

Representative Jennifer Dailey-Provost proposes the following substitute bill:

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;
- ▶ lengthens the validity of an initial medical cannabis card;



- 26 ▶ allows a patient to renew a medical cannabis card for a longer period in certain
- 27 circumstances;
- 28 ▶ allows an individual physically present with a medical cannabis patient cardholder
- 29 in an emergency medical condition to handle medical cannabis to assist the patient
- 30 in the administration of the medical cannabis;
- 31 ▶ allows an individual with a certain letter from a medical professional to purchase
- 32 medical cannabis from a medical cannabis pharmacy during the 2020 calendar year;
- 33 ▶ exempts a tetrahydrocannabinol from a felony provision related to vehicular
- 34 injuries; and
- 35 ▶ makes technical and conforming changes.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill provides a special effective date.

40 This bill provides a coordination clause.

41 **Utah Code Sections Affected:**

42 AMENDS:

- 43 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 44 **4-41a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 45 **4-41a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 46 **4-41a-501**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 47 **4-41a-802**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 48 Chapter 1
- 49 **26-61a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 50 **26-61a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 51 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 52 **26-61a-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 53 **26-61a-505**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 54 **58-37-8**, as last amended by Laws of Utah 2019, Chapter 58

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

- 56 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

57
58 *Be it enacted by the Legislature of the state of Utah:*

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

60 **4-41a-102. Definitions.**

61 As used in this chapter:

62 (1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and
63 tetrahydrocannabinolic acid.

64 [~~(1)~~] (2) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

65 [~~(2)~~] (3) "Cannabis cultivation facility" means a person that:

- 66 (a) possesses cannabis;
- 67 (b) grows or intends to grow cannabis; and
- 68 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
69 processing facility, or a medical cannabis research licensee.

70 [~~(3)~~] (4) "Cannabis cultivation facility agent" means an individual who:

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

73 [~~(4)~~] (5) "Cannabis processing facility" means a person that:

- 74 (a) acquires or intends to acquire cannabis from a cannabis production establishment or
75 a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and
76 Cannabinoid Act;
- 77 (b) possesses cannabis with the intent to manufacture a cannabis product;
- 78 (c) manufactures or intends to manufacture a cannabis product from unprocessed
79 cannabis or a cannabis extract; and
- 80 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
81 medical cannabis research licensee.

82 [~~(5)~~] (6) "Cannabis processing facility agent" means an individual who:

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

85 [~~(6)~~] (7) "Cannabis product" means the same as that term is defined in Section
86 [26-61a-102](#).

87 [~~(7)~~] (8) "Cannabis production establishment" means a cannabis cultivation facility, a

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

89 ~~[(8)]~~ (9) "Cannabis production establishment agent" means a cannabis cultivation
90 facility agent, a cannabis processing facility agent, or an independent cannabis testing
91 laboratory agent.

92 ~~[(9)]~~ (10) "Cannabis production establishment agent registration card" means a
93 registration card that the department issues that:

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

97 ~~[(10)]~~ (11) "Community location" means a public or private school, a licensed
98 child-care facility or preschool, a church, a public library, a public playground, or a public park.

99 ~~[(11)]~~ (12) "Department" means the Department of Agriculture and Food.

100 ~~[(12)]~~ (13) "Family member" means a parent, step-parent, spouse, child, sibling,
101 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
102 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

103 ~~[(13)]~~ (14) "Independent cannabis testing laboratory" means a person that:

- 104 (a) conducts a chemical or other analysis of cannabis or a cannabis product; or
- 105 (b) acquires, possesses, and transports cannabis or a cannabis product with the intent to
106 conduct a chemical or other analysis of the cannabis or cannabis product.

107 ~~[(14)]~~ (15) "Independent cannabis testing laboratory agent" means an individual who:

- 108 (a) is an employee of an independent cannabis testing laboratory; and
- 109 (b) holds a valid cannabis production establishment agent registration card.

110 ~~[(15)]~~ (16) "Inventory control system" means a system described in Section [4-41a-103](#).

111 ~~[(16)]~~ (17) "Medical cannabis" means the same as that term is defined in Section
112 [26-61a-102](#).

113 ~~[(17)]~~ (18) "Medical cannabis card" means the same as that term is defined in Section
114 [26-61a-102](#).

115 ~~[(18)]~~ (19) "Medical cannabis pharmacy" means the same as that term is defined in
116 Section [26-61a-102](#).

117 ~~[(19)]~~ (20) "Medical cannabis pharmacy agent" means the same as that term is defined
118 in Section [26-61a-102](#).

119 [(20)] (21) "Medical cannabis research license" means a license that the department
120 issues to a research university for the purpose of obtaining and possessing medical cannabis for
121 academic research.

122 [(21)] (22) "Medical cannabis research licensee" means a research university that the
123 department licenses to obtain and possess medical cannabis for academic research, in
124 accordance with Section 4-41a-901.

125 [(22)] (23) "Medical cannabis treatment" means the same as that term is defined in
126 Section 26-61a-102.

127 [(23)] (24) "Medicinal dosage form" means the same as that term is defined in Section
128 26-61a-102.

129 [(24)] (25) "Qualified medical provider" means the same as that term is defined in
130 Section 26-61a-102.

131 [(25)] (26) "Qualified Production Enterprise Fund" means the fund created in Section
132 4-41a-104.

133 [(26)] (27) "Research university" means the same as that term is defined in Section
134 53B-7-702 and a private, nonprofit college or university in the state that:

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

139 [(27)] (28) "State electronic verification system" means the system described in Section
140 26-61a-103.

141 [(28)] (29) "Tetrahydrocannabinol" means a substance derived from cannabis or a
142 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

143 [(29)] (30) "Total composite tetrahydrocannabinol" means
144 [~~delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid~~] all detectable forms of
145 tetrahydrocannabinol.

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

147 **4-41a-201. Cannabis production establishment -- License.**

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

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

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

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

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

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

- 161 (A) solicit applications for a license under this section;
- 162 (B) allow for comments and questions in the development of applications;
- 163 (C) timely and objectively evaluate applications;
- 164 (D) hold public hearings that the department deems appropriate; and
- 165 (E) select applicants to receive a license.

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

168 (i) subject to Subsection (2)(c), a proposed name and address, located in a zone
169 described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis
170 production establishment;

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

172 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
173 proposed cannabis production establishment; [or]

174 (B) for a privately held company, a financial or voting interest in the proposed cannabis
175 production establishment; or

176 [~~B~~] (C) the power to direct or cause the management or control of a proposed
177 cannabis production establishment;

178 (iii) an operating plan that:

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

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

181 municipality or county in which the person is located adopts that is consistent with Section
182 4-41a-406; and

183 (C) the department approves;

184 (iv) a statement that the applicant will obtain and maintain a performance bond that a
185 surety authorized to transact surety business in the state issues in an amount of at least:

186 (A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or

187 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
188 laboratory for which the applicant applies;

189 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the
190 department sets in accordance with Section 63J-1-504; and

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

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

196 (A) within 1,000 feet of a community location; or

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

199 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
200 from the nearest entrance to the cannabis production establishment by following the shortest
201 route of ordinary pedestrian travel to the property boundary of the community location or
202 residential area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

236 (i) a felony; or

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

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

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

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

243 of the license.

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

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

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

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

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

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

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

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

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

264 (i) a felony; or

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

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

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

274 the department issues the license.

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

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

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

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

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

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

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

288 Section 3. Section ~~4-41a-403~~ is amended to read:

289 **4-41a-403. Advertising.**

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

292 (2) A cannabis production establishment may advertise an employment opportunity at
293 the cannabis production establishment.

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

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

296 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
297 devices.

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

301 (a) includes only:

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

303 (ii) a green cross; and

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

305 [~~(e)~~] (b) complies with local ordinances regulating signage.

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

307 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

308 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
309 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation
310 facility perimeter.

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

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

315 (b) each unique harvest of cannabis plants;

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

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

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

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

324 **4-41a-802. Report.**

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

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

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

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

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

333 (e) the number of licenses the department revokes under this chapter; [~~and~~]

334 (f) the department's operation of an independent cannabis testing laboratory under

335 Section 4-41a-201, including:

- 336 (i) the cannabis and cannabis products the department tested; and
- 337 (ii) the results of the tests the department performed; and
- 338 [~~f~~] (g) the expenses incurred and revenues generated under this chapter.

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

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

342 **26-61a-102. Definitions.**

343 As used in this chapter:

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

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

348 (3) "Cannabis" means marijuana.

349 (4) "Cannabis cultivation facility" means the same as that term is defined in Section
350 [4-41a-102](#).

351 (5) "Cannabis processing facility" means the same as that term is defined in Section
352 [4-41a-102](#).

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

354 (a) is intended for human use; and

355 (b) contains cannabis or tetrahydrocannabinol.

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

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

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

362 (10) "Community location" means a public or private school, a licensed child-care
363 facility or preschool, a church, a public library, a public playground, or a public park.

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

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

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

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

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

369 (13) "Dosing [~~parameters~~] guidelines" means a quantity[~~, routes,~~] range and frequency
370 of administration for a recommended treatment of medical cannabis [~~in a medicinal dosage~~
371 ~~form or a cannabis product in a medicinal dosage form~~].

372 (14) "Financial institution" means a bank, trust company, savings institution, or credit
373 union, chartered and supervised under state or federal law.

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

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

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

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

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

385 (b) may not exceed:

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

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

389 [~~18~~] (19) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

390 [~~19~~] (20) "Medical cannabis" means cannabis in a medicinal dosage form or a
391 cannabis product in a medicinal dosage form.

392 [~~20~~] (21) "Medical cannabis card" means a medical cannabis patient card, a medical
393 cannabis guardian card, or a medical cannabis caregiver card.

394 [~~21~~] (22) "Medical cannabis cardholder" means a holder of a medical cannabis card.

395 [~~22~~] (23) "Medical cannabis caregiver card" means an electronic document that a
396 cardholder may print or store on an electronic device or a physical card or document that:

397 (a) the department issues to an individual whom a medical cannabis patient cardholder

398 or a medical cannabis guardian cardholder designates as a designated caregiver; and

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

400 [~~(23)~~] (24) "Medical cannabis courier" means a courier that:

401 (a) the department licenses in accordance with Section 26-61a-604; and

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

404 [~~(24)~~] (25) (a) "Medical cannabis device" means a device that an individual uses to
405 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
406 dosage form.

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

408 (i) facilitates cannabis combustion; or

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

410 [~~(25)~~] (26) "Medical cannabis guardian card" means an electronic document that a
411 cardholder may print or store on an electronic device or a physical card or document that:

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

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

415 [~~(26)~~] (27) "Medical cannabis patient card" means an electronic document that a
416 cardholder may print or store on an electronic device or a physical card or document that:

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

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

419 [~~(27)~~] (28) "Medical cannabis pharmacy" means a person that:

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

421 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
422 form from a cannabis processing facility; or

423 (B) a medical cannabis device; or

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

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

428 [~~(28)~~] (29) "Medical cannabis pharmacy agent" means an individual who:

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

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

431 ~~[(29)]~~ (30) "Medical cannabis pharmacy agent registration card" means a registration
432 card issued by the department that authorizes an individual to act as a medical cannabis
433 pharmacy agent.

434 ~~[(30)]~~ (31) "Medical cannabis shipment" means a shipment of medical cannabis or a
435 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
436 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
437 electronic medical cannabis order that the state central patient portal facilitates.

438 ~~[(31)]~~ (32) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
439 cannabis product in a medicinal dosage form, or a medical cannabis device.

440 ~~[(32)]~~ (33) (a) "Medicinal dosage form" means:

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

443 (A) a tablet;

444 (B) a capsule;

445 (C) a concentrated oil;

446 (D) a liquid suspension;

447 (E) a topical preparation;

448 (F) a transdermal preparation;

449 (G) a sublingual preparation;

450 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
451 rectangular cuboid shape; or

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

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

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

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

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

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

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

462 described in Subsection (32)(a)(ii) for use; and

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

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

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

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

469 ~~[(33)]~~ (34) "Payment provider" means an entity that contracts with a cannabis
470 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
471 the establishment or pharmacy and other businesses or individuals.

472 ~~[(34)]~~ (35) "Pharmacy medical provider" means the medical provider required to be on
473 site at a medical cannabis pharmacy under Section [26-61a-403](#).

474 ~~[(35)]~~ (36) "Provisional patient card" means a card that:

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

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

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

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

480 ~~[(36)]~~ (37) "Qualified medical provider" means an individual who is qualified to
481 recommend treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).

482 ~~[(37)]~~ (38) "Qualified Patient Enterprise Fund" means the enterprise fund created in
483 Section [26-61a-109](#).

484 ~~[(38)]~~ (39) "Qualifying condition" means a condition described in Section [26-61a-104](#).

485 ~~[(39)]~~ (40) "State central patient portal" means the website the department creates, in
486 accordance with Section [26-61a-601](#), to facilitate patient safety, education, and an electronic
487 medical cannabis order.

488 ~~[(40)]~~ (41) "State central patient portal medical provider" means a physician or
489 pharmacist that the department employs in relation to the state central patient portal to consult
490 with medical cannabis cardholders in accordance with Section [26-61a-602](#).

491 [~~(41)~~] (42) "State electronic verification system" means the system described in Section
492 26-61a-103.

493 [~~(42)~~] (43) "Valid form of photo identification" means a valid United States federal- or
494 state-issued photo identification, including:

- 495 (a) a driver license;
- 496 (b) a United States passport;
- 497 (c) a United States passport card; or
- 498 (d) a United States military identification card.

499 Section 7. Section **26-61a-201** is amended to read:

500 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**
501 **application -- Fees -- Studies.**

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

- 505 (a) issue a medical cannabis patient card to an individual described in Subsection
506 (2)(a);
- 507 (b) issue a medical cannabis guardian card to an individual described in Subsection
508 (2)(b);
- 509 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and
- 510 (d) issue a medical cannabis caregiver card to an individual described in Subsection
511 26-61a-202(4).

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

- 513 (i) (A) the individual is at least 21 years old; or
- 514 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate
515 use board under Section 26-61a-105, and the compassionate use board recommends department
516 approval of the petition;
- 517 (ii) the individual is a Utah resident;
- 518 (iii) the individual's qualified medical provider recommends treatment with medical
519 cannabis in accordance with Subsection (4);
- 520 (iv) the individual signs an acknowledgment stating that the individual received the
521 information described in Subsection (8); and

522 (v) the individual pays to the department a fee in an amount that, subject to Subsection
523 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

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

525 (A) is at least 18 years old;

526 (B) is a Utah resident;

527 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
528 provider recommends a medical cannabis treatment, the individual petitions the compassionate
529 use board under Section 26-61a-105, and the compassionate use board recommends department
530 approval of the petition;

531 (D) the individual signs an acknowledgment stating that the individual received the
532 information described in Subsection (8);

533 (E) pays to the department a fee in an amount that, subject to Subsection
534 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
535 criminal background check described in Section 26-61a-203; and

536 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
537 offense under either state or federal law, unless the individual completed any imposed sentence
538 six months or more before the day on which the individual applies for a medical cannabis
539 guardian card.

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

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

543 (A) the minor has a qualifying condition;

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

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

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

551 (ii) The department shall automatically issue a provisional patient card to the minor
552 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis

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

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

557 (i) through an electronic application connected to the state electronic verification
558 system;

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

561 (iii) with information including:

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

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

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

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

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

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

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

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

579 (B) any adult who is 21 years old or older and who is physically present with the
580 cardholder at the time the cardholder needs to use the recommended medical cannabis
581 treatment may handle the medical cannabis treatment and any associated medical cannabis
582 device as needed to assist the cardholder in administering the recommended medical cannabis
583 treatment~~[, including in the event of an emergency medical condition under Subsection~~

584 ~~26-61a-204(2)~~.]; and

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

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

590 (A) ingest or inhale medical cannabis;

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

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

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

598 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
599 a medicinal dosage form:

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

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

604 (A) the state electronic verification system; and

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

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

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

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

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

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

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

615 (ii) (A) for the first issuance, [~~30~~] 90 days; [~~or~~]
616 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months[-]; or
617 (C) for a renewal, one year if, after at least one year following the issuance of the
618 original medical cannabis card, the qualified medical provider determines that the patient has
619 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

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

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

625 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
626 renewable if:

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

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

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

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

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

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

637 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
638 63J-1-504; and

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

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

644 (e) The department may revoke a medical cannabis guardian card if the cardholder
645 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense

646 under either state or federal law.

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

649 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
650 purchase, in accordance with this chapter and the recommendation underlying the card,
651 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
652 medical cannabis device.

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

656 (iii) To address the qualifying condition underlying the medical cannabis treatment
657 recommendation:

658 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
659 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
660 or a medical cannabis device; and

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

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

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

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

670 (iii) marijuana drug paraphernalia.

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

674 (a) risks associated with medical cannabis treatment;

675 (b) the fact that a condition's listing as a qualifying condition does not suggest that
676 medical cannabis treatment is an effective treatment or cure for that condition, as described in

677 Subsection 26-61a-104(1); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

707 Section 8. Section 26-61a-301 is amended to read:

708 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

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

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

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

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

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

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

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

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

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

727 (iii) a statement that the applicant will obtain and maintain a performance bond that a
728 surety authorized to transact surety business in the state issues in an amount of at least
729 \$125,000 for each application that the applicant submits to the department;

730 (iv) an operating plan that:

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

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

735 (C) the department approves;

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

738 (vi) a description of any investigation or adverse action taken by any licensing

739 jurisdiction, government agency, law enforcement agency, or court in any state for any
740 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
741 or businesses.

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

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

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

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

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

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

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

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

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

763 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
764 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

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

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

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

770 (i) a felony; or
771 (ii) after December 3, 2018, a misdemeanor for drug distribution;
772 (b) is younger than 21 years old; or
773 (c) after the effective date of this bill until January 1, 2023, is actively serving as a
774 legislator.

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

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

781 ~~(a)~~ (i) shall consult with the Department of Agriculture and Food regarding the
782 applicant; and

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

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

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

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

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

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

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

797 (i) a felony; or
798 (ii) after December 3, 2018, a misdemeanor for drug distribution; or
799 (d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at
800 the time of application, or fails to supplement the information described in Subsection

801 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
802 application.

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

808 (b) If a licensee fails to submit to the department a copy the licensee's approved land
809 use permit application in accordance with Subsection (7)(a), the department may revoke the
810 licensee's license.

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

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

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

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

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

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

821 Section 9. Section **26-61a-502** is amended to read:

822 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
823 **Reporting -- Form of cannabis or cannabis product.**

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

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

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

830 (iii) a medical cannabis device; or

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

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

834 (i) (A) a medical cannabis card; ~~and~~ or

835 (B) until December 31, 2020, a letter from a medical provider in accordance with
836 Subsection (10); and

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

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

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

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

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

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

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

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

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

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

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

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

- 863 (a) the qualified medical provider shall document in the recommendation:
864 (i) an evaluation of the qualifying condition underlying the recommendation;
865 (ii) prior treatment attempts with medical cannabis [~~and cannabis products~~]; and
866 (iii) the patient's current medication list; and
867 (b) before the relevant medical cannabis cardholder may obtain medical cannabis [~~in a~~
868 ~~medicinal dosage form or a cannabis product in a medicinal dosage form~~], the pharmacy
869 medical provider shall:
- 870 (i) review pertinent medical records, including the qualified medical provider
871 documentation described in Subsection (4)(a); and
872 (ii) unless the pertinent medical records show dosing parameters from a state central
873 patient portal medical provider in accordance with Subsection (5), after completing the review
874 described in Subsection (4)(b)(i) and consulting with the recommending qualified medical
875 provider as needed, determine the best course of treatment through consultation with the
876 cardholder regarding:
- 877 (A) the patient's qualifying condition underlying the recommendation from the
878 qualified medical provider;
879 (B) indications for available treatments;
880 (C) dosing parameters; and
881 (D) potential adverse reactions.
- 882 (5) (a) A state central patient portal medical provider may provide the consultation and
883 make the determination described in Subsection (4)(b) for a medical cannabis patient
884 cardholder regarding an electronic order that the state central patient portal facilitates.
- 885 (b) The state central patient portal medical provider described in Subsection (5)(a)
886 shall document the dosing parameters determined under Subsection (5)(a) in the pertinent
887 medical records.
- 888 (6) A medical cannabis pharmacy shall:
- 889 (a) (i) access the state electronic verification system before dispensing cannabis or a
890 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
891 where applicable, the associated patient has met the maximum amount of medical cannabis [~~or~~
892 ~~cannabis products~~] described in Subsection (2); and
893 (ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the

894 maximum amount described in Subsection (2):

895 (A) decline the sale; and

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

897 (b) submit a record to the state electronic verification system each time the medical

898 cannabis pharmacy dispenses medical cannabis [~~or a cannabis product~~] to a medical cannabis

899 cardholder;

900 (c) package any medical cannabis [~~or a cannabis product~~] that is in a blister pack in a

901 container that:

902 (i) complies with Subsection [4-41a-602\(2\)](#);

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

904 (iii) opaque; and

905 (d) for a product that is a cube that is designed for ingestion through chewing or

906 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks

907 of over-consumption.

908 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not

909 sell medical cannabis in the form of a cigarette or a medical cannabis device that is

910 intentionally designed or constructed to resemble a cigarette.

911 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms

912 cannabis material into a vapor without the use of a flame and that delivers cannabis to an

913 individual's respiratory system.

914 (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical

915 cannabis pharmacy is allowed to sell under Subsection (1).

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

917 transaction in a medical cannabis pharmacy in an amount that, subject to Subsection

918 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

919 (10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an

920 individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from

921 a licensed medical cannabis pharmacy if:

922 (i) the individual presents to the medical cannabis pharmacy a letter from the medical

923 professional described in Subsection [58-37-3.7\(2\)\(a\)\(i\)\(B\)](#) that indicates the medical

924 professional's medical cannabis recommendation for the individual;

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

928 (iii) the medical cannabis pharmacy:

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

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

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

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

939 (A) the individual's qualifying condition underlying the recommendation from the
940 medical professional;

941 (B) indications for available treatments;

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

943 (D) potential adverse reactions.

944 (b) (i) An individual who purchases medical cannabis from a medical cannabis
945 pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different
946 medical cannabis pharmacy under Subsection (10)(a).

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

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

953 (c) (i) Until December 31, 2020, on or before the first day of each month, each medical
954 cannabis pharmacy shall provide to the department, in a secure manner, information identifying
955 each individual who has purchased medical cannabis from the medical cannabis pharmacy

956 under Subsection (10)(a).

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

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

961 (B) hold a medical cannabis card.

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

964 (A) the identification of the individual; and

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

967 Section 10. Section **26-61a-505** is amended to read:

968 **26-61a-505. Advertising.**

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

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

973 (a) includes only:

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

975 (ii) a green cross; and

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

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

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

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

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

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

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

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

985 Section 11. Section **58-37-8** is amended to read:

986 **58-37-8. Prohibited acts -- Penalties.**

987 (1) Prohibited acts A -- Penalties and reporting:

988 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
989 intentionally:

990 (i) produce, manufacture, or dispense, or to possess with intent to produce,
991 manufacture, or dispense, a controlled or counterfeit substance;

992 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
993 arrange to distribute a controlled or counterfeit substance;

994 (iii) possess a controlled or counterfeit substance with intent to distribute; or

995 (iv) engage in a continuing criminal enterprise where:

996 (A) the person participates, directs, or engages in conduct that results in a violation of
997 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
998 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
999 Clandestine Drug Lab Act, that is a felony; and

1000 (B) the violation is a part of a continuing series of two or more violations of Chapters
1001 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation
1002 Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine
1003 Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons
1004 with respect to whom the person occupies a position of organizer, supervisor, or any other
1005 position of management.

1006 (b) A person convicted of violating Subsection (1)(a) with respect to:

1007 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
1008 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
1009 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
1010 subsequent conviction is guilty of a first degree felony;

1011 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
1012 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
1013 upon a second or subsequent conviction is guilty of a second degree felony; or

1014 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
1015 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
1016 felony.

1017 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may

1018 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
1019 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
1020 person or in the person's immediate possession during the commission or in furtherance of the
1021 offense, the court shall additionally sentence the person convicted for a term of one year to run
1022 consecutively and not concurrently; and the court may additionally sentence the person
1023 convicted for an indeterminate term not to exceed five years to run consecutively and not
1024 concurrently.

1025 (d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1026 felony punishable by imprisonment for an indeterminate term of not less than seven years and
1027 which may be for life. Imposition or execution of the sentence may not be suspended, and the
1028 person is not eligible for probation.

1029 (e) The Administrative Office of the Courts shall report to the Division of
1030 Occupational and Professional Licensing the name, case number, date of conviction, and if
1031 known, the date of birth of each person convicted of violating Subsection (1)(a).

1032 (2) Prohibited acts B -- Penalties and reporting:

1033 (a) It is unlawful:

1034 (i) for a person knowingly and intentionally to possess or use a controlled substance
1035 analog or a controlled substance, unless it was obtained under a valid prescription or order,
1036 directly from a practitioner while acting in the course of the person's professional practice, or as
1037 otherwise authorized by this chapter;

1038 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
1039 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
1040 by persons unlawfully possessing, using, or distributing controlled substances in any of those
1041 locations; or

1042 (iii) for a person knowingly and intentionally to possess an altered or forged
1043 prescription or written order for a controlled substance.

1044 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

1045 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
1046 or

1047 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
1048 of a class A misdemeanor on a first or second conviction, and on a third or subsequent

1049 conviction is guilty of a third degree felony.

1050 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
1051 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
1052 penalty than provided in this Subsection (2).

1053 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
1054 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
1055 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
1056 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
1057 person is guilty of a third degree felony.

1058 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
1059 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
1060 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
1061 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
1062 listed in:

1063 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
1064 indeterminate term as provided by law, and:

1065 (A) the court shall additionally sentence the person convicted to a term of one year to
1066 run consecutively and not concurrently; and

1067 (B) the court may additionally sentence the person convicted for an indeterminate term
1068 not to exceed five years to run consecutively and not concurrently; and

1069 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
1070 indeterminate term as provided by law, and the court shall additionally sentence the person
1071 convicted to a term of six months to run consecutively and not concurrently.

1072 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

1073 (i) on a first conviction, guilty of a class B misdemeanor;

1074 (ii) on a second conviction, guilty of a class A misdemeanor; and

1075 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1076 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
1077 amounting to a violation of Section 76-5-207:

1078 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
1079 body any measurable amount of a controlled substance, except for

1080 11-nor-9-carboxy-tetrahydrocannabinol; and

1081 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
1082 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

1083 (h) A person who violates Subsection (2)(g) by having in the person's body:

1084 (i) a controlled substance classified under Schedule I, other than those described in
1085 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
1086 degree felony;

1087 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection
1088 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
1089 degree felony; or

1090 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A
1091 misdemeanor.

1092 (i) A person is guilty of a separate offense for each victim suffering serious bodily
1093 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)
1094 whether or not the injuries arise from the same episode of driving.

1095 (j) The Administrative Office of the Courts shall report to the Division of Occupational
1096 and Professional Licensing the name, case number, date of conviction, and if known, the date
1097 of birth of each person convicted of violating Subsection (2)(a).

1098 (3) Prohibited acts C -- Penalties:

1099 (a) It is unlawful for a person knowingly and intentionally:

1100 (i) to use in the course of the manufacture or distribution of a controlled substance a
1101 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1102 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1103 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1104 person;

1105 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1106 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
1107 attempting to acquire or obtain possession of, or to procure the administration of a controlled
1108 substance by misrepresentation or failure by the person to disclose receiving a controlled
1109 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1110 prescription or written order for a controlled substance, or the use of a false name or address;

1111 (iii) to make a false or forged prescription or written order for a controlled substance,
1112 or to utter the same, or to alter a prescription or written order issued or written under the terms
1113 of this chapter; or

1114 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
1115 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1116 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1117 so as to render a drug a counterfeit controlled substance.

1118 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
1119 misdemeanor.

1120 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
1121 degree felony.

1122 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1123 (4) Prohibited acts D -- Penalties:

1124 (a) Notwithstanding other provisions of this section, a person not authorized under this
1125 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
1126 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
1127 of fact finds the act is committed:

1128 (i) in a public or private elementary or secondary school or on the grounds of any of
1129 those schools during the hours of 6 a.m. through 10 p.m.;

1130 (ii) in a public or private vocational school or postsecondary institution or on the
1131 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1132 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
1133 facility's hours of operation;

1134 (iv) in a public park, amusement park, arcade, or recreation center when the public or
1135 amusement park, arcade, or recreation center is open to the public;

1136 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1137 (vi) in or on the grounds of a library when the library is open to the public;

1138 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
1139 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1140 (viii) in the presence of a person younger than 18 years of age, regardless of where the
1141 act occurs; or

1142 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1143 distribution of a substance in violation of this section to an inmate or on the grounds of a
1144 correctional facility as defined in Section 76-8-311.3.

1145 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
1146 and shall be imprisoned for a term of not less than five years if the penalty that would
1147 otherwise have been established but for this Subsection (4) would have been a first degree
1148 felony.

1149 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1150 not eligible for probation.

1151 (c) If the classification that would otherwise have been established would have been
1152 less than a first degree felony but for this Subsection (4), a person convicted under this
1153 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1154 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1155 (d) (i) If the violation is of Subsection (4)(a)(ix):

1156 (A) the person may be sentenced to imprisonment for an indeterminate term as
1157 provided by law, and the court shall additionally sentence the person convicted for a term of
1158 one year to run consecutively and not concurrently; and

1159 (B) the court may additionally sentence the person convicted for an indeterminate term
1160 not to exceed five years to run consecutively and not concurrently; and

1161 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
1162 the mental state required for the commission of an offense, directly or indirectly solicits,
1163 requests, commands, coerces, encourages, or intentionally aids another person to commit a
1164 violation of Subsection (4)(a)(ix).

1165 (e) It is not a defense to a prosecution under this Subsection (4) that:

1166 (i) the actor mistakenly believed the individual to be 18 years of age or older at the
1167 time of the offense or was unaware of the individual's true age; or

1168 (ii) the actor mistakenly believed that the location where the act occurred was not as
1169 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
1170 described in Subsection (4)(a).

1171 (5) A violation of this chapter for which no penalty is specified is a class B
1172 misdemeanor.

1173 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
1174 guilty or no contest to a violation or attempted violation of this section or a plea which is held
1175 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
1176 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
1177 abeyance agreement.

1178 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
1179 conviction that is:

1180 (i) from a separate criminal episode than the current charge; and

1181 (ii) from a conviction that is separate from any other conviction used to enhance the
1182 current charge.

1183 (7) A person may be charged and sentenced for a violation of this section,
1184 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1185 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
1186 of, a civil or administrative penalty or sanction authorized by law.

1187 (b) When a violation of this chapter violates a federal law or the law of another state,
1188 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1189 prosecution in this state.

1190 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
1191 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1192 substance or substances, is prima facie evidence that the person or persons did so with
1193 knowledge of the character of the substance or substances.

1194 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1195 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1196 administering controlled substances or from causing the substances to be administered by an
1197 assistant or orderly under the veterinarian's direction and supervision.

1198 (11) Civil or criminal liability may not be imposed under this section on:

1199 (a) a person registered under this chapter who manufactures, distributes, or possesses
1200 an imitation controlled substance for use as a placebo or investigational new drug by a
1201 registered practitioner in the ordinary course of professional practice or research; or

1202 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
1203 employment.

1204 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1205 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
1206 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1207 as defined in Section 58-37-2.

1208 (b) In a prosecution alleging violation of this section regarding peyote as defined in
1209 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
1210 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
1211 traditional Indian religion.

1212 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1213 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
1214 trial.

1215 (ii) The notice shall include the specific claims of the affirmative defense.

1216 (iii) The court may waive the notice requirement in the interest of justice for good
1217 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1218 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1219 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1220 charges.

1221 (13) (a) It is an affirmative defense that the person produced, possessed, or
1222 administered a controlled substance listed in Section 58-37-4.2 if the person was:

1223 (i) engaged in medical research; and

1224 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

1225 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
1226 a controlled substance listed in Section 58-37-4.2.

1227 (14) It is an affirmative defense that the person possessed, in the person's body, a
1228 controlled substance listed in Section 58-37-4.2 if:

1229 (a) the person was the subject of medical research conducted by a holder of a valid
1230 license to possess controlled substances under Section 58-37-6; and

1231 (b) the substance was administered to the person by the medical researcher.

1232 (15) The application of any increase in penalty under this section to a violation of
1233 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
1234 Subsection (15) takes precedence over any conflicting provision of this section.

1235 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
1236 listed in Subsection (16)(b) that the person:

1237 (i) reasonably believes that the person or another person is experiencing an overdose
1238 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
1239 controlled substance or other substance;

1240 (ii) reports in good faith the overdose event to a medical provider, an emergency
1241 medical service provider as defined in Section [26-8a-102](#), a law enforcement officer, a 911
1242 emergency call system, or an emergency dispatch system, or the person is the subject of a
1243 report made under this Subsection (16);

1244 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
1245 actual location of the overdose event that facilitates responding to the person experiencing the
1246 overdose event;

1247 (iv) remains at the location of the person experiencing the overdose event until a
1248 responding law enforcement officer or emergency medical service provider arrives, or remains
1249 at the medical care facility where the person experiencing an overdose event is located until a
1250 responding law enforcement officer arrives;

1251 (v) cooperates with the responding medical provider, emergency medical service
1252 provider, and law enforcement officer, including providing information regarding the person
1253 experiencing the overdose event and any substances the person may have injected, inhaled, or
1254 otherwise introduced into the person's body; and

1255 (vi) is alleged to have committed the offense in the same course of events from which
1256 the reported overdose arose.

1257 (b) The offenses referred to in Subsection (16)(a) are:

1258 (i) the possession or use of less than 16 ounces of marijuana;

1259 (ii) the possession or use of a scheduled or listed controlled substance other than
1260 marijuana; and

1261 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
1262 Imitation Controlled Substances Act.

1263 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
1264 include seeking medical assistance under this section during the course of a law enforcement
1265 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1266 (17) If any provision of this chapter, or the application of any provision to any person
1267 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1268 invalid provision or application.

1269 (18) A legislative body of a political subdivision may not enact an ordinance that is
1270 less restrictive than any provision of this chapter.

1271 (19) If a minor who is under 18 years of age is found by a court to have violated this
1272 section, the court may order the minor to complete:

1273 (a) a screening as defined in Section 41-6a-501;

1274 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
1275 assessment to be appropriate; and

1276 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
1277 treatment as indicated by an assessment.

1278 Section 12. **Effective date.**

1279 If approved by two-thirds of all the members elected to each house, this bill takes effect
1280 upon approval by the governor, or the day following the constitutional time limit of Utah
1281 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
1282 the date of veto override.

1283 Section 13. **Coordinating H.B. 425 with S.B. 121 -- Substantive and technical**
1284 **amendments.**

1285 If this H.B. 425 and S.B. 121, Medical Cannabis Amendments, both pass and become
1286 law, it is the intent of the Legislature that the Office of Legislative Research and General
1287 Counsel shall prepare the Utah Code database for publication as follows:

1288 (1) the amendments to Section 4-41a-102 regarding the definition of "cannabis
1289 cultivation facility" in this bill supersede the amendments to Section 4-41a-102 regarding the
1290 definition of "cannabis cultivation facility" in S.B. 121;

1291 (2) the amendments to Subsection 4-41a-201(8) in this bill supersede the amendments
1292 to Subsection 4-41a-201(8) in S.B. 121;

1293 (3) the amendments to Section 26-61a-102 regarding the definition of "legal dosage
1294 limit" in this bill supersede the amendments to Section 26-61a-102 regarding the definition of
1295 "legal dosage limit" in S.B. 121;

1296 (4) the amendments to Subsection 26-61a-301(5) in this bill supersede the amendments

1297 to Subsection [26-61a-301\(5\)](#) in S.B. 121;
1298 (5) Subsection [26-61a-502\(1\)\(b\)](#) is amended to read:
1299 "(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
1300 an individual with:
1301 (i) (A) a medical cannabis card; [~~and~~]
1302 (B) a department registration described in Subsection [26-61a-202\(10\)](#); or
1303 (C) until December 31, 2020, a letter from a medical provider in accordance with
1304 Subsection (10); and"; and
1305 (6) the amendments to Section [58-37-8](#) in this bill supersede the amendments to
1306 Section [58-37-8](#) in S.B. 121.