dosage limit" means an amount that:

388 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
389 relevant qualified medical provider or the pharmacy medical provider, in accordance with
390 Subsection [26-61a-201](#)(4) or (5), recommends; and

391 (b) may not exceed:

392 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

393 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
394 greater than 20 grams of active tetrahydrocannabinol.

395 [~~18~~] (19) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

396 [~~19~~] (20) "Medical cannabis" means cannabis in a medicinal dosage form or a
397 cannabis product in a medicinal dosage form.

398 [~~20~~] (21) "Medical cannabis card" means a medical cannabis patient card, a medical
399 cannabis guardian card, or a medical cannabis caregiver card.

400 [~~21~~] (22) "Medical cannabis cardholder" means a holder of a medical cannabis card.

401 [~~22~~] (23) "Medical cannabis caregiver card" means an electronic document that a
402 cardholder may print or store on an electronic device or a physical card or document that:

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

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

406 [~~23~~] (24) "Medical cannabis courier" means a courier that:

407 (a) the department licenses in accordance with Section [26-61a-604](#); and
408 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
409 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

410 ~~[(24)]~~ (25) (a) "Medical cannabis device" means a device that an individual uses to
411 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
412 dosage form.

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

414 (i) facilitates cannabis combustion; or

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

416 ~~[(25)]~~ (26) "Medical cannabis guardian card" means an electronic document that a
417 cardholder may print or store on an electronic device or a physical card or document that:

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

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

421 ~~[(26)]~~ (27) "Medical cannabis patient card" means an electronic document that a
422 cardholder may print or store on an electronic device or a physical card or document that:

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

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

425 ~~[(27)]~~ (28) "Medical cannabis pharmacy" means a person that:

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

427 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
428 form from a cannabis processing facility; or

429 (B) a medical cannabis device; or

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

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

434 [~~(28)~~] (29) "Medical cannabis pharmacy agent" means an individual who:

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

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

437 [~~(29)~~] (30) "Medical cannabis pharmacy agent registration card" means a registration
438 card issued by the department that authorizes an individual to act as a medical cannabis
439 pharmacy agent.

440 [~~(30)~~] (31) "Medical cannabis shipment" means a shipment of medical cannabis or a
441 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
442 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
443 electronic medical cannabis order that the state central patient portal facilitates.

444 [~~(31)~~] (32) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
445 cannabis product in a medicinal dosage form, or a medical cannabis device.

446 [~~(32)~~] (33) (a) "Medicinal dosage form" means:

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

449 (A) a tablet;

450 (B) a capsule;

451 (C) a concentrated oil;

452 (D) a liquid suspension;

453 (E) a topical preparation;

454 (F) a transdermal preparation;

455 (G) a sublingual preparation;

456 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
457 rectangular cuboid shape; or

458 (I) for use only after the individual's qualifying condition has failed to substantially
459 respond to at least two other forms described in this Subsection (32)(a)(i), a resin or wax;

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

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

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

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

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

467 (i) the medical cannabis cardholder has recently removed from the blister pack
468 described in Subsection (32)(a)(ii) for use; and

469 (ii) does not exceed the quantity described in Subsection (32)(a)(ii).

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

471 (i) any unprocessed cannabis flower outside of the blister pack, except as provided in
472 Subsection (32)(b); or

473 (ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
474 on a nail or other metal object that is heated by a flame, including a blowtorch.

475 ~~[(33)]~~ (34) "Payment provider" means an entity that contracts with a cannabis
476 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
477 the establishment or pharmacy and other businesses or individuals.

478 ~~[(34)]~~ (35) "Pharmacy medical provider" means the medical provider required to be on
479 site at a medical cannabis pharmacy under Section [26-61a-403](#).

480 ~~[(35)]~~ (36) "Provisional patient card" means a card that:

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

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

483 (ii) the department issues a medical cannabis guardian card to the minor's parent or
484 legal guardian; and

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

486 ~~[(36)]~~ (37) "Qualified medical provider" means an individual who is qualified to
487 recommend treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).

488 ~~[(37)]~~ (38) "Qualified Patient Enterprise Fund" means the enterprise fund created in
489 Section 26-61a-109.

490 ~~[(38)]~~ (39) "Qualifying condition" means a condition described in Section 26-61a-104.

491 ~~[(39)]~~ (40) "State central patient portal" means the website the department creates, in
492 accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic
493 medical cannabis order.

494 ~~[(40)]~~ (41) "State central patient portal medical provider" means a physician or
495 pharmacist that the department employs in relation to the state central patient portal to consult
496 with medical cannabis cardholders in accordance with Section 26-61a-602.

497 ~~[(41)]~~ (42) "State electronic verification system" means the system described in Section
498 26-61a-103.

499 ~~[(42)]~~ (43) "Valid form of photo identification" means a valid United States federal- or
500 state-issued photo identification, including:

- 501 (a) a driver license;
- 502 (b) a United States passport;
- 503 (c) a United States passport card; or
- 504 (d) a United States military identification card.

505 Section 7. Section 26-61a-107 is amended to read:

506 **26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No**
507 **private right of action.**

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

- 512 (a) civil or criminal liability; or
- 513 (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58,
514 Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58,

515 Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician
516 Assistant Act.

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

518 (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
519 Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
520 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed
521 under Title 58, Chapter 70a, Utah Physician Assistant Act:

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

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

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

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

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

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

530 (i) whom the department has registered as a pharmacy medical provider; and

531 (ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a
532 medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis
533 cardholder in accordance with this chapter.

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

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

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

541 (ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the

542 dosing or dispensing of cannabis or a cannabis product.

543 (4) (a) As used in this Subsection (4), "healthcare facility" means the same as that term
544 is defined in Section 26-21-2.

545 (b) A healthcare facility may adopt restrictions on the possession, use, and storage of
546 medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder
547 who resides at or is actively receiving treatment or care at the healthcare facility.

548 (c) An employee or agent of a healthcare facility described in this Subsection (4) is not
549 subject to civil or criminal liability for carrying out employment duties, including:

550 (i) providing or supervising care to a medical cannabis cardholder; or

551 (ii) in accordance with a caregiver designation under Section 26-61a-201 for a medical
552 cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing
553 medical cannabis for the relevant patient and in accordance with the designation.

554 (d) Nothing in this section requires a healthcare facility to adopt a restriction under
555 Subsection (4)(b).

556 Section 8. Section 26-61a-201 is amended to read:

557 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**
558 **application -- Fees -- Studies.**

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

562 (a) issue a medical cannabis patient card to an individual described in Subsection
563 (2)(a);

564 (b) issue a medical cannabis guardian card to an individual described in Subsection
565 (2)(b);

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

567 (d) issue a medical cannabis caregiver card to an individual described in Subsection
568 26-61a-202(4).

569 (2) (a) An individual is eligible for a medical cannabis patient card if:
570 (i) (A) the individual is at least 21 years old; or
571 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate
572 use board under Section 26-61a-105, and the compassionate use board recommends department
573 approval of the petition;
574 (ii) the individual is a Utah resident;
575 (iii) the individual's qualified medical provider recommends treatment with medical
576 cannabis in accordance with Subsection (4);
577 (iv) the individual signs an acknowledgment stating that the individual received the
578 information described in Subsection (8); and
579 (v) the individual pays to the department a fee in an amount that, subject to Subsection
580 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
581 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:
582 (A) is at least 18 years old;
583 (B) is a Utah resident;
584 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
585 provider recommends a medical cannabis treatment, the individual petitions the compassionate
586 use board under Section 26-61a-105, and the compassionate use board recommends department
587 approval of the petition;
588 (D) the individual signs an acknowledgment stating that the individual received the
589 information described in Subsection (8);
590 (E) pays to the department a fee in an amount that, subject to Subsection
591 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
592 criminal background check described in Section 26-61a-203; and
593 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
594 offense under either state or federal law, unless the individual completed any imposed sentence
595 six months or more before the day on which the individual applies for a medical cannabis

596 guardian card.

597 (ii) The department shall notify the Department of Public Safety of each individual that
598 the department registers for a medical cannabis guardian card.

599 (c) (i) A minor is eligible for a provisional patient card if:

600 (A) the minor has a qualifying condition;

601 (B) the minor's qualified medical provider recommends a medical cannabis treatment
602 to address the minor's qualifying condition;

603 (C) the minor's parent or legal guardian petitions the compassionate use board under
604 Section 26-61a-105, and the compassionate use board recommends department approval of the
605 petition; and

606 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
607 under Subsection (2)(b).

608 (ii) The department shall automatically issue a provisional patient card to the minor
609 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
610 guardian card to the minor's parent or legal guardian.

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

614 (i) through an electronic application connected to the state electronic verification
615 system;

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

618 (iii) with information including:

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

620 (B) the number of the applicant's valid form of photo identification;

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

623 and

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

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

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

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

634 (A) the department shall add a label to the relevant medical cannabis patient card
635 indicating the cardholder's need for assistance; and

636 (B) any adult who is 21 years old or older and who is physically present with the
637 cardholder at the time the cardholder needs to use the recommended medical cannabis
638 treatment may handle the medical cannabis treatment and any associated medical cannabis
639 device as needed to assist the cardholder in administering the recommended medical cannabis
640 treatment~~[, including in the event of an emergency medical condition under Subsection~~
641 ~~26-61a-204(2)]; and~~

642 (C) an individual of any age who is physically present with the cardholder in the event
643 of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle
644 the medical cannabis treatment and any associated medical cannabis device as needed to assist
645 the cardholder in administering the recommended medical cannabis treatment.

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

647 (A) ingest or inhale medical cannabis;

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

650 assistance to the cardholder; or

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

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

655 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
656 a medicinal dosage form:

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

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

661 (A) the state electronic verification system; and

662 (B) the controlled substance database created in Section 58-37f-201; and

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

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

666 (i) suffers from a qualifying condition, including the type of qualifying condition; and

667 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
668 product in a medicinal dosage form.

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

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

672 (ii) (A) for the first issuance, ~~30~~ 90 days; ~~or~~

673 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months[-]; or

674 (C) for a renewal, one year if, after at least one year following the issuance of the
675 original medical cannabis card, the qualified medical provider determines that the patient has
676 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

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

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

682 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
683 renewable if:

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

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

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

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

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

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

694 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
695 63J-1-504; and

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

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

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

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

706 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
707 purchase, in accordance with this chapter and the recommendation underlying the card,
708 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
709 medical cannabis device.

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

713 (iii) To address the qualifying condition underlying the medical cannabis treatment
714 recommendation:

715 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
716 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
717 or a medical cannabis device; and

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

721 (c) If a licensed medical cannabis pharmacy is not operating within the state after
722 January 1, 2021, a cardholder under this section is not subject to prosecution for the possession
723 of:

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

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

727 (iii) marijuana drug paraphernalia.

728 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
729 Utah Administrative Rulemaking Act, a process to provide information regarding the following
730 to an individual receiving a medical cannabis card:

731 (a) risks associated with medical cannabis treatment;

732 (b) the fact that a condition's listing as a qualifying condition does not suggest that
733 medical cannabis treatment is an effective treatment or cure for that condition, as described in
734 Subsection 26-61a-104(1); and

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

736 (9) The department may establish procedures by rule, in accordance with Title 63G,
737 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
738 provisions of this section.

739 (10) (a) A person may submit to the department a request to conduct a research study
740 using medical cannabis cardholder data that the state electronic verification system contains.

741 (b) The department shall review a request described in Subsection (10)(a) to determine
742 whether an institutional review board, as that term is defined in Section 26-61-102, could
743 approve the research study.

744 (c) At the time an individual applies for a medical cannabis card, the department shall
745 notify the individual:

746 (i) of how the individual's information will be used as a cardholder;

747 (ii) that by applying for a medical cannabis card, unless the individual withdraws
748 consent under Subsection (10)(d), the individual consents to the use of the individual's
749 information for external research; and

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

752 (d) An applicant may, through the medical cannabis card application, and a medical
753 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
754 cardholder's consent to participate in external research at any time.

755 (e) The department may release, for the purposes of a study described in this
756 Subsection (10), information about a cardholder under this section who consents to participate
757 under Subsection (10)(c).

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

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

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

762 (g) The department may establish standards for a medical research study's validity, by
763 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

764 Section 9. Section **26-61a-301** is amended to read:

765 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

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

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

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

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

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

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

778 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in
779 the proposed medical cannabis pharmacy; ~~[or]~~

780 (B) for a privately held company, a financial or voting interest in the proposed medical
781 cannabis pharmacy; or

782 (C) has the power to direct or cause the management or control of a proposed medical
783 cannabis [~~production establishment~~] pharmacy;

784 (iii) a statement that the applicant will obtain and maintain a performance bond that a

785 surety authorized to transact surety business in the state issues in an amount of at least
786 \$125,000 for each application that the applicant submits to the department;

787 (iv) an operating plan that:

788 (A) complies with Section 26-61a-304;

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

792 (C) the department approves;

793 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
794 department sets in accordance with Section 63J-1-504; and

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

799 (c) (i) A person may not locate a medical cannabis pharmacy:

800 (A) within 200 feet of a community location; or

801 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
802 as primarily residential.

803 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
804 from the nearest entrance to the medical cannabis pharmacy establishment by following the
805 shortest route of ordinary pedestrian travel to the property boundary of the community location
806 or residential area.

807 (iii) The department may grant a waiver to reduce the proximity requirements in
808 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
809 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

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

812 (d) The department may not issue a license to an eligible applicant that the department
813 has selected to receive a license until the selected eligible applicant obtains the performance
814 bond described in Subsection (2)(b)(iii).

815 (e) If the department receives more than one application for a medical cannabis
816 pharmacy within the same city or town, the department shall consult with the local land use
817 authority before approving any of the applications pertaining to that city or town.

818 (3) If the department selects an applicant for a medical cannabis pharmacy license
819 under this section, the department shall:

820 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
821 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

822 (b) notify the Department of Public Safety of the license approval and the names of
823 each individual described in Subsection (2)(b)(ii).

824 (4) The department may not issue a license to operate a medical cannabis pharmacy to
825 an applicant if an individual described in Subsection (2)(b)(ii):

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

827 (i) a felony; or

828 (ii) after December 3, 2018, a misdemeanor for drug distribution;

829 (b) is younger than 21 years old; or

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

832 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
833 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, ~~[or]~~ the department may not
834 give preference to the applicant based on the applicant's status as a holder of the license.

835 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
836 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis
837 Production Establishments, the department:

838 ~~[(a)]~~ (i) shall consult with the Department of Agriculture and Food regarding the

839 applicant; and

840 ~~(b)~~ (ii) may ~~not~~ give ~~preference~~ consideration to the applicant based on the
841 applicant's status as a holder of a license ~~[described in this Subsection (5):]~~ to operate a
842 cannabis cultivation facility if:

843 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
844 result from the applicant's vertical integration than from a more competitive marketplace; and

845 (B) the department finds multiple other factors, in addition to the existing license, that
846 support granting the new license.

847 (6) The department may revoke a license under this part if:

848 (a) the medical cannabis pharmacy does not begin operations within one year after the
849 day on which the department issues the initial license;

850 (b) the medical cannabis pharmacy makes the same violation of this chapter three
851 times;

852 (c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is
853 active, under state or federal law of:

854 (i) a felony; or

855 (ii) after December 3, 2018, a misdemeanor for drug distribution; or

856 (d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at
857 the time of application, or fails to supplement the information described in Subsection
858 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
859 application.

860 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
861 if the municipality or county where the licensed medical cannabis pharmacy will be located
862 requires a local land use permit, shall submit to the department a copy of the licensee's
863 approved application for the land use permit within 120 days after the day on which the
864 department issues the license.

865 (b) If a licensee fails to submit to the department a copy the licensee's approved land

866 use permit application in accordance with Subsection (7)(a), the department may revoke the
867 licensee's license.

868 (8) The department shall deposit the proceeds of a fee imposed by this section in the
869 Qualified Patient Enterprise Fund.

870 (9) The department shall begin accepting applications under this part on or before
871 March 1, 2020.

872 (10) (a) The department's authority to issue a license under this section is plenary and is
873 not subject to review.

874 (b) Notwithstanding Subsection (2), the decision of the department to award a license
875 to an applicant is not subject to:

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

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

878 Section 10. Section **26-61a-502** is amended to read:

879 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
880 **Reporting -- Form of cannabis or cannabis product.**

881 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
882 chapter:

883 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
884 from a cannabis processing facility that is licensed under Section [4-41a-201](#);

885 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
886 acquired from a cannabis processing facility that is licensed under Section [4-41a-201](#);

887 (iii) a medical cannabis device; or

888 (iv) educational material related to the medical use of cannabis.

889 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
890 an individual with:

891 (i) (A) a medical cannabis card; [~~and~~] or

892 (B) until December 31, 2020, a letter from a medical provider in accordance with

893 Subsection (10); and

894 (ii) a corresponding valid form of photo identification.

895 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
896 cannabis-based drug that the United States Food and Drug Administration has approved.

897 (2) A medical cannabis pharmacy may not dispense:

898 (a) to a medical cannabis cardholder or to an individual described in Subsection (10)(b)
899 in any one 28-day period, more than the lesser of:

900 (i) an amount sufficient to provide 30 days of treatment based on the dosing parameters
901 that the relevant qualified medical provider recommends; or

902 (ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage
903 form and that carries a label clearly displaying the amount of tetrahydrocannabinol and
904 cannabidiol in the cannabis; or

905 (B) an amount of cannabis products that is in a medicinal dosage form and that
906 contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

907 (b) to an individual whose qualified medical provider, or for an individual described in
908 Subsection (10)(a), the medical professional described in Subsection (10)(a)(i), did not
909 recommend dosing parameters, until the individual consults with the pharmacy medical
910 provider in accordance with Subsection (4), any medical cannabis [~~or cannabis products~~].

911 (3) An individual with a medical cannabis card or an individual described in
912 Subsection (10)(a) may not purchase:

913 (a) more cannabis or cannabis products than the amounts designated in Subsection (2)
914 in any one 28-day period; or

915 (b) if the relevant qualified medical provider did not recommend dosing parameters,
916 until the individual consults with the pharmacy medical provider in accordance with
917 Subsection (4), any medical cannabis [~~or cannabis products~~].

918 (4) If a qualified medical provider recommends treatment with medical cannabis [~~or a~~
919 ~~cannabis product~~] but does not provide dosing parameters:

- 920 (a) the qualified medical provider shall document in the recommendation:
- 921 (i) an evaluation of the qualifying condition underlying the recommendation;
- 922 (ii) prior treatment attempts with medical cannabis [~~and cannabis products~~]; and
- 923 (iii) the patient's current medication list; and
- 924 (b) before the relevant medical cannabis cardholder may obtain medical cannabis [~~in a~~
- 925 ~~medicinal dosage form or a cannabis product in a medicinal dosage form~~], the pharmacy
- 926 medical provider shall:
- 927 (i) review pertinent medical records, including the qualified medical provider
- 928 documentation described in Subsection (4)(a); and
- 929 (ii) unless the pertinent medical records show dosing parameters from a state central
- 930 patient portal medical provider in accordance with Subsection (5), after completing the review
- 931 described in Subsection (4)(b)(i) and consulting with the recommending qualified medical
- 932 provider as needed, determine the best course of treatment through consultation with the
- 933 cardholder regarding:
- 934 (A) the patient's qualifying condition underlying the recommendation from the
- 935 qualified medical provider;
- 936 (B) indications for available treatments;
- 937 (C) dosing parameters; and
- 938 (D) potential adverse reactions.
- 939 (5) (a) A state central patient portal medical provider may provide the consultation and
- 940 make the determination described in Subsection (4)(b) for a medical cannabis patient
- 941 cardholder regarding an electronic order that the state central patient portal facilitates.
- 942 (b) The state central patient portal medical provider described in Subsection (5)(a)
- 943 shall document the dosing parameters determined under Subsection (5)(a) in the pertinent
- 944 medical records.
- 945 (6) A medical cannabis pharmacy shall:
- 946 (a) (i) access the state electronic verification system before dispensing cannabis or a

947 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
948 where applicable, the associated patient has met the maximum amount of medical cannabis [~~or~~
949 ~~cannabis products~~] described in Subsection (2); and

950 (ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the
951 maximum amount described in Subsection (2):

952 (A) decline the sale; and

953 (B) notify the qualified medical provider who made the underlying recommendation;

954 (b) submit a record to the state electronic verification system each time the medical
955 cannabis pharmacy dispenses medical cannabis [~~or a cannabis product~~] to a medical cannabis
956 cardholder;

957 (c) package any medical cannabis [~~or cannabis product~~] that is in a blister pack in a
958 container that:

959 (i) complies with Subsection 4-41a-602(2);

960 (ii) is tamper-resistant and tamper-evident; and

961 (iii) opaque; and

962 (d) for a product that is a cube that is designed for ingestion through chewing or
963 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
964 of over-consumption.

965 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
966 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
967 intentionally designed or constructed to resemble a cigarette.

968 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
969 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
970 individual's respiratory system.

971 (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical
972 cannabis pharmacy is allowed to sell under Subsection (1).

973 (9) The department may impose a uniform fee on each medical cannabis [~~cardholder~~]

974 transaction in a medical cannabis pharmacy in an amount that, subject to Subsection
975 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

976 (10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an
977 individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from
978 a licensed medical cannabis pharmacy if:

979 (i) the individual presents to the medical cannabis pharmacy a letter from the medical
980 professional described in Subsection [58-37-3.7\(2\)\(a\)\(i\)\(B\)](#) that indicates the medical
981 professional's medical cannabis recommendation for the individual;

982 (ii) the medical cannabis pharmacy receives independent confirmation from the
983 medical professional described in Subsection (10)(a)(i) or an employee of the medical
984 professional that the letter is valid;

985 (iii) the medical cannabis pharmacy:

986 (A) scans or photocopies the individual's letter and the individual's valid form of photo
987 identification;

988 (B) creates a record of the transaction, including the documents described in
989 Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis
990 the individual purchased; and

991 (C) provides information to the individual about obtaining a medical cannabis card;
992 and

993 (iv) unless the medical professional recommends specific directions of using and
994 dosing guidelines in the letter, the pharmacy medical provider determines the best course of
995 treatment through consultation with the individual regarding:

996 (A) the individual's qualifying condition underlying the recommendation from the
997 medical professional;

998 (B) indications for available treatments;

999 (C) directions of use and dosing guidelines; and

1000 (D) potential adverse reactions.

1001 (b) (i) An individual who purchases medical cannabis from a medical cannabis
1002 pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different
1003 medical cannabis pharmacy under Subsection (10)(a).

1004 (ii) If the department notifies a medical cannabis pharmacy, in accordance with
1005 Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a)
1006 from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an
1007 item listed in Subsection (1)(a) to the individual under Subsection (10)(a).

1008 (iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the
1009 individual is a medical cannabis cardholder.

1010 (c) (i) Until December 31, 2020, on or before the first day of each month, each medical
1011 cannabis pharmacy shall provide to the department, in a secure manner, information identifying
1012 each individual who has purchased medical cannabis from the medical cannabis pharmacy
1013 under Subsection (10)(a).

1014 (ii) The department shall review information the department receives under Subsection
1015 (10)(c)(i) to identify any individuals who:

1016 (A) have purchased medical cannabis under Subsection (10)(a) from more than one
1017 pharmacy; or

1018 (B) hold a medical cannabis card.

1019 (iii) If the department identifies an individual described in Subsection (10)(c)(ii), the
1020 department shall notify each medical cannabis pharmacy regarding:

1021 (A) the identification of the individual; and

1022 (B) the individual's ineligibility to purchase medical cannabis for a reason described in
1023 Subsection (10)(b).

1024 Section 11. Section **26-61a-505** is amended to read:

1025 **26-61a-505. Advertising.**

1026 (1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may
1027 not advertise in any medium.

1028 (2) Notwithstanding any municipal or county ordinance prohibiting signage, a medical
1029 cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

1030 (a) includes only:

1031 (i) the medical cannabis pharmacy's name and hours of operation; and

1032 (ii) a green cross; and

1033 [~~(b) does not exceed four feet by five feet in size; and~~]

1034 [~~(c)~~] (b) complies with local ordinances regulating signage.

1035 (3) A medical cannabis pharmacy may maintain a website that includes information
1036 about:

1037 (a) the location and hours of operation of the medical cannabis pharmacy;

1038 (b) a product or service available at the medical cannabis pharmacy;

1039 (c) personnel affiliated with the medical cannabis pharmacy;

1040 (d) best practices that the medical cannabis pharmacy upholds; and

1041 (e) educational material related to the medical use of cannabis.

1042 Section 12. **Effective date.**

1043 If approved by two-thirds of all the members elected to each house, this bill takes effect
1044 upon approval by the governor, or the day following the constitutional time limit of Utah
1045 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
1046 the date of veto override.

1047 Section 13. **Coordinating H.B. 425 with S.B. 121 -- Substantive and technical**
1048 **amendments.**

1049 If this H.B. 425 and S.B. 121, Medical Cannabis Amendments, both pass and become
1050 law, it is the intent of the Legislature that the Office of Legislative Research and General
1051 Counsel shall prepare the Utah Code database for publication as follows:

1052 (1) the amendments to Section 4-41a-102 regarding the definition of "cannabis
1053 cultivation facility" in this bill supersede the amendments to Section 4-41a-102 regarding the
1054 definition of "cannabis cultivation facility" in S.B. 121;

1055 (2) the amendments to Subsection 4-41a-201(8) in this bill supersede the amendments
1056 to Subsection 4-41a-201(8) in S.B. 121;

1057 (3) the amendments to Section 26-61a-102 regarding the definition of "legal dosage
1058 limit" in this bill supersede the amendments to Section 26-61a-102 regarding the definition of
1059 "legal dosage limit" in S.B. 121;

1060 (4) the amendments to Section 26-61a-107 in this bill supersede the amendments to
1061 Section 26-61a-107 in S.B. 121;

1062 (5) the amendments to Subsection 26-61a-301(5) in this bill supersede the amendments
1063 to Subsection 26-61a-301(5) in S.B. 121; and

1064 (6) Subsection 26-61a-502(1)(b) is amended to read:

1065 "(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
1066 an individual with:

1067 (i) (A) a medical cannabis card; [~~and~~]

1068 (B) a department registration described in Subsection 26-61a-202(10); or

1069 (C) until December 31, 2020, a letter from a medical provider in accordance with
1070 Subsection (10); and".