

MEDICAL CANNABIS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes certain dosage form requirements for cannabinoid products;
- ▶ allows for the use of cannabidiol from outside the state in certain circumstances;
- ▶ provides for cannabis cultivation facilities rather than cannabis processing facilities to acquire cannabis from industrial hemp processors;
- ▶ amends proximity requirements regarding community locations;
- ▶ allows for the Utah Department of Agriculture and Food (UDAF) to operate an independent cannabis testing laboratory;
- ▶ increases the ability of UDAF to revoke a cannabis production establishment license;
- ▶ clarifies provisions regarding license renewal;
- ▶ allows a cannabis cultivation facility to operate using up to two locations;
- ▶ allows for the use of stacking plants within allotted square footage limitations;
- ▶ allows an individual without a state cannabis-related license to transport medical cannabis devices in certain circumstances;
- ▶ amends provisions regarding the packaging for raw cannabis flower;



- 28 ▶ amends provisions regarding flavoring of cannabis products;
- 29 ▶ allows the Cannabinoid Product Board to review a broader category of scientific
- 30 research;
- 31 ▶ amends the directions of use and dosing guidelines that may be associated with a
- 32 medical cannabis recommendation;
- 33 ▶ amends the medicinal dosage form for unprocessed cannabis flower;
- 34 ▶ amends provisions regarding access to the electronic verification system by law
- 35 enforcement, certain medical staff, and certain financial institutions that the
- 36 Division of Finance validates;
- 37 ▶ amends provisions regarding the obtaining and renewing of medical cannabis cards;
- 38 ▶ reduces the degree required for the professional who diagnoses or confirms
- 39 post-traumatic stress disorder as a qualifying condition;
- 40 ▶ requires the Compassionate Use Board to review recommendations for the use of
- 41 medical cannabis devices by patients under a certain age to vaporize medical
- 42 cannabis;
- 43 ▶ provides for an expedited petition process from the compassionate use board to the
- 44 Department of Health (DoH);
- 45 ▶ amends the patient limits on qualified medical providers and the specializations
- 46 which allow qualified medical providers to recommend medical cannabis to a larger
- 47 patient population;
- 48 ▶ amends provisions regarding medical professionals advertising regarding medical
- 49 cannabis;
- 50 ▶ provides protections for state or political subdivisions employees using medical
- 51 cannabis;
- 52 ▶ provides that private employers are not required to accommodate the use of medical
- 53 cannabis;
- 54 ▶ directs the Department of Health to establish a registration process that would allow
- 55 out-of-state patients visiting the state to purchase medical cannabis within the state
- 56 under certain conditions;
- 57 ▶ amends provisions regarding designated caregivers for certain minors and patients
- 58 in certain health care facilities;

- 59 ▶ amends certain criminal penalties, including for certain nonresident patients, to be
60 infractions on a first offense;
- 61 ▶ increases the ability of DoH to revoke a medical cannabis pharmacy license;
- 62 ▶ amends requirements for pharmacist counseling or consultation based on the
63 directions of use and dosing guidelines that may accompany a medical cannabis
64 recommendation;
- 65 ▶ allows a medical cannabis pharmacy to purchase medical cannabis devices from a
66 seller that does not have a state cannabis-related license;
- 67 ▶ allow UDAF to conduct random sampling of medical cannabis in medical cannabis
68 pharmacies;
- 69 ▶ amends provisions regarding medical cannabis pharmacy advertising;
- 70 ▶ amends provisions regarding the transportation of medical cannabis and medical
71 cannabis devices;
- 72 ▶ allows for the state central patient portal to facilitate electronic medical cannabis
73 orders for an individual to obtain in person at a medical cannabis pharmacy;
- 74 ▶ allows a pharmacy medical provider to transport medical cannabis in certain
75 circumstances;
- 76 ▶ provides that meetings of the compassionate use board are closed meetings;
- 77 ▶ amends the definition of marijuana;
- 78 ▶ creates a rebuttable presumption for cannabidiol use in certain circumstances;
- 79 ▶ adds a cannabis-based drug to the Controlled Substances Act;
- 80 ▶ exempts cannabis metabolite from a driving-related crime in certain circumstances;
- 81 ▶ amends the level of negligence required for certain marijuana-related vehicular
82 injuries to constitute a felony;
- 83 ▶ distinguishes medical cannabis devices from electronic cigarettes;
- 84 ▶ exempts a lawful medical cannabis user from a weapons restriction;
- 85 ▶ provides for expungement of cannabis-related convictions in certain circumstances;
- 86 and
- 87 ▶ makes technical and conforming changes.

88 **Money Appropriated in this Bill:**

89 None

90 **Other Special Clauses:**

91 This bill provides a special effective date.

92 **Utah Code Sections Affected:**

93 AMENDS:

94 **4-41-102**, as last amended by Laws of Utah 2019, Chapter 23

95 **4-41-402**, as last amended by Laws of Utah 2019, Chapter 23

96 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

97 **4-41a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

98 **4-41a-203**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

99 Chapter 1

100 **4-41a-204**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

101 **4-41a-404**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

102 **4-41a-602**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

103 Chapter 1

104 **4-41a-603**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

105 Chapter 1

106 **26-61-202**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

107 **26-61a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

108 **26-61a-103**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

109 **26-61a-104**, as last amended by Laws of Utah 2019, Chapter 136

110 **26-61a-105**, as last amended by Laws of Utah 2019, Chapter 341

111 **26-61a-106**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

112 **26-61a-111**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

113 **26-61a-113**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

114 **26-61a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

115 **26-61a-202**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

116 **26-61a-204**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

117 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

118 **26-61a-303**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

119 Chapter 1

120 **26-61a-501**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

121 Chapter 1

122 **26-61a-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

123 **26-61a-504**, as last amended by Laws of Utah 2019, Chapter 136

124 **26-61a-505**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

125 **26-61a-506**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

126 **26-61a-601**, as repealed and reenacted by Laws of Utah 2019, First Special Session,

127 Chapter 5

128 **26-61a-603**, as repealed and reenacted by Laws of Utah 2019, First Special Session,

129 Chapter 5

130 **26-61a-605**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

131 **41-6a-517**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

132 **52-4-205**, as last amended by Laws of Utah 2019, Chapter 417

133 **58-37-2**, as last amended by Laws of Utah 2015, Chapter 258

134 **58-37-3.7**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

135 **58-37-3.9**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

136 **58-37-4**, as last amended by Laws of Utah 2019, Chapters 59 and 343

137 **58-37-8**, as last amended by Laws of Utah 2019, Chapter 58

138 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
139 by Coordination Clause, Laws of Utah 2015, Chapter 132

140 **76-10-528**, as last amended by Laws of Utah 2019, Chapter 458

141 **77-40-105 (Superseded 05/01/20)**, as last amended by Laws of Utah 2018, Chapter 266

142 **77-40-105 (Effective 05/01/20)**, as last amended by Laws of Utah 2019, Chapter 448

143

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

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

146 **4-41-102. Definitions.**

147 As used in this chapter:

148 (1) "Cannabinoid product" means a chemical compound extracted from a hemp

149 product that:

150 (a) is processed into a medicinal dosage form; and

151 (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

152 (2) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with
153 a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

154 (3) "Industrial hemp certificate" means a certificate that the department issues to a
155 higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

156 (4) "Industrial hemp license" means a license that the department issues to a person for
157 the purpose of growing, cultivating, processing, or marketing industrial hemp or an industrial
158 hemp product.

159 (5) "Industrial hemp product" means a product derived from, or made by, processing
160 industrial hemp plants or industrial hemp parts.

161 (6) "Licensee" means an individual or business entity possessing a license that the
162 department issues under this chapter to grow, cultivate, process, or market industrial hemp or
163 an industrial hemp product.

164 (7) "Medicinal dosage form" means:

165 (a) a tablet;

166 (b) a capsule;

167 (c) a concentrated oil;

168 (d) a liquid suspension;

169 [~~(d)~~] (e) a sublingual preparation;

170 [~~(e)~~] (f) a topical preparation;

171 [~~(f)~~] (g) a transdermal preparation;

172 [~~(g)~~] (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
173 rectangular cuboid shape; or

174 [~~(h)~~] (i) other preparations that the department approves.

175 (8) "Person" means:

176 (a) an individual, partnership, association, firm, trust, limited liability company, or
177 corporation; and

178 (b) an agent or employee of an individual, partnership, association, firm, trust, limited
179 liability company, or corporation.

180 (9) "Research pilot program" means a program conducted by the department in
181 collaboration with at least one licensee to study methods of cultivating, processing, or
182 marketing industrial hemp.

183 Section 2. Section 4-41-402 is amended to read:

184 **4-41-402. Cannabinoid sales and use authorized.**

185 (1) The sale or use of a cannabinoid product is prohibited:

186 (a) except as provided in this chapter; or

187 (b) unless the United States Food and Drug Administration approves the product.

188 (2) The department shall keep a list of registered cannabinoid products that the
189 department has determined, in accordance with Section 4-41-403, are safe for human
190 consumption.

191 (3) (a) A person may sell or use a cannabinoid product that is in the list of registered
192 ~~[cannabidiol]~~ cannabinoid products described in Subsection (2).

193 (b) An individual may use cannabidiol or a cannabidiol product that is not in the list of
194 registered cannabinoid products described in Subsection (2) if:

195 (i) the person purchased the product outside the state; and

196 (ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled
197 Substances Act.

198 Section 3. Section 4-41a-102 is amended to read:

199 **4-41a-102. Definitions.**

200 As used in this chapter:

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

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

203 (a) possesses cannabis;

204 (b) (i) grows or intends to grow cannabis; ~~[and]~~ or

205 (ii) acquires or intends to acquire cannabis from a holder of an industrial hemp
206 processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act; and

207 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
208 processing facility, or a medical cannabis research licensee.

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

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

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

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

213 (a) acquires or intends to acquire cannabis from a cannabis production establishment

214 [~~or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and~~
215 ~~Cannabinoid Act~~];

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

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

219 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
220 medical cannabis research licensee.

221 (5) "Cannabis processing facility agent" means an individual who:

222 (a) is an employee of a cannabis processing facility; and

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

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

225 (7) "Cannabis production establishment" means a cannabis cultivation facility, a
226 cannabis processing facility, or an independent cannabis testing laboratory.

227 (8) "Cannabis production establishment agent" means a cannabis cultivation facility
228 agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

229 (9) "Cannabis production establishment agent registration card" means a registration
230 card that the department issues that:

231 (a) authorizes an individual to act as a cannabis production establishment agent; and

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

234 (10) "Community location" means a public or private elementary or secondary school,
235 [~~a licensed child-care facility or preschool~~], a church, a public library, a public playground, or a
236 public park.

237 (11) "Department" means the Department of Agriculture and Food.

238 (12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
239 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,
240 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

241 (13) (a) "Independent cannabis testing laboratory" means a person that:

242 [~~(a)~~] (i) conducts a chemical or other analysis of cannabis or a cannabis product; or

243 [~~(b)~~] (ii) acquires, possesses, and transports cannabis or a cannabis product with the
244 intent to conduct a chemical or other analysis of the cannabis or cannabis product.

245 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
246 operates in accordance with Subsection 4-41a-201(14).

247 (14) "Independent cannabis testing laboratory agent" means an individual who:

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

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

250 (15) "Inventory control system" means a system described in Section 4-41a-103.

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

252 (17) "Medical cannabis card" means the same as that term is defined in Section

253 26-61a-102.

254 (18) "Medical cannabis pharmacy" means the same as that term is defined in Section

255 26-61a-102.

256 (19) "Medical cannabis pharmacy agent" means the same as that term is defined in

257 Section 26-61a-102.

258 (20) "Medical cannabis research license" means a license that the department issues to

259 a research university for the purpose of obtaining and possessing medical cannabis for

260 academic research.

261 (21) "Medical cannabis research licensee" means a research university that the

262 department licenses to obtain and possess medical cannabis for academic research, in

263 accordance with Section 4-41a-901.

264 (22) "Medical cannabis treatment" means the same as that term is defined in Section

265 26-61a-102.

266 (23) "Medicinal dosage form" means the same as that term is defined in Section

267 26-61a-102.

268 (24) "Qualified medical provider" means the same as that term is defined in Section

269 26-61a-102.

270 (25) "Qualified Production Enterprise Fund" means the fund created in Section

271 4-41a-104.

272 (26) "Research university" means the same as that term is defined in Section

273 53B-7-702.

274 (27) "State electronic verification system" means the system described in Section

275 26-61a-103.

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

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

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

281 **4-41a-201. Cannabis production establishment -- License.**

282 (1) [A] Except as provided in Subsection (14), a person may not operate a cannabis
283 production establishment without a license that the department issues under this chapter.

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

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

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

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

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

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

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

297 (C) timely and objectively evaluate applications;

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

299 (E) select applicants to receive a license.

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

302 (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis
303 cultivation facility, addresses of no more than two facility locations, located in a zone described
304 in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production
305 establishment;

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

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

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

311 (iii) an operating plan that:

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

313 (B) includes operating procedures that comply with this chapter and any law the
314 municipality or county in which the person is located adopts that is consistent with Section
315 4-41a-406; and

316 (C) the department approves;

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

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

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

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

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

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

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

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

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

336 (iii) The department may grant a waiver to reduce the proximity requirements in
337 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible

338 for the applicant to site the proposed cannabis production establishment without the waiver.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 369 (i) a felony; or
370 (ii) after December 3, 2018, a misdemeanor for drug distribution;
371 (b) is younger than 21 years old; or
372 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.
373 (8) If an applicant for a cannabis production establishment license under this section
374 holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a,
375 Utah Medical Cannabis Act, the department:
376 (a) shall consult with the Department of Health regarding the applicant if the license
377 the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and
378 (b) may not give preference to the applicant based on the applicant's status as a holder
379 of a license described in this Subsection (8).
380 (9) The department may revoke a license under this part:
381 (a) if the cannabis production establishment does not begin cannabis production
382 operations within one year after the day on which the department issues the initial license;
383 (b) after the cannabis production establishment makes the same violation of this
384 chapter three times;
385 (c) if any individual described in Subsection (2)(b) is convicted, while the license is
386 active, under state or federal law of:
387 (i) a felony; or
388 (ii) after December 3, 2018, a misdemeanor for drug distribution; [~~or~~]
389 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
390 the time of application, or fails to supplement the information described in Subsection
391 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
392 application[?] within 14 calendar days after the licensee receives notice of the investigation or
393 adverse action; or
394 (e) if the cannabis production establishment demonstrates a willful or reckless
395 disregard for the requirements of this chapter or the rules the department makes in accordance
396 with this chapter.
397 (10) (a) A person who receives a cannabis production establishment license under this
398 chapter, if the municipality or county where the licensed cannabis production establishment
399 will be located requires a local land use permit, shall submit to the department a copy of the

400 licensee's approved application for the land use permit within 120 days after the day on which
401 the department issues the license.

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

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

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

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

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

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

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

415 (14) Notwithstanding this section, the department:

416 (a) may operate an independent cannabis testing laboratory;

417 (b) if the department operates an independent cannabis testing laboratory, may not:

418 (i) issue a license to operate as an independent testing laboratory until July 1, 2022; and

419 (ii) cease operating the independent cannabis testing laboratory unless:

420 (A) the department issues at least two licenses to independent cannabis testing
421 laboratories; and

422 (B) the department has ensured that the licensed independent cannabis testing
423 laboratories have sufficient capacity to provide the testing necessary to support the state's
424 medical cannabis market; and

425 (c) after ceasing operations under Subsection (14)(b)(ii) shall resume independent
426 cannabis testing laboratory operations at any time if:

427 (i) fewer than two licensed independent cannabis testing laboratories are operating; or

428 (ii) the licensed independent cannabis testing laboratories become, in the department's
429 determination, unable to fully meet the market demand for testing.

430 Section 5. Section **4-41a-203** is amended to read:

431 **4-41a-203. Renewal.**

432 The department shall renew a license issued under Section 4-41a-201 every year
433 without opening a process described in Subsection 4-41a-203(2)(a) if, at the time of renewal:

- 434 (1) the licensee meets the requirements of Section 4-41a-201;
435 (2) the licensee pays the department a license renewal fee in an amount that, subject to
436 Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and
437 (3) if the cannabis production establishment changes the operating plan described in
438 Section 4-41a-204 that the department approved under Subsection 4-41a-201(2)(b)(iii), the
439 department approves the new operating plan.

440 Section 6. Section 4-41a-204 is amended to read:

441 **4-41a-204. Operating plan.**

442 (1) A person applying for a cannabis production establishment license or license
443 renewal shall submit to the department for the department's review a proposed operating plan
444 that complies with this section and that includes:

- 445 (a) a description of the physical characteristics of the proposed facility or, for a
446 cannabis cultivation facility, no more than two facility locations, including a floor plan and an
447 architectural elevation;
- 448 (b) a description of the credentials and experience of:
- 449 (i) each officer, director, and owner of the proposed cannabis production
450 establishment; and
- 451 (ii) any highly skilled or experienced prospective employee;
- 452 (c) the cannabis production establishment's employee training standards;
- 453 (d) a security plan;
- 454 (e) a description of the cannabis production establishment's inventory control system,
455 including a description of how the inventory control system is compatible with the state
456 electronic verification system described in Section 26-61a-103;
- 457 (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a
458 manner that is sanitary and preserves the integrity of the cannabis;
- 459 (g) for a cannabis cultivation facility, the information described in Subsection (2);
- 460 (h) for a cannabis processing facility, the information described in Subsection (3); and
- 461 (i) for an independent cannabis testing laboratory, the information described in

462 Subsection (4).

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

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

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

469 (b) Except as provided in Subsection (2)(c)(i) or (d)(ii), a cannabis cultivation facility
470 may not:

471 (i) for a facility that cultivates cannabis only indoors[~~:(A)~~], use more than 100,000
472 total horizontal square feet for cultivation[~~:(B) hang, suspend, stack~~], regardless of whether
473 the square footage is used through hanging, suspending, stacking, or otherwise [position]
474 positioning plants above other plants to cultivate more plants through use of vertical space;

475 (ii) for a facility that cultivates cannabis only outdoors, use more than four acres for
476 cultivation; and

477 (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor
478 cultivation, use more combined indoor square footage and outdoor acreage than allowed under
479 the department's formula described in Subsection (2)(e).

480 (c) (i) Each licensee may annually apply to the department for authorization to exceed
481 the cannabis cultivation facility's current cultivation size limitation by up to 20%.

482 (ii) The department may, after conducting a review as described in Subsection
483 [4-41a-205\(2\)\(a\)](#), grant the authorization described in Subsection (2)(c)(i).

484 (d) If a licensee describes an intended acreage or square footage under cultivation
485 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

486 (i) the licensee may not cultivate more than the licensee's identified intended acreage or
487 square footage under cultivation; and

488 (ii) notwithstanding Subsection (2)(b), the department may allocate the remaining
489 difference in acreage or square footage under cultivation to another licensee.

490 (e) The department shall, in accordance with Title 63G, Chapter 3, Utah
491 Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor
492 cultivation that:

493 (i) does not exceed, in estimated cultivation yield, the aggregate limitations described
494 in Subsection (2)(b)(i) or (ii); and

495 (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

496 (f) (i) The department may authorize a cannabis cultivation facility to operate at no
497 more than two separate locations.

498 (ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two
499 cannabis cultivation facility locations combined may not exceed the cultivation limitations
500 described in this Subsection (2).

501 [~~(f) Notwithstanding an applicant's proposed operating plan, a cannabis production~~
502 ~~establishment is subject to land use regulations, as defined in Sections [10-9a-103](#) and~~
503 ~~[17-27a-103](#), regarding the availability of outdoor cultivation in an industrial zone.]~~

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

- 506 (a) offered variety of cannabis product;
- 507 (b) cannabinoid extraction method;
- 508 (c) cannabinoid extraction equipment;
- 509 (d) processing equipment;
- 510 (e) processing techniques; and
- 511 (f) sanitation and manufacturing safety procedures for items for human consumption.

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

- 514 (a) cannabis and cannabis product testing capability;
- 515 (b) cannabis and cannabis product testing equipment; and
- 516 (c) testing methods, standards, practices, and procedures for testing cannabis and
517 cannabis products.

518 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
519 establishment is subject to land use regulations, as defined in Sections [10-9a-103](#) and
520 [17-27a-103](#), regarding the availability of outdoor cultivation in an industrial zone.

521 Section 7. Section ~~4-41a-404~~ is amended to read:

522 **4-41a-404. Cannabis, cannabis product, or medical cannabis device**
523 **transportation.**

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

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

530 (b) Only an agent of a cannabis cultivation facility, when the agent is transporting
531 cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory,
532 may transport unprocessed cannabis outside of a medicinal dosage form.

533 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter
534 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall
535 possess a transportation manifest that:

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

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

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

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

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

548 (i) between a cannabis [~~cultivation facility~~] production establishment and[~~-(A)~~]
549 another cannabis [~~cultivation facility~~; or ~~(B) a cannabis processing facility~~] production
550 establishment; and

551 (ii) between a cannabis processing facility and[~~-(A) another cannabis processing~~
552 ~~facility~~; ~~(B) an independent cannabis testing laboratory~~; or ~~(C)~~] a medical cannabis pharmacy.

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

555 section.

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

557 (i) guilty of an infraction; and

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

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

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

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

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

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

571 (6) Notwithstanding this section, an individual may transport a medical cannabis
572 device to a medical cannabis pharmacy in the circumstance described in Subsection
573 26-61a-502(10).

574 Section 8. Section **4-41a-602** is amended to read:

575 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

576 (1) For any cannabis product that a cannabis processing facility processes or produces
577 and for any raw cannabis that the facility packages, the facility shall:

578 (a) label the cannabis or cannabis product with a label that:

579 (i) clearly and unambiguously states that the cannabis product or package contains
580 cannabis;

581 (ii) clearly displays the amount of total composite tetrahydrocannabinol and
582 cannabidiol in the labeled container;

583 (iii) has a unique identification number that:

584 (A) is connected to the inventory control system; and

585 (B) identifies the unique cannabis product manufacturing process the cannabis

586 processing facility used to manufacture the cannabis product;

587 (iv) identifies the cannabinoid extraction process that the cannabis processing facility

588 used to create the cannabis product;

589 (v) does not display an image, word, or phrase that the facility knows or should know

590 appeals to children; and

591 (vi) discloses each active or potentially active ingredient, in order of prominence, and

592 possible allergen; and

593 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a

594 container that:

595 (i) [~~except for a blister pack,~~] is tamper evident and tamper resistant;

596 (ii) does not appeal to children;

597 (iii) does not mimic a candy container;

598 (iv) [~~except for a blister pack,~~] is opaque;

599 (v) complies with child-resistant effectiveness standards that the United States

600 Consumer Product Safety Commission establishes; and

601 (vi) includes a warning label that states: "WARNING: Cannabis has intoxicating

602 effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP

603 OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed

604 by a qualified medical provider."

605 (2) For any cannabis or cannabis product that the cannabis processing facility processes

606 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular

607 cuboid shape, the facility shall:

608 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or

609 other image of the content of the container; and

610 (b) include on the label described in Subsection (1)(a) a warning about the risks of

611 over-consumption.

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

613 Administrative Rulemaking Act[~~, establishing~~] to establish:

614 (a) a standard labeling format that:

615 [~~(a)~~] (i) complies with the requirements of this section; and

616 [~~(b)~~] (ii) ensures inclusion of a pharmacy label[-]; and

617 (b) additional requirements on packaging for cannabis and cannabis products to ensure
618 safety and product quality.

619 Section 9. Section **4-41a-603** is amended to read:

620 **4-41a-603. Cannabis product -- Product quality.**

621 (1) (a) A cannabis processing facility may not produce a cannabis product in a physical
622 form that:

623 [~~(a)~~] (i) the facility knows or should know appeals to children;

624 [~~(b)~~] (ii) is designed to mimic or could be mistaken for a candy product; or

625 [~~(c)~~] (iii) except as provided in Subsection (1)(b), for a cannabis product used in

626 vaporization other than unprocessed cannabis flower, includes a candy-like flavor or another

627 flavor that the facility knows or should know appeals to children.

628 (b) A cannabis processing facility may produce a concentrated oil with a flavor that the
629 department approves.

630 (2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile
631 by up to 10% of the indicated amount of a given cannabinoid, by weight.

632 (3) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah
633 Administrative Rulemaking Act, human safety standards for the manufacturing of cannabis
634 products that are consistent with best practices for the use of cannabis.

635 Section 10. Section **26-61-202** is amended to read:

636 **26-61-202. Cannabinoid Product Board -- Duties.**

637 (1) The board shall review any available scientific research related to the human use of
638 cannabis, a cannabinoid product, or an expanded cannabinoid product that:

639 (a) was conducted under a study approved by an IRB; [~~or~~]

640 (b) was conducted or approved by the federal government[-]; or

641 (c) (i) was conducted in another country; and

642 (ii) demonstrates, as determined by the board, a sufficient level of scientific reliability
643 and significance to merit the board's review.

644 (2) Based on the research described in Subsection (1), the board shall evaluate the
645 safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products,
646 including:

647 (a) medical conditions that respond to cannabis, cannabinoid products, and expanded

648 cannabinoid products;

649 (b) cannabis and cannabinoid dosage amounts and medical dosage forms;

650 (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products
651 with other treatments; and

652 (d) contraindications, adverse reactions, and potential side effects from use of cannabis,
653 cannabinoid products, and expanded cannabinoid products.

654 (3) Based on the board's evaluation under Subsection (2), the board shall develop
655 guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid
656 product that include:

657 (a) a list of medical conditions, if any, that the board determines are appropriate for
658 treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded
659 cannabinoid product;

660 (b) a list of contraindications, side effects, and adverse reactions that are associated
661 with use of cannabis, cannabinoid products, or expanded cannabinoid products; ~~and~~

662 (c) a list of potential drug-drug interactions between medications that the United States
663 Food and Drug Administration has approved and cannabis, cannabinoid products, and
664 expanded cannabinoid products~~[-]; and~~

665 (d) any other guideline the board determines appropriate.

666 (4) The board shall submit the guidelines described in Subsection (3) to:

667 (a) the director of the Division of Occupational and Professional Licensing; and

668 (b) the Health and Human Services Interim Committee.

669 (5) The board shall report the board's findings before November 1 of each year to the
670 Health and Human Services Interim Committee.

671 (6) Guidelines that the board develops under this section may not limit the availability
672 of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4,
673 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
674 Cannabis Act.

675 Section 11. Section **26-61a-102** is amended to read:

676 **26-61a-102. Definitions.**

677 As used in this chapter:

678 ~~[(1) "Blister" means a plastic cavity or pocket used to contain no more than a single~~

679 dose of cannabis or a cannabis product in a blister pack.]

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

682 [~~(3)~~] (1) "Cannabis" means marijuana.

683 [~~(4)~~] (2) "Cannabis cultivation facility" means the same as that term is defined in
684 Section [4-41a-102](#).

685 [~~(5)~~] (3) "Cannabis processing facility" means the same as that term is defined in
686 Section [4-41a-102](#).

687 [~~(6)~~] (4) "Cannabis product" means a product that:

688 (a) is intended for human use; and

689 (b) contains cannabis or tetrahydrocannabinol.

690 [~~(7)~~] (5) "Cannabis production establishment" means the same as that term is defined
691 in Section [4-41a-102](#).

692 [~~(8)~~] (6) "Cannabis production establishment agent" means the same as that term is
693 defined in Section [4-41a-102](#).

694 [~~(9)~~] (7) "Cannabis production establishment agent registration card" means the same
695 as that term is defined in Section [4-41a-102](#).

696 [~~(10)~~] (8) "Community location" means a public or private elementary or secondary
697 school, [~~a licensed child-care facility or preschool~~], a church, a public library, a public
698 playground, or a public park.

699 [~~(11)~~] (9) "Department" means the Department of Health.

700 [~~(12)~~] (10) "Designated caregiver" means:

701 (a) an individual:

702 [~~(a)~~] (i) whom an individual with a medical cannabis patient card or a medical cannabis
703 guardian card designates as the patient's caregiver; and

704 [~~(b)~~] (ii) who registers with the department under Section [26-61a-202](#)[-]; or

705 (b) (i) a facility that an individual designates as a designated caregiver in accordance
706 with Subsection [26-61a-202](#)(1)(b); or

707 (ii) an assigned employee of the facility described in Subsection [26-61a-202](#)(1)(b)(ii).

708 (11) "Directions of use" means recommended routes of administration for a medical
709 cannabis treatment and suggested usage guidelines.

710 ~~[(13)]~~ (12) "Dosing ~~[parameters]~~ guidelines" means a quantity~~[-, routes,]~~ range and
711 frequency of administration for a recommended treatment of ~~[cannabis in a medicinal dosage~~
712 ~~form or a cannabis product in a medicinal dosage form]~~ medical cannabis.

713 ~~[(14)]~~ (13) "Financial institution" means a bank, trust company, savings institution, or
714 credit union, chartered and supervised under state or federal law.

715 ~~[(15)]~~ (14) "Home delivery medical cannabis pharmacy" means a medical cannabis
716 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
717 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
718 that the state central patient portal facilitates.

719 ~~[(16)]~~ (15) "Independent cannabis testing laboratory" means the same as that term is
720 defined in Section [4-41a-102](#).

721 ~~[(17)]~~ (16) "Inventory control system" means the system described in Section
722 [4-41a-103](#).

723 (17) "Legal use termination date" means a date on the label of a container of
724 unprocessed cannabis flower:

725 (a) that is 60 days after the date of purchase of the cannabis; and

726 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the
727 primary residence of the relevant medical cannabis patient cardholder.

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

729 (19) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis
730 product in a medicinal dosage form.

731 (20) "Medical cannabis card" means a medical cannabis patient card, a medical
732 cannabis guardian card, or a medical cannabis caregiver card.

733 (21) "Medical cannabis cardholder" means:

734 (a) a holder of a medical cannabis card[-]; or

735 (b) a facility or assigned employee, described in Subsection (10)(b), only:

736 (i) within the scope of the facility's or assigned employee's performance of the role of a
737 medical cannabis patient cardholder's caregiver designation under Subsection

738 [26-61a-202\(1\)\(b\)](#); and

739 (ii) while in possession of documentation that establishes:

740 (A) a caregiver designation described in Subsection [26-61a-202\(1\)\(b\)](#);

- 741 (B) the identity of the individual presenting the documentation; and
- 742 (C) the relation of the individual presenting the documentation to the caregiver
- 743 designation.
- 744 (22) "Medical cannabis caregiver card" means an electronic document that a cardholder
- 745 may print or store on an electronic device or a physical card or document that:
- 746 (a) the department issues to an individual whom a medical cannabis patient cardholder
- 747 or a medical cannabis guardian cardholder designates as a designated caregiver; and
- 748 (b) is connected to the electronic verification system.
- 749 (23) "Medical cannabis courier" means a courier that:
- 750 (a) the department licenses in accordance with Section 26-61a-604; and
- 751 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
- 752 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.
- 753 (24) (a) "Medical cannabis device" means a device that an individual uses to ingest or
- 754 inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.
- 755 (b) "Medical cannabis device" does not include a device that:
- 756 (i) facilitates cannabis combustion; or
- 757 (ii) an individual uses to ingest substances other than cannabis.
- 758 (25) "Medical cannabis guardian card" means an electronic document that a cardholder
- 759 may print or store on an electronic device or a physical card or document that:
- 760 (a) the department issues to the parent or legal guardian of a minor with a qualifying
- 761 condition; and
- 762 (b) is connected to the electronic verification system.
- 763 (26) "Medical cannabis patient card" means an electronic document that a cardholder
- 764 may print or store on an electronic device or a physical card or document that:
- 765 (a) the department issues to an individual with a qualifying condition; and
- 766 (b) is connected to the electronic verification system.
- 767 (27) "Medical cannabis pharmacy" means a person that:
- 768 (a) (i) acquires or intends to acquire:
- 769 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
- 770 form from a cannabis processing facility; or
- 771 (B) a medical cannabis device; or

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

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

776 (28) "Medical cannabis pharmacy agent" means an individual who:

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

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

779 (29) "Medical cannabis pharmacy agent registration card" means a registration card
780 issued by the department that authorizes an individual to act as a medical cannabis pharmacy
781 agent.

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

786 (31) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
787 cannabis product in a medicinal dosage form, or a medical cannabis device.

788 (32) (a) "Medicinal dosage form" means:

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

791 (A) a tablet;

792 (B) a capsule;

793 (C) a concentrated liquid or viscous oil;

794 (D) a liquid suspension;

795 (E) a topical preparation;

796 (F) a transdermal preparation;

797 (G) a sublingual preparation;

798 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
799 rectangular cuboid shape; or

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

802 (ii) for unprocessed cannabis flower, ~~[a blister pack, with each individual blister]~~ a

803 container described in Section 4-41a-602 that:

804 (A) ~~[containing]~~ contains cannabis flowers that have a specific and consistent weight
805 that does not exceed one gram and that varies by no more than 10% from the stated weight;
806 ~~[and]~~

807 (B) at any time the medical cannabis cardholder transports or possesses the container in
808 public, is contained within an opaque, child-resistant bag that the medical cannabis pharmacy
809 provides; and

810 ~~[(B)]~~ (C) ~~[after December 31, 2020;]~~ is labeled with the container's content and
811 weight, the date of purchase, the legal use termination date, and after December 31, 2020, a
812 barcode that provides information connected to an inventory control system ~~[and the individual~~
813 ~~blister's content and weight]~~; and

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

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

816 (i) the medical cannabis cardholder has recently removed from the ~~[blister pack]~~
817 container described in Subsection (32)(a)(ii) for use; and

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

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

820 (i) any unprocessed cannabis flower outside of the ~~[blister pack]~~ container described in
821 Subsection (32)(a)(ii), except as provided in Subsection (32)(b); [or]

822 (ii) any unprocessed cannabis flower in a container described in Subsection (32)(a)(ii)
823 after the legal use termination date; or

824 ~~[(ii)]~~ (iii) a process of vaporizing and inhaling concentrated cannabis by placing the
825 cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

826 (33) "Nonresident patient" means an individual who:

827 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

828 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
829 card under the laws of another state, district, territory, commonwealth, or insular possession of
830 the United States; and

831 (c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

832 ~~[(33)]~~ (34) "Payment provider" means an entity that contracts with a cannabis
833 production establishment or medical cannabis pharmacy to facilitate transfers of funds between

834 the establishment or pharmacy and other businesses or individuals.

835 ~~[(34)]~~ (35) "Pharmacy medical provider" means the medical provider required to be on
836 site at a medical cannabis pharmacy under Section 26-61a-403.

837 ~~[(35)]~~ (36) "Provisional patient card" means a card that:

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

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

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

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

843 ~~[(36)]~~ (37) "Qualified medical provider" means an individual who is qualified to
844 recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

845 ~~[(37)]~~ (38) "Qualified Patient Enterprise Fund" means the enterprise fund created in
846 Section 26-61a-109.

847 ~~[(38)]~~ (39) "Qualifying condition" means a condition described in Section 26-61a-104.

848 (40) "Recommend" or "recommendation" means, for a qualified medical provider, the
849 act of suggesting the use of medical cannabis treatment, which:

850 (a) certifies the patient's eligibility for a medical cannabis card; and

851 (b) may include, at the qualified medical provider's discretion, directions of use, with
852 or without dosing guidelines.

853 ~~[(39)]~~ (41) "State central patient portal" means the website the department creates, in
854 accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic
855 medical cannabis order.

856 ~~[(40)]~~ (42) "State central patient portal medical provider" means a physician or
857 pharmacist that the department employs in relation to the state central patient portal to consult
858 with medical cannabis cardholders in accordance with Section 26-61a-602.

859 ~~[(41)]~~ (43) "State electronic verification system" means the system described in Section
860 26-61a-103.

861 ~~[(42)]~~ (44) "Valid form of photo identification" means a valid United States federal- or
862 state-issued photo identification, including:

863 (a) a driver license;

864 (b) a United States passport;

865 (c) a United States passport card; or

866 (d) a United States military identification card.

867 Section 12. Section **26-61a-103** is amended to read:

868 **26-61a-103. Electronic verification system.**

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

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

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

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

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

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

882 (2) The Department of Agriculture and Food, the department, the Department of Public
883 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
884 2020, the state electronic verification system described in Subsection (1):

885 (a) allows an individual~~[, with the individual's qualified medical provider in the~~
886 ~~qualified medical provider's office,]~~ to apply for a medical cannabis patient card or, if
887 applicable, a medical cannabis guardian card, provided that the card may not become active
888 until the relevant qualified medical provider completes the associated medical cannabis
889 recommendation;

890 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
891 cannabis guardian card in accordance with Section [26-61a-201](#);

892 (c) allows a qualified medical provider, or an employee described in Subsection (3)
893 acting on behalf of the qualified medical provider, to:

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

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

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

898 (ii) electronically recommend, during a visit with a patient, treatment with cannabis in
899 a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally
900 recommend dosing [~~parameters~~] guidelines;

901 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
902 medical cannabis guardian cardholder:

903 (A) using telehealth services, for the qualified medical provider who originally
904 recommended a medical cannabis treatment[~~as that term is defined in Section 26-61a-102,~~
905 ~~using telehealth services~~] during a face-to-face visit with the patient; or

906 (B) during a face-to-face visit with the patient, for a qualified medical provider who
907 did not originally recommend the medical cannabis treatment[~~;~~] during a face-to-face visit
908 [~~with a patient~~]; and

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

911 (d) connects with:

912 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
913 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
914 medicinal dosage form, or a medical cannabis device, including:

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

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

918 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
919 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
920 device; and

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

923 (ii) any commercially available inventory control system that a cannabis production
924 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
925 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
926 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to

927 track and confirm compliance;

928 (e) provides access to:

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

931 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
932 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
933 41a, Cannabis Production Establishments; and

934 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
935 carry out the functions and responsibilities related to the participation of the following in the
936 recommendation and dispensing of medical cannabis:

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

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

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

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

944 (f) provides access to and interaction with the state central patient portal;

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

946 (i) during a ~~[traffic stop]~~ law enforcement encounter for the purpose of determining if
947 the individual subject to the ~~[traffic stop]~~ law enforcement encounter is in compliance with
948 state medical cannabis law; or

949 (ii) after obtaining a warrant; ~~[and]~~

950 (h) provides access to a financial institution that the Division of Finance validates, in
951 accordance with Subsection (6); and

952 ~~[(h)]~~ (i) creates a record each time a person accesses the database that identifies the
953 person who accesses the database and the individual whose records the person accesses.

954 (3) (a) An employee of a qualified medical provider may access the electronic
955 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified
956 medical provider if:

957 (i) the qualified medical provider has designated the employee as an individual

958 authorized to access the electronic verification system on behalf of the qualified medical
959 provider;

960 (ii) the qualified medical provider provides written notice to the department of the
961 employee's identity and the designation described in Subsection (3)(a)(i); and

962 (iii) the department grants to the employee access to the electronic verification system.

963 (b) An employee of a business that employs a qualified medical provider may access
964 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
965 qualified medical provider if:

966 (i) the qualified medical provider has designated the employee as an individual
967 authorized to access the electronic verification system on behalf of the qualified medical
968 provider;

969 (ii) the qualified medical provider and the employing business jointly provide written
970 notice to the department of the employee's identity and the designation described in Subsection
971 (3)(b)(i); and

972 (iii) the department grants to the employee access to the electronic verification system.

973 ~~[(3)]~~ (4) The department may release limited data that the system collects for the
974 purpose of:

975 (a) conducting medical and other department approved research;

976 (b) providing the report required by Section 26-61a-703; and

977 (c) other official department purposes.

978 ~~[(4)]~~ (5) The department shall make rules, in accordance with Title 63G, Chapter 3,
979 Utah Administrative Rulemaking Act, to establish:

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

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

984 (6) (a) The Division of Finance shall, in consultation with the state treasurer:

985 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
986 make rules to:

987 (A) establish a process for validating financial institutions for access to the state
988 electronic verification system in accordance with Subsections (2)(h) and (6)(b); and

989 (B) establish qualifications for the validation described in Subsection (6)(a)(i);
990 (ii) review applications the Division of Finance receives in accordance with the process
991 established under Subsection (6)(a)(i);
992 (iii) validate a financial institution that meets the qualifications described in Subsection
993 (6)(a)(i); and
994 (iv) provide a list of validated financial institutions to the department and the
995 Department of Agriculture and Food.

996 (b) A financial institution that the Division of Finance validates under Subsection
997 (6)(a):

998 (i) may only access the electronic verification system for the purpose of reconciling
999 transactions and other financial activity of cannabis production establishments, medical
1000 cannabis pharmacies, and medical cannabis couriers that use financial services that the
1001 financial institution provides;

1002 (ii) may only access information related to financial transactions; and

1003 (iii) may not access any identifying patient information.

1004 ~~[(5)]~~ (7) (a) Any person who knowingly and intentionally releases any information in
1005 the state electronic verification system in violation of this section is guilty of a third degree
1006 felony.

1007 (b) Any person who negligently or recklessly releases any information in the state
1008 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1009 ~~[(6)]~~ (8) (a) Any person who obtains or attempts to obtain information from the state
1010 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1011 (b) Any person who obtains or attempts to obtain information from the state electronic
1012 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1013 degree felony.

1014 ~~[(7)]~~ (9) (a) Except as provided in Subsection ~~[(7)]~~ (9)(e), a person may not knowingly
1015 and intentionally use, release, publish, or otherwise make available to any other person
1016 information obtained from the state electronic verification system for any purpose other than a
1017 purpose specified in this section.

1018 (b) Each separate violation of this Subsection ~~[(7)]~~ (9) is:

1019 (i) a third degree felony; and

1020 (ii) subject to a civil penalty not to exceed \$5,000.

1021 (c) The department shall determine a civil violation of this Subsection [~~(7)~~] (9) in
1022 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1023 (d) Civil penalties assessed under this Subsection [~~(7)~~] (9) shall be deposited into the
1024 General Fund.

1025 (e) This Subsection [~~(7)~~] (9) does not prohibit a person who obtains information from
1026 the state electronic verification system under Subsection (2)(a), (c), or (f) from:

1027 (i) including the information in the person's medical chart or file for access by a person
1028 authorized to review the medical chart or file;

1029 (ii) providing the information to a person in accordance with the requirements of the
1030 Health Insurance Portability and Accountability Act of 1996; or

1031 (iii) discussing or sharing that information about the patient with the patient.

1032 Section 13. Section **26-61a-104** is amended to read:

1033 **26-61a-104. Qualifying condition.**

1034 (1) By designating a particular condition under Subsection (2) for which the use of
1035 medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively
1036 state that:

1037 (a) current scientific evidence clearly supports the efficacy of a medical cannabis
1038 treatment for the condition; or

1039 (b) a medical cannabis treatment will treat, cure, or positively affect the condition.

1040 (2) For the purposes of this chapter, each of the following conditions is a qualifying
1041 condition:

1042 (a) HIV or acquired immune deficiency syndrome;

1043 (b) Alzheimer's disease;

1044 (c) amyotrophic lateral sclerosis;

1045 (d) cancer;

1046 (e) cachexia;

1047 (f) persistent nausea that is not significantly responsive to traditional treatment, except
1048 for nausea related to:

1049 (i) pregnancy;

1050 (ii) cannabis-induced cyclical vomiting syndrome; or

- 1051 (iii) cannabinoid hyperemesis syndrome;
- 1052 (g) Crohn's disease or ulcerative colitis;
- 1053 (h) epilepsy or debilitating seizures;
- 1054 (i) multiple sclerosis or persistent and debilitating muscle spasms;
- 1055 (j) post-traumatic stress disorder that is being treated and monitored by a licensed
- 1056 mental health therapist, as that term is defined in Section 58-60-102, and that:
- 1057 (i) has been diagnosed by a healthcare provider or mental health provider employed or
- 1058 contracted by the United States Veterans Administration, evidenced by copies of medical
- 1059 records from the United States Veterans Administration that are included as part of the
- 1060 qualified medical provider's pre-treatment assessment and medical record documentation; or
- 1061 (ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of
- 1062 the patient, by a provider who is:
- 1063 (A) a licensed board-eligible or board-certified psychiatrist;
- 1064 (B) a licensed psychologist with a [~~doctorate~~] master's-level degree;
- 1065 (C) a licensed clinical social worker with a [~~doctorate~~] master's-level degree; or
- 1066 (D) a licensed advanced practice registered nurse who is qualified to practice within
- 1067 the psychiatric mental health nursing speciality and who has completed the clinical practice
- 1068 requirements in psychiatric mental health nursing, including in psychotherapy, in accordance
- 1069 with Subsection 58-31b-302(4)(g);
- 1070 (k) autism;
- 1071 (l) a terminal illness when the patient's remaining life expectancy is less than six
- 1072 months;
- 1073 (m) a condition resulting in the individual receiving hospice care;
- 1074 (n) a rare condition or disease that:
- 1075 (i) affects less than 200,000 individuals in the United States, as defined in Section 526
- 1076 of the Federal Food, Drug, and Cosmetic Act; and
- 1077 (ii) is not adequately managed despite treatment attempts using:
- 1078 (A) conventional medications other than opioids or opiates; or
- 1079 (B) physical interventions;
- 1080 (o) pain lasting longer than two weeks that is not adequately managed, in the qualified
- 1081 medical provider's opinion, despite treatment attempts using:

- 1082 (i) conventional medications other than opioids or opiates; or
- 1083 (ii) physical interventions; and
- 1084 (p) a condition that the compassionate use board approves under Section 26-61a-105,
- 1085 on an individual, case-by-case basis.

1086 Section 14. Section 26-61a-105 is amended to read:

1087 **26-61a-105. Compassionate use board.**

1088 (1) (a) The department shall establish a compassionate use board consisting of:

1089 (i) seven qualified medical providers that the executive director appoints and the
1090 Senate confirms:

1091 (A) who are knowledgeable about the medicinal use of cannabis;

1092 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
1093 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1094 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
1095 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
1096 pediatrics, or gastroenterology; and

1097 (ii) as a nonvoting member and the chair of the board, the executive director or the
1098 director's designee.

1099 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
1100 the executive director shall ensure that at least two have a board certification in pediatrics.

1101 (2) (a) Of the members of the board that the executive director first appoints:

1102 (i) three shall serve an initial term of two years; and

1103 (ii) the remaining members shall serve an initial term of four years.

1104 (b) After an initial term described in Subsection (2)(a) expires:

1105 (i) each term is four years; and

1106 (ii) each board member is eligible for reappointment.

1107 (c) A member of the board may serve until a successor is appointed.

1108 (3) Four members constitute a quorum of the compassionate use board.

1109 (4) A member of the board may receive~~[-(a) compensation or benefits for the~~

1110 ~~member's service; and (b)]~~ per diem and travel expenses in accordance with Section

1111 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to

1112 Sections 63A-3-106 and 63A-3-107.

1113 (5) The compassionate use board shall:

1114 (a) review and recommend for department approval a petition to the board regarding an

1115 individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection

1116 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis

1117 card to obtain a medical cannabis card for compassionate use if:

1118 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,

1119 the individual's qualified medical provider is actively treating the individual for an intractable

1120 condition that:

1121 (A) substantially impairs the individual's quality of life; and

1122 (B) has not, in the qualified medical provider's professional opinion, adequately

1123 responded to conventional treatments;

1124 (ii) the qualified medical provider:

1125 (A) recommends that the individual or minor be allowed to use medical cannabis; and

1126 (B) provides a letter, relevant treatment history, and notes or copies of progress notes

1127 describing relevant treatment history including rationale for considering the use of medical

1128 cannabis; and

1129 (iii) the board determines that:

1130 (A) the recommendation of the individual's qualified medical provider is justified; and

1131 (B) based on available information, it may be in the best interests of the individual to

1132 allow the use of medical cannabis;

1133 (b) review and approve or deny the use of a medical cannabis device for an individual

1134 described in Subsection 26-61a-201(2)(a) or a minor described in Subsection 26-61a-201(2)(c)

1135 if the individual's or minor's qualified medical provider recommends that the individual or

1136 minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

1137 [~~(b)~~] (c) unless no petitions are pending:

1138 (i) meet to receive or review compassionate use petitions at least quarterly; and

1139 (ii) if there are more petitions than the board can receive or review during the board's

1140 regular schedule, as often as necessary;

1141 [~~(c)~~] (d) except as provided in Subsection (6), complete a review of each petition and

1142 recommend to the department approval or denial of the applicant for qualification for a medical

1143 cannabis card within 90 days after the day on which the board received the petition; [and]

1144 (e) consult with the department regarding the criteria described in Subsection (6); and
1145 ~~[(d)]~~ (f) report, before November 1 of each year, to the Health and Human Services
1146 Interim Committee:

1147 (i) the number of compassionate use recommendations the board issued during the past
1148 year; and

1149 (ii) the types of conditions for which the board ~~[approved]~~ recommended
1150 compassionate use.

1151 (6) The department shall make rules, in consultation with the compassionate use board
1152 and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
1153 establish a process and criteria for a petition to the board to automatically qualify for expedited
1154 final review and approval or denial by the department in cases where, in the determination of
1155 the department and the board:

1156 (a) time is of the essence;

1157 (b) engaging the full review process would be unreasonable in light of the petitioner's
1158 physical condition; and

1159 (c) sufficient factors are present regarding the petitioner's safety.

1160 ~~[(6)]~~ (7) (a) (i) The department shall review:

1161 (A) any compassionate use for which the board recommends approval under
1162 Subsection (5)~~[(c)]~~(d) to determine whether the board properly exercised the board's discretion
1163 under this section~~[-]~~; and

1164 (B) any expedited petitions the department receives under the process described in
1165 Subsection (6).

1166 (ii) If the department determines that the board properly exercised the board's
1167 discretion in recommending approval under Subsection (5)~~[(c)]~~(d) or that the expedited petition
1168 merits approval based on the criteria established in accordance with Subsection (6), the
1169 department shall:

1170 (A) issue the relevant medical cannabis card; and

1171 (B) provide for the renewal of the medical cannabis card in accordance with the
1172 recommendation of the qualified medical provider described in Subsection (5)(a).

1173 (b) (i) If the board recommends denial under Subsection (5)~~[(c)]~~(d), the individual
1174 seeking to obtain a medical cannabis card may petition the department to review the board's

1175 decision.

1176 (ii) If the department determines that the board's recommendation for denial under
1177 Subsection (5)~~(c)~~(d) was arbitrary or capricious:

1178 (A) the department shall notify the board of the department's determination; and

1179 (B) the board shall reconsider the board's refusal to recommend approval under this
1180 section.

1181 (c) In reviewing the board's recommendation for approval or denial under Subsection
1182 (5)~~(c)~~(d) in accordance with this Subsection ~~(6)~~ (7), the department shall presume the board
1183 properly exercised the board's discretion unless the department determines that the board's
1184 recommendation was arbitrary or capricious.

1185 ~~(7)~~ (8) Any individually identifiable health information contained in a petition that
1186 the board or department receives under this section is a protected record in accordance with
1187 Title 63G, Chapter 2, Government Records Access and Management Act.

1188 ~~(8)~~ (9) The compassionate use board shall annually report the board's activity to the
1189 Cannabinoid Product Board created in Section 26-61-201.

1190 Section 15. Section 26-61a-106 is amended to read:

1191 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1192 **Treatment recommendation.**

1193 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a
1194 medical cannabis treatment unless the department registers the individual as a qualified
1195 medical provider in accordance with this section.

1196 (b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii)
1197 and (iv) may recommend a medical cannabis treatment without registering under Subsection
1198 (1)(a) until January 1, 2021.

1199 (2) (a) The department shall, within 15 days after the day on which the department
1200 receives an application from an individual, register and issue a qualified medical provider
1201 registration card to the individual if the individual:

1202 (i) provides to the department the individual's name and address;

1203 (ii) provides to the department a report detailing the individual's completion of the
1204 applicable continuing education requirement described in Subsection (3);

1205 (iii) provides to the department evidence that the individual:

- 1206 (A) has the authority to write a prescription;
- 1207 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1208 Controlled Substances Act; and
- 1209 (C) possesses the authority, in accordance with the individual's scope of practice, to
1210 prescribe a Schedule II controlled substance;
- 1211 (iv) provides to the department evidence that the individual is:
 - 1212 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1213 Practice Act;
 - 1214 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1215 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
 - 1216 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1217 Act, whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),
1218 includes the recommending of medical cannabis, and whose supervising physician is a
1219 qualified medical provider; and
- 1220 (v) pays the department a fee in an amount that:
 - 1221 (A) the department sets, in accordance with Section [63J-1-504](#); and
 - 1222 (B) does not exceed \$300 for an initial registration.
- 1223 (b) The department may not register an individual as a qualified medical provider if the
1224 individual is:
 - 1225 (i) a pharmacy medical provider; or
 - 1226 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1227 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.
- 1228 (3) (a) An individual shall complete the continuing education described in this
1229 Subsection (3) in the following amounts:
 - 1230 (i) for an individual as a condition precedent to registration, four hours; and
 - 1231 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1232 every two years.
- 1233 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:
 - 1234 (i) complete continuing education:
 - 1235 (A) regarding the topics described in Subsection (3)(d); and
 - 1236 (B) offered by the department under Subsection (3)(c) or an accredited or approved

1237 continuing education provider that the department recognizes as offering continuing education
1238 appropriate for the recommendation of cannabis to patients; and

1239 (ii) make a continuing education report to the department in accordance with a process
1240 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1241 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1242 Professional Licensing and:

1243 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1244 Nurse Practice Act, the Board of Nursing;

1245 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1246 Practice Act, the Physicians Licensing Board;

1247 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1248 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1249 and

1250 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1251 Assistant Act, the Physician Assistant Licensing Board.

1252 (c) The department may, in consultation with the Division of Occupational and
1253 Professional Licensing, develop the continuing education described in this Subsection (3).

1254 (d) The continuing education described in this Subsection (3) may discuss:

1255 (i) the provisions of this chapter;

1256 (ii) general information about medical cannabis under federal and state law;

1257 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1258 including risks and benefits;

1259 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1260 patient in pain management, risk management, potential addiction, or palliative care; and

1261 (v) best practices for recommending the form and dosage of medical cannabis products
1262 based on the qualifying condition underlying a medical cannabis recommendation.

1263 (4) (a) Except as provided in Subsection (4)(b) [~~or (c)~~], a qualified medical provider
1264 may not recommend a medical cannabis treatment to more than [~~175~~] 275 of the qualified
1265 medical provider's patients at the same time, as determined by the number of medical cannabis
1266 cards under the qualified medical provider's name in the state electronic verification system.

1267 (b) [~~Except as provided in Subsection (4)(c), a~~] A qualified medical provider may

1268 recommend a medical cannabis treatment to up to ~~[300]~~ 600 of the qualified medical provider's
1269 patients at any given time, as determined by the number of medical cannabis cards under the
1270 qualified medical provider's name in the state electronic verification system, if:

1271 (i) the appropriate American medical board has certified the qualified medical provider
1272 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1273 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1274 psychiatry; or

1275 (ii) a licensed business employs or contracts with the qualified medical provider for the
1276 specific purpose of providing hospice and palliative care.

1277 ~~[(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in
1278 Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for
1279 authorization to exceed the limit described in Subsection (4)(b) by graduating increments of
1280 100 patients per authorization, not to exceed three authorizations.]~~

1281 ~~[(ii) The Division of Occupational and Professional Licensing shall grant the
1282 authorization described in Subsection (4)(c)(i) if:]~~

1283 ~~[(A) the petitioning qualified medical provider pays a \$100 fee;]~~

1284 ~~[(B) the division performs a review that includes the qualified medical provider's
1285 medical cannabis recommendation activity in the state electronic verification system, relevant
1286 information related to patient demand, and any patient medical records that the division
1287 determines would assist in the division's review; and]~~

1288 ~~[(C) after the review described in this Subsection (4)(c)(ii), the division determines that
1289 granting the authorization would not adversely affect public safety, adversely concentrate the
1290 overall patient population among too few qualified medical providers, or adversely concentrate
1291 the use of medical cannabis among the provider's patients.]~~

1292 (5) A qualified medical provider may recommend medical cannabis to an individual
1293 under this chapter only in the course of a qualified medical provider-patient relationship after
1294 the qualifying medical provider has completed and documented in the patient's medical record
1295 a thorough assessment of the patient's condition and medical history based on the appropriate
1296 standard of care for the patient's condition.

1297 (6) (a) Except as provided in Subsection (6)(b), ~~[a qualified medical provider]~~ an
1298 individual may not advertise that the ~~[qualified medical provider]~~ individual recommends

1299 medical cannabis treatment in accordance with this chapter.

1300 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1301 website, by an individual described in Subsection (6)(c), does not constitute advertising:

1302 (i) a green cross;

1303 (ii) a qualifying condition that the qualified medical provider treats; or

1304 (iii) a scientific study regarding medical cannabis use.

1305 (c) The following may communicate the content described in Subsection (6)(b):

1306 (i) before the department begins registering qualified medical providers:

1307 (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

1308 (B) a physician described in Subsection (2)(a)(iv)(B); or

1309 (C) a physician assistant described in Subsection (2)(a)(iv)(C); and

1310 (ii) after the department begins registering qualified medical providers, a qualified
1311 medical provider.

1312 (7) (a) A qualified medical provider registration card expires two years after the day on
1313 which the department issues the card.

1314 (b) The department shall renew a qualified medical provider's registration card if the
1315 provider:

1316 (i) applies for renewal;

1317 (ii) is eligible for a qualified medical provider registration card under this section,
1318 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

1319 (iii) certifies to the department in a renewal application that the information in
1320 Subsection (2)(a) is accurate or updates the information;

1321 (iv) submits a report detailing the completion of the continuing education requirement
1322 described in Subsection (3); and

1323 (v) pays the department a fee in an amount that:

1324 (A) the department sets, in accordance with Section [63J-1-504](#); and

1325 (B) does not exceed \$50 for a registration renewal.

1326 (8) The department may revoke the registration of a qualified medical provider who
1327 fails to maintain compliance with the requirements of this section.

1328 (9) A qualified medical provider may not receive any compensation or benefit for the
1329 qualified medical provider's medical cannabis treatment recommendation from:

1330 (a) a cannabis production establishment or an owner, officer, director, board member,
1331 employee, or agent of a cannabis production establishment;

1332 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1333 employee, or agent of a medical cannabis pharmacy; or

1334 (c) a qualified medical provider or pharmacy medical provider.

1335 Section 16. Section **26-61a-111** is amended to read:

1336 **26-61a-111. Nondiscrimination for medical care or government employment --**
1337 **Notice to prospective and current public employees -- No effect on private employers.**

1338 (1) For purposes of medical care, including an organ or tissue transplant, a patient's
1339 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis
1340 product in a medicinal dosage form:

1341 (a) is considered the equivalent of the authorized use of any other medication used at
1342 the discretion of a physician; and

1343 (b) does not constitute the use of an illicit substance or otherwise disqualify an
1344 individual from needed medical care.

1345 (2) (a) Notwithstanding any other provision of law and except as provided in
1346 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
1347 cannabis in accordance with this chapter or Section [58-37-3.7](#) in the same way the state or
1348 political subdivision treats employee use of any prescribed controlled substance.

1349 (b) Subsection (2)(a) does not apply where the application of Subsection (2)(a) would
1350 jeopardize federal funding, a federal security clearance, or any other federal background
1351 determination required for the employee's position.

1352 (c) If a state or political subdivision employer has knowledge that an employee is a
1353 medical cannabis patient cardholder, the employer may not require the employee to submit to a
1354 drug test that tests for cannabis.

1355 (d) A state or political subdivision employee who has a valid medical cannabis card is
1356 not subject to adverse action, as that term is defined in Section [67-21-2](#), for failing a drug test
1357 due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or
1358 otherwise adversely affected in the employee's job performance due to the use of medical
1359 cannabis.

1360 (3) (a) (i) A state employer or a political subdivision employer shall take the action

1361 described in Subsection (3)(a)(ii) before:

1362 (A) giving to a current employee an assignment or duty that arises from or directly
1363 relates to an obligation under this chapter; or

1364 (B) hiring a prospective employee whose assignments or duties would include an
1365 assignment or duty that arises from or directly relates to an obligation under this chapter.

1366 (ii) The employer described in Subsection (3)(a)(i) shall give the employee or
1367 prospective employee described in Subsection (3)(a)(i) a written notice that notifies the
1368 employee or prospective employee:

1369 (A) that the employee's or prospective employee's job duties may require the employee
1370 or prospective employee to engage in conduct which is in violation of the criminal laws of the
1371 United States; and

1372 (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i),
1373 although the employee or prospective employee is entitled to the protections of Title 67,
1374 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to
1375 carry out an assignment or duty that may be a violation of the criminal laws of the United
1376 States with respect to the manufacture, sale, or distribution of cannabis.

1377 (b) The Department of Human Resource Management shall create, revise, and publish
1378 the form of the notice described in Subsection (3)(a).

1379 (c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice
1380 described in Subsection (3)(a) may not:

1381 (i) claim in good faith that the employee's actions violate or potentially violate the laws
1382 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

1383 (ii) refuse to carry out a directive that the employee reasonably believes violates the
1384 criminal laws of the United States with respect to the manufacture, sale, or distribution of
1385 cannabis.

1386 (d) An employer of an employee who has signed the notice described in Subsection
1387 (3)(a) may not take retaliatory action as defined in Section 67-19a-101 against a current
1388 employee who refuses to sign the notice described in Subsection (3)(a).

1389 (4) Nothing in this section requires a private employer to accommodate the use of
1390 medical cannabis or affects the ability of a private employer to have policies restricting the use
1391 of medical cannabis by applicants or employees.

1392 Section 17. Section **26-61a-113** is amended to read:

1393 **26-61a-113. No effect on use of hemp extract -- Cannabinoid product -- Approved**
1394 **drugs.**

1395 (1) Nothing in this chapter prohibits an individual:

1396 (a) [~~with a valid hemp extract registration card that the department issues under Section~~
1397 ~~26-56-103~~] from possessing, administering, or using hemp extract in accordance with Section
1398 ~~58-37-4.3~~; or

1399 (b) from purchasing, selling, possessing, or using a [~~cannabidiol~~] cannabinoid product
1400 in accordance with Section ~~4-41-402~~.

1401 (2) Nothing in this chapter restricts or otherwise affects the prescription, distribution,
1402 or dispensing of a product that the United States Food and Drug Administration has approved.

1403 Section 18. Section **26-61a-201** is amended to read:

1404 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**
1405 **application -- Fees -- Studies.**

1406 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
1407 which an individual who satisfies the eligibility criteria in this section or Section ~~26-61a-202~~
1408 submits an application in accordance with this section or Section ~~26-61a-202~~:

1409 (a) issue a medical cannabis patient card to an individual described in Subsection

1410 (2)(a);

1411 (b) issue a medical cannabis guardian card to an individual described in Subsection

1412 (2)(b);

1413 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1414 (d) issue a medical cannabis caregiver card to an individual described in Subsection

1415 ~~26-61a-202~~(4).

1416 (2) (a) An individual is eligible for a medical cannabis patient card if:

1417 (i) (A) the individual is at least 21 years old; or

1418 (B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate

1419 use board under Section ~~26-61a-105~~, and the compassionate use board recommends department

1420 approval of the petition;

1421 (ii) the individual is a Utah resident;

1422 (iii) the individual's qualified medical provider recommends treatment with medical

- 1423 cannabis in accordance with Subsection (4);
- 1424 (iv) the individual signs an acknowledgment stating that the individual received the
1425 information described in Subsection (8); and
- 1426 (v) the individual pays to the department a fee in an amount that, subject to Subsection
1427 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
- 1428 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:
- 1429 (A) is at least 18 years old;
- 1430 (B) is a Utah resident;
- 1431 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
1432 provider recommends a medical cannabis treatment, the individual petitions the compassionate
1433 use board under Section 26-61a-105, and the compassionate use board recommends department
1434 approval of the petition;
- 1435 (D) the individual signs an acknowledgment stating that the individual received the
1436 information described in Subsection (8);
- 1437 (E) pays to the department a fee in an amount that, subject to Subsection
1438 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1439 criminal background check described in Section 26-61a-203; and
- 1440 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
1441 offense under either state or federal law, unless the individual completed any imposed sentence
1442 six months or more before the day on which the individual applies for a medical cannabis
1443 guardian card.
- 1444 (ii) The department shall notify the Department of Public Safety of each individual that
1445 the department registers for a medical cannabis guardian card.
- 1446 (c) (i) A minor is eligible for a provisional patient card if:
- 1447 (A) the minor has a qualifying condition;
- 1448 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1449 to address the minor's qualifying condition;
- 1450 (C) the minor's parent or legal guardian petitions the compassionate use board under
1451 Section 26-61a-105, and the compassionate use board recommends department approval of the
1452 petition; and
- 1453 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card

1454 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1455 medical cannabis caregiver card under Section 26-61a-202.

1456 (ii) The department shall automatically issue a provisional patient card to the minor
1457 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1458 guardian card to the minor's parent or legal guardian.

1459 (d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A)
1460 through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the
1461 parent or legal guardian may designate one or more caregivers in accordance with Subsection
1462 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended
1463 medical cannabis treatment.

1464 (3) (a) An individual who is eligible for a medical cannabis card described in
1465 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
1466 department:

1467 (i) through an electronic application connected to the state electronic verification
1468 system;

1469 (ii) with the recommending qualified medical provider while in the recommending
1470 qualified medical provider's office; and

1471 (iii) with information including:

1472 (A) the applicant's name, gender, age, and address;

1473 (B) the number of the applicant's valid form of photo identification;

1474 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1475 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1476 and

1477 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1478 holds the associated medical cannabis guardian card.

1479 (b) The department shall ensure that a medical cannabis card the department issues
1480 under this section contains the information described in Subsection (3)(a)(iii).

1481 (c) (i) If a qualified medical provider determines that, because of age, illness, or
1482 disability, a medical cannabis patient cardholder requires assistance in administering the
1483 medical cannabis treatment that the qualified medical provider recommends, the qualified
1484 medical provider may indicate the cardholder's need in the state electronic verification system.

1485 (ii) If a qualified medical provider makes the indication described in Subsection
1486 (3)(c)(i):

1487 (A) the department shall add a label to the relevant medical cannabis patient card
1488 indicating the cardholder's need for assistance; and

1489 (B) any adult who is [~~21~~] 18 years old or older and who is physically present with the
1490 cardholder at the time the cardholder needs to use the recommended medical cannabis
1491 treatment may handle the medical cannabis treatment and any associated medical cannabis
1492 device as needed to assist the cardholder in administering the recommended medical cannabis
1493 treatment, including in the event of an emergency medical condition under Subsection
1494 [26-61a-204\(2\)](#).

1495 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

1496 (A) ingest or inhale medical cannabis;

1497 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1498 of the immediate area where the cardholder is present or with an intent other than to provide
1499 assistance to the cardholder; or

1500 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1501 the cardholder is not in the process of being dosed with medical cannabis.

1502 (4) To recommend a medical cannabis treatment to a patient or to renew a
1503 recommendation, a qualified medical provider shall:

1504 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
1505 a medicinal dosage form:

1506 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1507 guardian's valid form of identification described in Subsection (3)(a);

1508 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1509 or legal guardian in:

1510 (A) the state electronic verification system; and

1511 (B) the controlled substance database created in Section [58-37f-201](#); and

1512 (iii) consider the recommendation in light of the patient's qualifying condition and
1513 history of medical cannabis and controlled substance use; and

1514 (b) state in the qualified medical provider's recommendation that the patient:

1515 (i) suffers from a qualifying condition, including the type of qualifying condition; and

1516 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1517 product in a medicinal dosage form.

1518 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1519 department issues under this section is valid for the lesser of:

1520 (i) an amount of time that the qualified medical provider determines; or

1521 (ii) (A) for the first issuance, 30 days; or

1522 (B) for a renewal, six months.

1523 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1524 illness described in Section [26-61a-104](#) does not expire.

1525 (ii) The recommending qualified medical provider may revoke a recommendation that
1526 the provider made in relation to a terminal illness described in Section [26-61a-104](#) if the
1527 medical cannabis cardholder no longer has the terminal illness.

1528 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1529 renewable if:

1530 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1531 (b); or

1532 (ii) the cardholder received the medical cannabis card through the recommendation of
1533 the compassionate use board under Section [26-61a-105](#).

1534 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

1535 (i) using the application process described in Subsection (3); or

1536 (ii) through phone or video conference with the qualified medical provider who made
1537 the recommendation underlying the card, at the qualifying medical provider's discretion.

1538 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1539 pay to the department a renewal fee in an amount that:

1540 (i) subject to Subsection [26-61a-109\(5\)](#), the department sets in accordance with Section
1541 [63J-1-504](#); and

1542 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1543 comparison to the original application process.

1544 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1545 patient card renews automatically at the time the minor's parent or legal guardian renews the
1546 parent or legal guardian's associated medical cannabis guardian card.

1547 (e) The department may revoke a medical cannabis guardian card if the cardholder
1548 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
1549 under either state or federal law.

1550 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1551 cannabis card with the patient's name.

1552 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1553 purchase, in accordance with this chapter and the recommendation underlying the card,
1554 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1555 medical cannabis device.

1556 (ii) A cardholder under this section may possess or transport, in accordance with this
1557 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1558 cannabis product in a medicinal dosage form, or a medical cannabis device.

1559 (iii) To address the qualifying condition underlying the medical cannabis treatment
1560 recommendation:

1561 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1562 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1563 or a medical cannabis device; and

1564 (B) a medical cannabis guardian cardholder may assist the associated provisional
1565 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1566 product in a medicinal dosage form, or a medical cannabis device.

1567 (c) If a licensed medical cannabis pharmacy is not operating within the state after
1568 January 1, 2021, a cardholder under this section is not subject to prosecution for the possession
1569 of:

1570 (i) no more than 113 grams of marijuana in a medicinal dosage form;

1571 (ii) an amount of cannabis product in a medicinal dosage form that contains no more
1572 than 20 grams of tetrahydrocannabinol; or

1573 (iii) marijuana drug paraphernalia.

1574 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1575 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1576 to an individual receiving a medical cannabis card:

1577 (a) risks associated with medical cannabis treatment;

1578 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1579 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1580 Subsection [26-61a-104](#)(1); and

1581 (c) other relevant warnings and safety information that the department determines.

1582 (9) The department may establish procedures by rule, in accordance with Title 63G,
1583 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1584 provisions of this section.

1585 (10) (a) The department shall establish by rule, in accordance with Title 63G, Chapter
1586 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to
1587 register with the Department of Health in order to purchase medical cannabis or a medical
1588 cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

1589 (b) The department may only provide the registration process described in Subsection
1590 (10)(a):

1591 (i) to a nonresident patient; and

1592 (ii) for one visitation period not to exceed 45 calendar days per calendar year.

1593 ~~[(10)]~~ (11) (a) A person may submit to the department a request to conduct a research
1594 study using medical cannabis cardholder data that the state electronic verification system
1595 contains.

1596 (b) The department shall review a request described in Subsection ~~[(10)]~~ (11)(a) to
1597 determine whether an institutional review board, as that term is defined in Section [26-61-102](#),
1598 could approve the research study.

1599 (c) At the time an individual applies for a medical cannabis card, the department shall
1600 notify the individual:

1601 (i) of how the individual's information will be used as a cardholder;

1602 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1603 consent under Subsection ~~[(10)]~~ (11)(d), the individual consents to the use of the individual's
1604 information for external research; and

1605 (iii) that the individual may withdraw consent for the use of the individual's
1606 information for external research at any time, including at the time of application.

1607 (d) An applicant may, through the medical cannabis card application, and a medical
1608 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or

1609 cardholder's consent to participate in external research at any time.

1610 (e) The department may release, for the purposes of a study described in this
1611 Subsection ~~[(10)]~~ (11), information about a cardholder under this section who consents to
1612 participate under Subsection ~~[(10)]~~ (11)(c).

1613 (f) If an individual withdraws consent under Subsection ~~[(10)]~~ (11)(d), the withdrawal
1614 of consent:

1615 (i) applies to external research that is initiated after the withdrawal of consent; and

1616 (ii) does not apply to research that was initiated before the withdrawal of consent.

1617 (g) The department may establish standards for a medical research study's validity, by
1618 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1619 Section 19. Section **26-61a-202** is amended to read:

1620 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**

1621 **Revocation.**

1622 (1) (a) A cardholder described in Section [26-61a-201](#) may designate, through the state
1623 central patient portal, up to two individuals, or an individual and a facility in accordance with
1624 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical
1625 provider notates in the electronic verification system that the provider determines that, due to
1626 physical difficulty or undue hardship, including concerns of distance to a medical cannabis
1627 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the
1628 qualified medical provider recommends.

1629 (b) (i) A cardholder described in Section [26-61a-201](#) who is a patient in one of the
1630 following types of facilities may designate the facility as one of the caregivers described in
1631 Subsection (1)(a):

1632 (A) an assisted living facility, as that term is defined in Section [26-21-2](#);

1633 (B) a nursing care facility, as that term is defined in Section [26-1-2](#); or

1634 (C) a general acute hospital, as that term is defined in Section [26-1-2](#).

1635 (ii) A facility may assign one or more employees to assist patients with medical
1636 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1637 (iii) The department shall make rules to regulate the practice of facilities and facility
1638 employees serving as designated caregivers under this Subsection (1)(b).

1639 (c) A parent or legal guardian described in Subsection [26-61a-201\(2\)\(d\)](#), in

1640 consultation with the minor and the minor's qualified medical provider, may designate, through
1641 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1642 minor, if the department determines that the parent or legal guardian is not eligible for a
1643 medical cannabis guardian card under Section [26-61a-201](#).

1644 (2) An individual that the department registers as a designated caregiver under this
1645 section:

1646 (a) may carry a valid medical cannabis caregiver card;

1647 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1648 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1649 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1650 cardholder;

1651 (c) may not charge a fee to an individual to act as the individual's designated caregiver
1652 or for a service that the designated caregiver provides in relation to the role as a designated
1653 caregiver;

1654 (d) may accept reimbursement from the designating medical cannabis cardholder for
1655 direct costs the designated caregiver incurs for assisting with the designating cardholder's
1656 medicinal use of cannabis; and

1657 (e) if a licensed medical cannabis pharmacy is not operating within the state after
1658 January 1, 2021, is not subject to prosecution for the possession of:

1659 (i) no more than 113 grams of marijuana in a medicinal dosage form;

1660 (ii) an amount of cannabis product in a medicinal dosage form that contains no more
1661 than 20 grams of tetrahydrocannabinol; or

1662 (iii) marijuana drug paraphernalia.

1663 (3) (a) The department shall:

1664 (i) within 15 days after the day on which an individual submits an application in
1665 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1666 (A) is designated as a caregiver under Subsection (1);

1667 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1668 (C) complies with this section; and

1669 (ii) notify the Department of Public Safety of each individual that the department
1670 registers as a designated caregiver.

- 1671 (b) The department shall ensure that a medical cannabis caregiver card contains the
1672 information described in Subsection (5)(b).
- 1673 (4) An individual is eligible for a medical cannabis caregiver card if the individual:
1674 (a) is at least 21 years old;
1675 (b) is a Utah resident;
1676 (c) pays to the department a fee in an amount that, subject to Subsection
1677 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1678 criminal background check described in Section 26-61a-203;
- 1679 (d) signs an acknowledgment stating that the applicant received the information
1680 described in Subsection 26-61a-201(8); and
- 1681 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
1682 a felony under either state or federal law, unless the individual completes any imposed sentence
1683 two or more years before the day on which the individual submits the application.
- 1684 (5) An eligible applicant for a medical cannabis caregiver card shall:
1685 (a) submit an application for a medical cannabis caregiver card to the department
1686 through an electronic application connected to the state electronic verification system; and
1687 (b) submit the following information in the application described in Subsection (5)(a):
1688 (i) the applicant's name, gender, age, and address;
1689 (ii) the name, gender, age, and address of the cardholder described in Section
1690 26-61a-201 who designated the applicant; and
1691 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
1692 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
1693 cannabis guardian cardholder.
- 1694 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1695 department issues under this section is valid for the lesser of:
1696 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1697 designated the caregiver determines; or
1698 (b) the amount of time remaining before the card of the cardholder described in Section
1699 26-61a-201 expires.
- 1700 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1701 designated caregiver's medical cannabis caregiver card renews automatically at the time the

1702 cardholder described in Section 26-61a-201 who designated the caregiver:

1703 (i) renews the cardholder's card; and

1704 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1705 (b) The department shall provide a method in the card renewal process to allow a

1706 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1707 (i) signify that the cardholder renews the caregiver's designation;

1708 (ii) remove a caregiver's designation; or

1709 (iii) designate a new caregiver.

1710 (8) The department may revoke a medical cannabis caregiver card if the designated

1711 caregiver:

1712 (a) violates this chapter; or

1713 (b) is convicted under state or federal law of:

1714 (i) a felony; or

1715 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1716 Section 20. Section 26-61a-204 is amended to read:

1717 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**

1718 **requirements -- Rebuttable presumption.**

1719 (1) (a) A medical cannabis cardholder who possesses medical cannabis [~~in a medicinal~~
1720 ~~dosage form or a cannabis product in a medicinal dosage form~~] that the cardholder purchased
1721 under this chapter shall:

1722 (i) carry at all times the cardholder's medical cannabis card;

1723 (ii) carry, with the medical cannabis [~~in a medicinal dosage form or cannabis product~~
1724 ~~in a medicinal dosage form~~], a label that identifies that the medical cannabis [~~or cannabis~~
1725 ~~product~~]:

1726 (A) was sold from a licensed medical cannabis pharmacy; and

1727 (B) includes an identification number that links the medical cannabis [~~or cannabis~~
1728 ~~product~~] to the inventory control system; and

1729 (iii) possess not more than:

1730 (A) 113 grams of unprocessed cannabis; or

1731 (B) an amount of cannabis product that contains 20 grams of total composite
1732 tetrahydrocannabinol.

1733 (b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form
1734 or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

1735 (i) guilty of an infraction; and

1736 (ii) subject to a \$100 fine.

1737 (c) A medical cannabis cardholder or a nonresident patient who possesses between 113
1738 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains
1739 between 20 and 40 grams of total composite tetrahydrocannabinol is:

1740 (i) for a first offense:

1741 (A) guilty of an infraction; and

1742 (B) subject to a fine of up to \$100; and

1743 (ii) for a second or subsequent offense:

1744 [(†)] (A) guilty of a class B misdemeanor; and

1745 [(†)] (B) subject to a fine of \$1,000.

1746 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
1747 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
1748 conduct underlying the penalty described in Subsection (1)(b) or (c).

1749 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
1750 dosage form is:

1751 (i) for a first offense:

1752 (A) guilty of an infraction; and

1753 (B) subject to a fine of up to \$100; and

1754 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,
1755 Chapter 37, Utah Controlled Substances Act.

1756 [(e)] (f) A medical cannabis cardholder or a nonresident patient who possesses more
1757 than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains
1758 more than 40 grams of total composite tetrahydrocannabinol is subject to the penalties
1759 described in Title 58, Chapter 37, Utah Controlled Substances Act.

1760 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
1761 as that term is defined in Section [31A-22-627](#).

1762 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder
1763 [~~or~~], a provisional patient cardholder, or a nonresident patient may not use, in public view,

1764 medical cannabis or a cannabis product.

1765 (c) In the event of an emergency medical condition, an individual described in
1766 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
1767 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
1768 medicinal dosage form or a cannabis product in a medicinal dosage form.

1769 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

1770 (i) for a first offense:

1771 (A) guilty of an infraction; and

1772 (B) subject to a fine of up to \$100; and

1773 (ii) for a second or subsequent offense:

1774 (A) guilty of a class B misdemeanor; and

1775 (B) subject to a fine of \$1,000.

1776 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
1777 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
1778 medical cannabis device that corresponds with the cannabis or cannabis product:

1779 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,
1780 cannabis product, or medical cannabis device legally; and

1781 (b) there is no probable cause, based solely on the cardholder's possession of the
1782 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
1783 cannabis device, to believe that the cardholder is engaging in illegal activity.

1784 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
1785 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
1786 device, and the individual represents to the law enforcement officer that the individual holds a
1787 valid medical cannabis card, but the individual does not have the medical cannabis card in the
1788 individual's possession at the time of the stop by the law enforcement officer, the law
1789 enforcement officer shall attempt to access the state electronic verification system to determine
1790 whether the individual holds a valid medical cannabis card.

1791 (b) If the law enforcement officer is able to verify that the individual described in
1792 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

1793 (i) may not arrest or take the individual into custody for the sole reason that the
1794 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a

1795 medicinal dosage form, or a medical cannabis device; and

1796 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1797 Section 21. Section **26-61a-301** is amended to read:

1798 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

1799 (1) A person may not operate as a medical cannabis pharmacy without a license that
1800 the department issues under this part.

1801 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department
1802 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
1803 Chapter 6a, Utah Procurement Code.

1804 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
1805 an applicant who is not eligible for a license under this section.

1806 (b) An applicant is eligible for a license under this section if the applicant submits to
1807 the department:

1808 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
1809 operate the medical cannabis pharmacy;

1810 (ii) the name and address of an individual who:

1811 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis
1812 pharmacy; or

1813 (B) has the power to direct or cause the management or control of a proposed cannabis
1814 production establishment;

1815 (iii) a statement that the applicant will obtain and maintain a performance bond that a
1816 surety authorized to transact surety business in the state issues in an amount of at least
1817 \$125,000 for each application that the applicant submits to the department;

1818 (iv) an operating plan that:

1819 (A) complies with Section **26-61a-304**;

1820 (B) includes operating procedures to comply with the operating requirements for a
1821 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
1822 law that is consistent with Section **26-61a-507**; and

1823 (C) the department approves;

1824 (v) an application fee in an amount that, subject to Subsection **26-61a-109(5)**, the
1825 department sets in accordance with Section **63J-1-504**; and

1826 (vi) a description of any investigation or adverse action taken by any licensing
1827 jurisdiction, government agency, law enforcement agency, or court in any state for any
1828 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
1829 or businesses.

1830 (c) (i) A person may not locate a medical cannabis pharmacy:

1831 (A) within 200 feet of a community location; or

1832 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
1833 as primarily residential.

1834 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
1835 from the nearest entrance to the medical cannabis pharmacy establishment by following the
1836 shortest route of ordinary pedestrian travel to the property boundary of the community location
1837 or residential area.

1838 (iii) The department may grant a waiver to reduce the proximity requirements in
1839 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
1840 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

1841 (iv) An applicant for a license under this section shall provide evidence of compliance
1842 with the proximity requirements described in Subsection (2)(c)(i).

1843 (d) The department may not issue a license to an eligible applicant that the department
1844 has selected to receive a license until the selected eligible applicant obtains the performance
1845 bond described in Subsection (2)(b)(iii).

1846 (e) If the department receives more than one application for a medical cannabis
1847 pharmacy within the same city or town, the department shall consult with the local land use
1848 authority before approving any of the applications pertaining to that city or town.

1849 (3) If the department selects an applicant for a medical cannabis pharmacy license
1850 under this section, the department shall:

1851 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
1852 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

1853 (b) notify the Department of Public Safety of the license approval and the names of
1854 each individual described in Subsection (2)(b)(ii).

1855 (4) The department may not issue a license to operate a medical cannabis pharmacy to
1856 an applicant if an individual described in Subsection (2)(b)(ii):

- 1857 (a) has been convicted under state or federal law of:
1858 (i) a felony; or
1859 (ii) after December 3, 2018, a misdemeanor for drug distribution;
1860 (b) is younger than 21 years old; or
1861 (c) after the effective date of this bill until January 1, 2023, is actively serving as a
1862 legislator.
- 1863 (5) If an applicant for a medical cannabis pharmacy license under this section holds a
1864 license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a,
1865 Cannabis Production Establishments, the department:
- 1866 (a) shall consult with the Department of Agriculture and Food regarding the applicant;
1867 and
1868 (b) may not give preference to the applicant based on the applicant's status as a holder
1869 of a license described in this Subsection (5).
- 1870 (6) The department may revoke a license under this part if:
1871 (a) the medical cannabis pharmacy does not begin operations within one year after the
1872 day on which the department issues the initial license;
1873 (b) the medical cannabis pharmacy makes the same violation of this chapter three
1874 times;
1875 (c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is
1876 active, under state or federal law of:
1877 (i) a felony; or
1878 (ii) after December 3, 2018, a misdemeanor for drug distribution; [or]
1879 (d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at
1880 the time of application, or fails to supplement the information described in Subsection
1881 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
1882 application[-] within 14 calendar days after the licensee receives notice of the investigation or
1883 adverse action; or
1884 (e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for
1885 the requirements of this chapter or the rules the department makes in accordance with this
1886 chapter.
- 1887 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,

1888 if the municipality or county where the licensed medical cannabis pharmacy will be located
1889 requires a local land use permit, shall submit to the department a copy of the licensee's
1890 approved application for the land use permit within 120 days after the day on which the
1891 department issues the license.

1892 (b) If a licensee fails to submit to the department a copy the licensee's approved land
1893 use permit application in accordance with Subsection (7)(a), the department may revoke the
1894 licensee's license.

1895 (8) The department shall deposit the proceeds of a fee imposed by this section in the
1896 Qualified Patient Enterprise Fund.

1897 (9) The department shall begin accepting applications under this part on or before
1898 March 1, 2020.

1899 (10) (a) The department's authority to issue a license under this section is plenary and is
1900 not subject to review.

1901 (b) Notwithstanding Subsection (2), the decision of the department to award a license
1902 to an applicant is not subject to:

1903 (i) Title 63G, Chapter 6a, Part 16, Protests; or

1904 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

1905 Section 22. Section **26-61a-303** is amended to read:

1906 **26-61a-303. Renewal.**

1907 (1) The department shall renew a license under this part every year if, at the time of
1908 renewal:

1909 (a) the licensee meets the requirements of Section [26-61a-301](#); [~~and~~]

1910 (b) the licensee pays the department a license renewal fee in an amount that, subject to
1911 Subsection [26-61a-109](#)(5), the department sets in accordance with Section [63J-1-504](#)[~~;~~]; and

1912 (c) if the medical cannabis pharmacy changes the operating plan described in Section
1913 [26-61a-304](#) that the department approved under Subsection [26-61a-301](#)(2)(b)(iv), the
1914 department approves the new operating plan.

1915 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis
1916 pharmacy's license, the department shall publish notice of an available license:

1917 (i) in a newspaper of general circulation for the geographic area in which the medical
1918 cannabis pharmacy license is available; or

- 1919 (ii) on the Utah Public Notice Website established in Section [63F-1-701](#).
- 1920 (b) The department may establish criteria, in collaboration with the Division of
1921 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with
1922 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis
1923 pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.
- 1924 Section 23. Section **26-61a-501** is amended to read:
- 1925 **26-61a-501. Operating requirements -- General.**
- 1926 (1) (a) A medical cannabis pharmacy shall operate:
- 1927 (i) at the physical address provided to the department under Section [26-61a-301](#); and
1928 (ii) in accordance with the operating plan provided to the department under Section
1929 [26-61a-301](#) and, if applicable, [26-61a-304](#).
- 1930 (b) A medical cannabis pharmacy shall notify the department before a change in the
1931 medical cannabis pharmacy's physical address or operating plan.
- 1932 (2) An individual may not enter a medical cannabis pharmacy unless the individual:
- 1933 (a) is at least 18 years old; and
1934 (b) except as provided in Subsection (5), possesses a valid:
- 1935 (i) medical cannabis pharmacy agent registration card; ~~or~~
1936 (ii) pharmacy medical provider registration card; or
1937 ~~(ii)] (iii) medical cannabis card.~~
- 1938 (3) A medical cannabis pharmacy may not employ an individual who is younger than
1939 21 years old.
- 1940 (4) A medical cannabis pharmacy may not employ an individual who has been
1941 convicted of a felony under state or federal law.
- 1942 (5) Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an
1943 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
1944 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
1945 the individual at all times while the individual is at the medical cannabis pharmacy and
1946 maintains a record of the individual's access.
- 1947 (6) A medical cannabis pharmacy shall operate in a facility that has:
- 1948 (a) a single, secure public entrance;
1949 (b) a security system with a backup power source that:

- 1950 (i) detects and records entry into the medical cannabis pharmacy; and
1951 (ii) provides notice of an unauthorized entry to law enforcement when the medical
1952 cannabis pharmacy is closed; and
1953 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
1954 cannabis product.
- 1955 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
1956 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
1957 26-61a-502(2).
- 1958 (8) A medical cannabis pharmacy may not allow any individual to consume cannabis
1959 on the property or premises of the medical cannabis pharmacy.
- 1960 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
1961 first indicating on the cannabis or cannabis product label the name of the medical cannabis
1962 pharmacy.
- 1963 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
1964 following information regarding each recommendation underlying a transaction:
- 1965 (i) the qualified medical provider's name, address, and telephone number;
1966 (ii) the patient's name and address;
1967 (iii) the date of issuance;
1968 (iv) ~~[dosing parameters]~~ directions of use and dosing guidelines or an indication that
1969 the qualified medical provider did not recommend specific directions of use or dosing
1970 ~~[parameters]~~ guidelines; and
1971 (v) if the patient did not complete the transaction, the name of the medical cannabis
1972 cardholder who completed the transaction.
- 1973 (b) (i) ~~[The]~~ Except as provided in Subsection (10)(b)(ii), a medical cannabis pharmacy
1974 may not sell medical cannabis ~~[or a cannabis product]~~ unless the medical cannabis ~~[or cannabis~~
1975 ~~product]~~ has a label securely affixed to the container indicating the following minimum
1976 information:
- 1977 ~~[(i)]~~ (A) the name, address, and telephone number of the medical cannabis pharmacy;
1978 ~~[(ii)]~~ (B) the unique identification number that the medical cannabis pharmacy assigns;
1979 ~~[(iii)]~~ (C) the date of the sale;
1980 ~~[(iv)]~~ (D) the name of the patient;

1981 [~~(v)~~] (E) the name of the qualified medical provider who recommended the medical
1982 cannabis treatment;

1983 [~~(vi)~~] (F) directions for use and cautionary statements, if any;

1984 [~~(vii)~~] (G) the amount dispensed and the cannabinoid content;

1985 [~~(viii)~~] (H) the [~~beyond~~] suggested use date; [~~and~~]

1986 (I) for unprocessed cannabis flower, the legal use termination date; and

1987 [~~(ix)~~] (J) any other requirements that the department determines, in consultation with
1988 the Division of Occupational and Professional Licensing and the Board of Pharmacy.

1989 (ii) A medical cannabis pharmacy may sell medical cannabis to another medical
1990 cannabis pharmacy without a label described in Subsection (10)(b)(i).

1991 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

1992 (a) unless the medical cannabis cardholder has had a consultation under Subsection
1993 [26-61a-502\(4\)](#), verbally offer to a medical cannabis cardholder at the time of a purchase of
1994 cannabis, a cannabis product, or a medical cannabis device, personal~~[, face-to-face]~~ counseling
1995 with the pharmacy medical provider who is a pharmacist; and

1996 (b) provide a telephone number or website by which the cardholder may contact a
1997 pharmacy medical provider for counseling.

1998 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
1999 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
2000 medical cannabis device, or medical cannabis product in a locked box or other secure
2001 receptacle within the medical cannabis pharmacy.

2002 (b) A medical cannabis pharmacy with a disposal program described in Subsection
2003 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
2004 can access deposited medical cannabis or medical cannabis products.

2005 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2006 medical cannabis products by:

2007 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2008 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2009 products from the medical cannabis pharmacy; and

2010 (ii) disposing of the deposited medical cannabis or medical cannabis products in
2011 accordance with:

- 2012 (A) federal and state law, rules, and regulations related to hazardous waste;
- 2013 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
- 2014 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
- 2015 (D) other regulations that the department makes in accordance with Title 63G, Chapter
- 2016 3, Utah Administrative Rulemaking Act.

2017 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
2018 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
2019 by a medical cannabis pharmacy.

2020 Section 24. Section **26-61a-502** is amended to read:

2021 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
2022 **Reporting -- Form of cannabis or cannabis product.**

2023 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
2024 chapter:

2025 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2026 from a cannabis processing facility that is licensed under Section [4-41a-201](#);

2027 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2028 acquired from a cannabis processing facility that is licensed under Section [4-41a-201](#);

2029 (iii) a medical cannabis device; or

2030 (iv) educational material related to the medical use of cannabis.

2031 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2032 an individual with:

2033 (i) (A) a medical cannabis card; ~~and~~ or

2034 (B) a department registration described in Subsection [26-61a-202\(10\)](#); and

2035 (ii) a corresponding valid form of photo identification.

2036 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
2037 cannabis-based drug that the United States Food and Drug Administration has approved.

2038 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
2039 medical cannabis device to an individual described in Subsection [26-61a-201\(2\)\(a\)](#) or to a
2040 minor described in Subsection [26-61a-201\(2\)\(c\)](#) unless the individual or minor has the
2041 approval of the compassionate use board in accordance with Subsection [26-61a-105\(5\)](#).

2042 (2) A medical cannabis pharmacy may not dispense:

2043 (a) to a medical cannabis cardholder in any one 28-day period, more than the lesser of:

2044 (i) an amount sufficient to provide 30 days of treatment based on the dosing
2045 [~~parameters~~] guidelines that the relevant qualified medical provider or the pharmacy medical
2046 provider, in accordance with Subsection (4) or (5), recommends; or

2047 (ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage
2048 form and that carries a label clearly displaying the amount of tetrahydrocannabinol and
2049 cannabidiol in the cannabis; or

2050 (B) an amount of cannabis products that is in a medicinal dosage form and that
2051 contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

2052 (b) to an individual whose qualified medical provider did not recommend [~~dosing~~
2053 ~~parameters~~] directions of use and dosing guidelines, until the individual consults with the
2054 pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis
2055 products.

2056 (3) An individual with a medical cannabis card may not:

2057 (a) purchase:

2058 [~~(a)~~] (i) more cannabis or cannabis products than the amounts designated in Subsection
2059 (2) in any one 28-day period; or

2060 [~~(b)~~] (ii) if the relevant qualified medical provider did not recommend [~~dosing~~
2061 ~~parameters~~] directions of use and dosing guidelines, until the individual consults with the
2062 pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis
2063 products[-]; and

2064 (b) use a route of administration that the relevant qualified medical provider or the
2065 pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

2066 (4) If a qualified medical provider recommends treatment with medical cannabis or a
2067 cannabis product but does not provide [~~dosing parameters~~] directions of use and dosing
2068 guidelines:

2069 (a) the qualified medical provider shall document in the recommendation:

2070 (i) an evaluation of the qualifying condition underlying the recommendation;

2071 (ii) prior treatment attempts with cannabis and cannabis products; and

2072 (iii) the patient's current medication list; and

2073 (b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal

2074 dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider
2075 shall:

2076 (i) review pertinent medical records, including the qualified medical provider
2077 documentation described in Subsection (4)(a); and

2078 (ii) unless the pertinent medical records show [~~dosing parameters~~] directions of use and
2079 dosing guidelines from a state central patient portal medical provider in accordance with
2080 Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting
2081 with the recommending qualified medical provider as needed, determine the best course of
2082 treatment through consultation with the cardholder regarding:

2083 (A) the patient's qualifying condition underlying the recommendation from the
2084 qualified medical provider;

2085 (B) indications for available treatments;

2086 (C) [~~dosing parameters~~] directions of use and dosing guidelines; and

2087 (D) potential adverse reactions.

2088 (5) (a) A state central patient portal medical provider may provide the consultation and
2089 make the determination described in Subsection (4)(b) for a medical cannabis patient
2090 cardholder regarding an electronic order that the state central patient portal facilitates.

2091 (b) The state central patient portal medical provider described in Subsection (5)(a)
2092 shall document the [~~dosing parameters~~] directions of use and dosing guidelines, determined
2093 under Subsection (5)(a) in the pertinent medical records.

2094 (6) A medical cannabis pharmacy shall:

2095 (a) (i) access the state electronic verification system before dispensing cannabis or a
2096 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
2097 where applicable, the associated patient has met the maximum amount of cannabis or cannabis
2098 products described in Subsection (2); and

2099 (ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the
2100 maximum amount described in Subsection (2):

2101 (A) decline the sale; and

2102 (B) notify the qualified medical provider who made the underlying recommendation;

2103 (b) submit a record to the state electronic verification system each time the medical
2104 cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

2105 (c) package any cannabis or cannabis product that is in a ~~[blister pack in a]~~ container
2106 that:

2107 (i) complies with Subsection [4-41a-602\(2\)](#) or, if applicable, [26-61a-102\(31\)\(a\)\(ii\)](#);

2108 (ii) is tamper-resistant and tamper-evident; and

2109 (iii) opaque; and

2110 (d) for a product that is a cube that is designed for ingestion through chewing or
2111 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2112 of over-consumption.

2113 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2114 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2115 intentionally designed or constructed to resemble a cigarette.

2116 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2117 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2118 individual's respiratory system.

2119 (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical
2120 cannabis pharmacy is allowed to sell under Subsection (1).

2121 (9) The department may impose a uniform fee on each medical cannabis cardholder
2122 transaction in a medical cannabis pharmacy in an amount that, subject to Subsection
2123 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2124 (10) A medical cannabis pharmacy may purchase and store medical cannabis devices
2125 regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter
2126 41a, Cannabis Production Establishments.

2127 Section 25. Section **26-61a-504** is amended to read:

2128 **26-61a-504. Inspections.**

2129 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
2130 treatment recommendation files and other records in accordance with this chapter, department
2131 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
2132 104-191, 110 Stat. 1936, as amended.

2133 (2) The department or the Department of Agriculture and Food may inspect the records
2134 [and], facility, and inventory of a medical cannabis pharmacy at any time during business hours
2135 in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4,

2136 Chapter 41a, Cannabis Production Establishments.

2137 (3) An inspection under this section may include:

2138 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other
2139 physical or electronic information, or any combination of the above;

2140 (b) questioning of any relevant individual; ~~or~~

2141 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
2142 or label~~[-]~~;

2143 (d) random sampling of medical cannabis by the Department of Agriculture and Food
2144 to make the determinations described in Subsection 4-41a-701(2) in accordance with rules
2145 described in Section 4-41a-701; or

2146 (e) seizure of medical cannabis, medical cannabis devices, or educational material as
2147 evidence in a department investigation or inspection or in instances of compliance failure.

2148 (4) In making an inspection under this section, the department or the Department of
2149 Agriculture and Food may freely access any area and review and make copies of a book,
2150 record, paper, document, data, or other physical or electronic information, including financial
2151 data, sales data, shipping data, pricing data, and employee data.

2152 (5) Failure to provide the department ~~[or the department's]~~, the Department of
2153 Agriculture and Food, or the authorized agents of the department or the Department of
2154 Agriculture and Food immediate access to records and facilities during business hours in
2155 accordance with this section may result in:

2156 (a) the imposition of a civil monetary penalty that the department sets in accordance
2157 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2158 (b) license or registration suspension or revocation; or

2159 (c) an immediate cessation of operations under a cease and desist order that the
2160 department issues.

2161 (6) Notwithstanding any other provision of law, the department may temporarily store
2162 in any department facility the items the department seizes under Subsection (3)(e) until the
2163 department:

2164 (a) determines that sufficient compliance justifies the return of the seized items; or

2165 (b) disposes of the items in the same manner as a cannabis production establishment in
2166 accordance with Section 4-41a-405.

2167 Section 26. Section **26-61a-505** is amended to read:

2168 **26-61a-505. Advertising.**

2169 (1) Except as provided in [~~Subsections (2) and (3)~~] this section, a medical cannabis
2170 pharmacy may not advertise in any medium.

2171 (2) Notwithstanding any municipal or county ordinance prohibiting signage, a medical
2172 cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

2173 (a) includes only:

2174 (i) the medical cannabis pharmacy's name and hours of operation; and

2175 (ii) a green cross;

2176 (b) does not exceed four feet by five feet in size; and

2177 (c) complies with local ordinances regulating signage.

2178 (3) (a) A medical cannabis pharmacy may maintain a website that includes information
2179 about:

2180 [~~(a)~~] (i) the location and hours of operation of the medical cannabis pharmacy;

2181 [~~(b)~~] (ii) a product or service available at the medical cannabis pharmacy;

2182 [~~(c)~~] (iii) personnel affiliated with the medical cannabis pharmacy;

2183 [~~(d)~~] (iv) best practices that the medical cannabis pharmacy upholds; and

2184 [~~(e)~~] (v) educational material related to the medical use of cannabis, as defined by the
2185 department.

2186 (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2187 Administrative Rulemaking Act, to define the educational material described in Subsection
2188 (3)(a).

2189 (4) (a) A medical cannabis pharmacy may hold an educational event for the public or
2190 medical providers in accordance with this Subsection (4) and the rules described in Subsection
2191 (4)(c).

2192 (b) A medical cannabis pharmacy may not include in an educational event described in
2193 Subsection (4)(a):

2194 (i) any topic that the department does not approve in advance in accordance with the
2195 rules described in Subsection (4)(c);

2196 (ii) any gift items or merchandise other than educational materials, as those terms are
2197 defined by the department; or

- 2198 (iii) a presenter other than the following:
- 2199 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 2200 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
- 2201 Practice Act;
- 2202 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
- 2203 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 2204 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
- 2205 Assistant Act; or
- 2206 (E) a state employee.
- 2207 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 2208 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
- 2209 event described in Subsection (4)(a), including:
- 2210 (i) a minimum age of 21 years old for attendees;
- 2211 (ii) a requirement for department pre-approval of the event agenda; and
- 2212 (iii) a requirement for department pre-approval of the individual presenting at the
- 2213 event.

2214 Section 27. Section **26-61a-506** is amended to read:

2215 **26-61a-506. Medical cannabis transportation.**

2216 (1) Only the following individuals may transport medical cannabis [~~in a medicinal~~
2217 ~~dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device]~~
2218 under this chapter:

- 2219 (a) a registered medical cannabis pharmacy agent;
- 2220 (b) a registered medical cannabis courier agent; [~~or~~]
- 2221 (c) a registered pharmacy medical provider; or
- 2222 [~~(c)~~] (d) a medical cannabis cardholder who is transporting a medical cannabis
- 2223 treatment that the cardholder is authorized to transport.
- 2224 (2) Except for an individual with a valid medical cannabis card under this chapter who
- 2225 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an
- 2226 individual described in Subsection (1) shall possess a transportation manifest that:
- 2227 (a) includes a unique identifier that links the cannabis[~~;~~] or cannabis product[~~;~~ ~~or~~
- 2228 ~~medical cannabis device]~~ to a relevant inventory control system;

2229 (b) includes origin and destination information for the medical cannabis[~~a cannabis~~
2230 ~~product, or a medical cannabis device~~] that the individual is transporting; and

2231 (c) identifies the departure and arrival times and locations of the individual
2232 transporting the medical cannabis[~~cannabis product, or medical cannabis device~~].

2233 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
2234 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2235 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2236 Rulemaking Act, requirements for transporting [~~cannabis in a medicinal dosage form, a~~
2237 ~~cannabis product in a medicinal dosage form, or a medical cannabis device~~] medical cannabis
2238 to ensure that the medical cannabis[~~cannabis product, or medical cannabis device~~] remains
2239 safe for human consumption.

2240 (b) The transportation described in Subsection (1)(a) is limited to transportation
2241 between a medical cannabis pharmacy and:

2242 (i) another medical cannabis pharmacy; or

2243 (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

2244 (4) (a) It is unlawful for [~~a registered medical cannabis pharmacy agent or a registered~~
2245 ~~medical cannabis courier agent~~] an individual described in Subsection (1) to make a transport
2246 described in this section with a manifest that does not meet the requirements of this section.

2247 (b) Except as provided in Subsection (4)(d), an [~~agent~~] individual who violates
2248 Subsection (4)(a) is:

2249 (i) guilty of an infraction; and

2250 (ii) subject to a \$100 fine.

2251 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
2252 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2253 underlying the violation described in Subsection (4)(b).

2254 (d) If the individual described in Subsection (4)(a) is transporting more medical
2255 cannabis[~~cannabis product, or medical cannabis devices~~] than the manifest identifies, except
2256 for a de minimis administrative error:

2257 (i) this chapter does not apply; and

2258 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2259 Substances Act.

2260 (5) An individual other than an individual described in Subsection (1) may transport a
2261 medical cannabis device within the state if the transport does not also contain medical
2262 cannabis.

2263 Section 28. Section **26-61a-601** is amended to read:

2264 **26-61a-601. State central patient portal -- Department duties.**

2265 (1) On or before July 1, 2020, the department shall establish or contract to establish, in
2266 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as
2267 described in this section.

2268 (2) The state central patient portal shall:

2269 (a) authenticate each user to ensure the user is a valid medical cannabis patient
2270 cardholder;

2271 (b) allow a medical cannabis patient cardholder to:

2272 (i) obtain and download the cardholder's medical cannabis card;

2273 (ii) review the cardholder's medical cannabis purchase history; and

2274 (iii) manage the cardholder's personal information, including withdrawing consent for
2275 the use of the cardholder's information for a study described in Subsection

2276 **26-61a-201**~~(10)~~**(11)**;

2277 (c) if the cardholder's qualified medical provider recommended the use of medical
2278 cannabis without providing directions of use and dosing [~~parameters~~] guidelines and the
2279 cardholder has not yet received the counseling or consultation required in Subsection

2280 **26-61a-502**(4):

2281 (i) alert the cardholder of the outstanding need for consultation; and

2282 (ii) provide the cardholder with access to the contact information for each state central
2283 patient portal medical provider and each pharmacy medical provider;

2284 (d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis
2285 order;

2286 (i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

2287 (ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in
2288 person from the pharmacy;

2289 (e) prohibit a patient from completing an electronic medical cannabis order described
2290 in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection

2291 26-61a-501(2)(a) or (b);

2292 (f) provide educational information to medical cannabis patient cardholders regarding
2293 the state's medical cannabis laws and regulatory programs and other relevant information
2294 regarding medical cannabis; and

2295 (g) allow the patient to designate up to two caregivers who may receive a medical
2296 cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in
2297 accordance with this chapter.

2298 (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah
2299 Administrative Rulemaking Act, to implement the state central patient portal.

2300 Section 29. Section **26-61a-603** is amended to read:

2301 **26-61a-603. Payment provider for electronic medical cannabis transactions.**

2302 (1) A cannabis production establishment [~~seeking to use a payment provider~~], a
2303 medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy
2304 seeking to use a payment provider shall submit to the Division of Finance and the state
2305 treasurer information regarding the payment provider the prospective licensee will use to
2306 conduct financial transactions related to medical cannabis, including:

2307 (a) the name and contact information of the payment provider;

2308 (b) the nature of the relationship between the establishment, pharmacy, or prospective
2309 pharmacy and the payment provider; and

2310 (c) for a prospective home delivery medical cannabis pharmacy, the processes the
2311 prospective licensee and the payment provider have in place to safely and reliably conduct
2312 financial transactions for medical cannabis shipments.

2313 (2) The Division of Finance shall, in consultation with the state treasurer:

2314 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2315 make rules to establish standards for identifying payment providers that demonstrate the
2316 functional and technical ability to safely conduct financial transactions related to medical
2317 cannabis, including medical cannabis shipments;

2318 (b) review submissions the Division of Finance and the state treasurer receive under
2319 Subsection (1);

2320 (c) approve a payment provider that meets the standards described in Subsection (2)(a);

2321 and

2322 (d) establish a list of approved payment providers.

2323 (3) Any licensed cannabis production establishment, licensed medical cannabis
2324 pharmacy, or medical cannabis courier may use a payment provider that the Division of
2325 Finance approves, in consultation with the state treasurer, to conduct transactions related to the
2326 establishment's, pharmacy's, or courier's respective medical cannabis business.

2327 (4) If Congress passes legislation that allows a cannabis-related business to facilitate
2328 payments through or deposit funds in a financial institution, a cannabis production
2329 establishment or a medical cannabis pharmacy may facilitate payments through or deposit
2330 funds in a financial institution in addition to or instead of a payment provider that the Division
2331 of Finance approves, in consultation with the state treasurer, under this section.

2332 Section 30. Section **26-61a-605** is amended to read:

2333 **26-61a-605. Medical cannabis shipment transportation.**

2334 (1) The department shall ensure that each home delivery medical cannabis pharmacy is
2335 capable of delivering, directly or through a medical cannabis courier, medical cannabis
2336 shipments in a secure manner.

2337 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed
2338 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
2339 cannabis orders that the state central patient portal facilitates.

2340 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
2341 Subsection (2)(a), the pharmacy shall:

2342 (i) impose security and personnel requirements on the medical cannabis courier
2343 sufficient to ensure the security and safety of medical cannabis shipments; and

2344 (ii) provide regular oversight of the medical cannabis courier.

2345 (3) Except for an individual with a valid medical cannabis card who transports a
2346 shipment the individual receives, an individual may not transport a medical cannabis shipment
2347 unless the individual is:

2348 (a) a registered pharmacy medical provider;

2349 [~~(a)~~] (b) a registered medical cannabis pharmacy agent; or

2350 [~~(b)~~] (c) a registered agent of the medical cannabis courier described in Subsection (2).

2351 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
2352 possess a transportation manifest that:

2353 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
2354 inventory control system;

2355 (b) includes origin and destination information for the medical cannabis shipment the
2356 individual is transporting; and

2357 (c) indicates the departure and arrival times and locations of the individual transporting
2358 the medical cannabis shipment.

2359 (5) In addition to the requirements in Subsections (3) and (4), the department may
2360 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2361 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2362 Rulemaking Act, requirements for transporting medical cannabis shipments that are related to
2363 safety for human consumption of cannabis or a cannabis product.

2364 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
2365 manifest that does not meet the requirements of Subsection (4).

2366 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
2367 (6)(a) is:

2368 (i) guilty of an infraction; and

2369 (ii) subject to a \$100 fine.

2370 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not
2371 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2372 underlying the violation described in Subsection (6)(b).

2373 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
2374 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
2375 minimis administrative error:

2376 (i) this chapter does not apply; and

2377 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2378 Substances Act.

2379 Section 31. Section **41-6a-517** is amended to read:

2380 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
2381 **body -- Penalties -- Arrest without warrant.**

2382 (1) As used in this section:

2383 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

- 2384 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.
- 2385 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.
- 2386 (d) "Prescription" means the same as that term is defined in Section 58-37-2.
- 2387 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
- 2388 operate or be in actual physical control of a motor vehicle within this state if the person has the
- 2389 following in the person's body:
- 2390 (a) for a controlled substance other than cannabis, any measurable controlled substance
- 2391 or metabolite of a controlled substance [~~in the person's body.~~]; or
- 2392 (b) a pharmacologically active metabolite of cannabis.
- 2393 (3) It is an affirmative defense to prosecution under this section that the controlled
- 2394 substance was:
- 2395 (a) involuntarily ingested by the accused;
- 2396 (b) prescribed by a practitioner for use by the accused;
- 2397 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
- 2398 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
- 2399 Cannabis Act; or
- 2400 (d) otherwise legally ingested.
- 2401 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
- 2402 misdemeanor.
- 2403 (b) A person who violates this section is subject to conviction and sentencing under
- 2404 both this section and any applicable offense under Section 58-37-8.
- 2405 (5) A peace officer may, without a warrant, arrest a person for a violation of this
- 2406 section when the officer has probable cause to believe the violation has occurred, although not
- 2407 in the officer's presence, and if the officer has probable cause to believe that the violation was
- 2408 committed by the person.
- 2409 (6) The Driver License Division shall, if the person is 21 years of age or older on the
- 2410 date of arrest:
- 2411 (a) suspend, for a period of 120 days, the driver license of a person convicted under
- 2412 Subsection (2) of an offense committed on or after July 1, 2009; or
- 2413 (b) revoke, for a period of two years, the driver license of a person if:
- 2414 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2415 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
2416 and within a period of 10 years after the date of the prior violation.

2417 (7) The Driver License Division shall, if the person is 19 years of age or older but
2418 under 21 years of age on the date of arrest:

2419 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
2420 longer, the driver license of a person convicted under Subsection (2) of an offense committed
2421 on or after July 1, 2011; or

2422 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
2423 longer, the driver license of a person if:

2424 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2425 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
2426 and within a period of 10 years after the date of the prior violation.

2427 (8) The Driver License Division shall, if the person is under 19 years of age on the date
2428 of arrest:

2429 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
2430 under Subsection (2) of an offense committed on or after July 1, 2009; or

2431 (b) revoke, until the person is 21 years of age, the driver license of a person if:

2432 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2433 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
2434 and within a period of 10 years after the date of the prior violation.

2435 (9) The Driver License Division shall subtract from any suspension or revocation
2436 period the number of days for which a license was previously suspended under Section
2437 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
2438 which the record of conviction is based.

2439 (10) The Driver License Division shall:

2440 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
2441 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
2442 committed prior to July 1, 2009; or

2443 (b) deny, suspend, or revoke the operator's license of a person for the denial,
2444 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

2445 (i) the person was 20 years of age or older but under 21 years of age at the time of

2446 arrest; and

2447 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
2448 July 1, 2009, and prior to July 1, 2011.

2449 (11) A court that reported a conviction of a violation of this section for a violation that
2450 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
2451 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
2452 if the person:

2453 (a) completes at least six months of the license suspension;

2454 (b) completes a screening;

2455 (c) completes an assessment, if it is found appropriate by a screening under Subsection
2456 (11)(b);

2457 (d) completes substance abuse treatment if it is found appropriate by the assessment
2458 under Subsection (11)(c);

2459 (e) completes an educational series if substance abuse treatment is not required by the
2460 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

2461 (f) has not been convicted of a violation of any motor vehicle law in which the person
2462 was involved as the operator of the vehicle during the suspension period imposed under
2463 Subsection (7)(a) or (8)(a);

2464 (g) has complied with all the terms of the person's probation or all orders of the court if
2465 not ordered to probation; and

2466 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
2467 person has not consumed a controlled substance not prescribed by a practitioner for use by the
2468 person or unlawfully consumed alcohol during the suspension period imposed under
2469 Subsection (7)(a) or (8)(a); or

2470 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
2471 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
2472 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
2473 for use by the person or unlawfully consumed alcohol during the suspension period imposed
2474 under Subsection (7)(a) or (8)(a).

2475 (12) If the court shortens a person's license suspension period in accordance with the
2476 requirements of Subsection (11), the court shall forward the order shortening the person's

2477 license suspension period prior to the completion of the suspension period imposed under
2478 Subsection (7)(a) or (8)(a) to the Driver License Division.

2479 (13) (a) The court shall notify the Driver License Division if a person fails to:

2480 (i) complete all court ordered screening and assessment, educational series, and
2481 substance abuse treatment; or

2482 (ii) pay all fines and fees, including fees for restitution and treatment costs.

2483 (b) Upon receiving the notification, the division shall suspend the person's driving
2484 privilege in accordance with Subsections 53-3-221(2) and (3).

2485 (14) The court:

2486 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person
2487 convicted under Subsection (2); and

2488 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
2489 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

2490 (15) (a) A court that reported a conviction of a violation of this section to the Driver
2491 License Division may shorten the suspension period imposed under Subsection (6) before
2492 completion of the suspension period if the person is participating in or has successfully
2493 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

2494 (b) If the court shortens a person's license suspension period in accordance with the
2495 requirements of this Subsection (15), the court shall forward to the Driver License Division the
2496 order shortening the person's suspension period.

2497 (c) The court shall notify the Driver License Division if a person fails to complete all
2498 requirements of a 24-7 sobriety program.

2499 (d) Upon receiving the notification described in Subsection (15)(c), the division shall
2500 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

2501 Section 32. Section 52-4-205 is amended to read:

2502 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
2503 **meetings.**

2504 (1) A closed meeting described under Section 52-4-204 may only be held for:

2505 (a) except as provided in Subsection (3), discussion of the character, professional
2506 competence, or physical or mental health of an individual;

2507 (b) strategy sessions to discuss collective bargaining;

- 2508 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 2509 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 2510 including any form of a water right or water shares, if public discussion of the transaction
- 2511 would:
- 2512 (i) disclose the appraisal or estimated value of the property under consideration; or
- 2513 (ii) prevent the public body from completing the transaction on the best possible terms;
- 2514 (e) strategy sessions to discuss the sale of real property, including any form of a water
- 2515 right or water shares, if:
- 2516 (i) public discussion of the transaction would:
- 2517 (A) disclose the appraisal or estimated value of the property under consideration; or
- 2518 (B) prevent the public body from completing the transaction on the best possible terms;
- 2519 (ii) the public body previously gave public notice that the property would be offered for
- 2520 sale; and
- 2521 (iii) the terms of the sale are publicly disclosed before the public body approves the
- 2522 sale;
- 2523 (f) discussion regarding deployment of security personnel, devices, or systems;
- 2524 (g) investigative proceedings regarding allegations of criminal misconduct;
- 2525 (h) as relates to the Independent Legislative Ethics Commission, conducting business
- 2526 relating to the receipt or review of ethics complaints;
- 2527 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
- 2528 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
- 2529 (j) as relates to the Independent Executive Branch Ethics Commission created in
- 2530 Section [63A-14-202](#), conducting business relating to an ethics complaint;
- 2531 (k) as relates to a county legislative body, discussing commercial information as
- 2532 defined in Section [59-1-404](#);
- 2533 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
- 2534 board of directors, discussing fiduciary or commercial information as defined in Section
- 2535 [53B-12-102](#);
- 2536 (m) deliberations, not including any information gathering activities, of a public body
- 2537 acting in the capacity of:
- 2538 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,

2539 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

2540 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
2541 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

2542 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
2543 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
2544 Procurement Appeals Board;

2545 (n) the purpose of considering information that is designated as a trade secret, as
2546 defined in Section 13-24-2, if the public body's consideration of the information is necessary in
2547 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

2548 (o) the purpose of discussing information provided to the public body during the
2549 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
2550 the meeting:

2551 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
2552 disclosed to a member of the public or to a participant in the procurement process; and

2553 (ii) the public body needs to review or discuss the information in order to properly
2554 fulfill its role and responsibilities in the procurement process;

2555 (p) as relates to the governing board of a governmental nonprofit corporation, as that
2556 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
2557 as a trade secret, as that term is defined in Section 13-24-2, if:

2558 (i) public knowledge of the discussion would reasonably be expected to result in injury
2559 to the owner of the trade secret; and

2560 (ii) discussion of the information is necessary for the governing board to properly
2561 discharge the board's duties and conduct the board's business; or

2562 (q) a purpose for which a meeting is required to be closed under Subsection (2).

2563 (2) The following meetings shall be closed:

2564 (a) a meeting of the Health and Human Services Interim Committee to review a fatality
2565 review report described in Subsection 62A-16-301(1)(a), and the responses to the report
2566 described in Subsections 62A-16-301(2) and (4);

2567 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

2568 (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the
2569 responses to the report described in Subsections 62A-16-301(2) and (4); or

2570 (ii) review and discuss an individual case, as described in Subsection [62A-4a-207\(5\)](#);

2571 [~~and~~]

2572 (c) a meeting of a conservation district as defined in Section [17D-3-102](#) for the purpose
2573 of advising the Natural Resource Conservation Service of the United States Department of
2574 Agriculture on a farm improvement project if the discussed information is protected
2575 information under federal law[-]; and

2576 (d) a meeting of the compassionate use board established in Section [26-61a-105](#) for the
2577 purpose of reviewing petitions for a medical cannabis card in accordance with Section
2578 [26-61a-105](#).

2579 (3) In a closed meeting, a public body may not:

2580 (a) interview a person applying to fill an elected position;

2581 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
2582 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
2583 or

2584 (c) discuss the character, professional competence, or physical or mental health of the
2585 person whose name was submitted for consideration to fill a midterm vacancy or temporary
2586 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
2587 Temporary Absence in Elected Office.

2588 Section 33. Section **58-37-2** is amended to read:

2589 **58-37-2. Definitions.**

2590 (1) As used in this chapter:

2591 (a) "Administer" means the direct application of a controlled substance, whether by
2592 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
2593 by:

2594 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;
2595 or

2596 (ii) the patient or research subject at the direction and in the presence of the
2597 practitioner.

2598 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
2599 manufacturer, distributor, or practitioner but does not include a motor carrier, public
2600 warehouseman, or employee of any of them.

2601 (c) "Consumption" means ingesting or having any measurable amount of a controlled
2602 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
2603 controlled substance.

2604 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
2605 partnership, corporation, business trust, association, or other legal entity, and any union or
2606 groups of individuals associated in fact although not a legal entity, and includes illicit as well
2607 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
2608 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
2609 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
2610 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
2611 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
2612 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
2613 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
2614 unlawful conduct and be related either to each other or to the enterprise.

2615 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
2616 immediate precursor under Section [58-37-3](#).

2617 (f) (i) "Controlled substance" means a drug or substance:

2618 (A) included in Schedules I, II, III, IV, or V of Section [58-37-4](#);

2619 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,
2620 Title II, P.L. 91-513;

2621 (C) that is a controlled substance analog; or

2622 (D) listed in Section [58-37-4.2](#).

2623 (ii) "Controlled substance" does not include:

2624 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,
2625 Alcoholic Beverage Control Act;

2626 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
2627 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,
2628 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
2629 transferred, or furnished as an over-the-counter medication without prescription; or

2630 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
2631 including concentrates or extracts, which:

2632 (I) are not otherwise regulated by law; and
2633 (II) may contain naturally occurring amounts of chemical or substances listed in this
2634 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking
2635 Act.

2636 (g) (i) "Controlled substance analog" means:

2637 (A) a substance the chemical structure of which is substantially similar to the chemical
2638 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance
2639 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,
2640 Title II, P.L. 91-513;

2641 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the
2642 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic
2643 effect on the central nervous system of controlled substances listed in Schedules I and II of
2644 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and
2645 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

2646 (C) A substance which, with respect to a particular individual, is represented or
2647 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system
2648 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
2649 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,
2650 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal
2651 Controlled Substances Act, Title II, P.L. 91-513.

2652 (ii) "Controlled substance analog" does not include:

2653 (A) a controlled substance currently scheduled in Schedules I through V of Section
2654 58-37-4;

2655 (B) a substance for which there is an approved new drug application;

2656 (C) a substance with respect to which an exemption is in effect for investigational use
2657 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
2658 to the extent the conduct with respect to the substance is permitted by the exemption;

2659 (D) any substance to the extent not intended for human consumption before an
2660 exemption takes effect with respect to the substance;

2661 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
2662 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,

2663 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
2664 transferred, or furnished as an over-the-counter medication without prescription; or
2665 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
2666 including concentrates or extracts, which are not otherwise regulated by law, which may
2667 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
2668 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2669 (h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
2670 or plea, whether guilty or no contest, for any offense proscribed by:

2671 (A) Chapter 37, Utah Controlled Substances Act;

2672 (B) Chapter 37a, Utah Drug Paraphernalia Act;

2673 (C) Chapter 37b, Imitation Controlled Substances Act;

2674 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

2675 (E) Chapter 37d, Clandestine Drug Lab Act; or

2676 (ii) for any offense under the laws of the United States and any other state which, if
2677 committed in this state, would be an offense under:

2678 (A) Chapter 37, Utah Controlled Substances Act;

2679 (B) Chapter 37a, Utah Drug Paraphernalia Act;

2680 (C) Chapter 37b, Imitation Controlled Substances Act;

2681 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

2682 (E) Chapter 37d, Clandestine Drug Lab Act.

2683 (i) "Counterfeit substance" means:

2684 (i) any controlled substance or container or labeling of any controlled substance that:

2685 (A) without authorization bears the trademark, trade name, or other identifying mark,
2686 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
2687 other than the person or persons who in fact manufactured, distributed, or dispensed the
2688 substance which falsely purports to be a controlled substance distributed by any other
2689 manufacturer, distributor, or dispenser; and

2690 (B) a reasonable person would believe to be a controlled substance distributed by an
2691 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as
2692 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled
2693 substance; or

- 2694 (ii) any substance other than under Subsection (1)(i)(i) that:
2695 (A) is falsely represented to be any legally or illegally manufactured controlled
2696 substance; and
2697 (B) a reasonable person would believe to be a legal or illegal controlled substance.
2698 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
2699 controlled substance or a listed chemical, whether or not an agency relationship exists.
2700 (k) "Department" means the Department of Commerce.
2701 (l) "Depressant or stimulant substance" means:
2702 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric
2703 acid;
2704 (ii) a drug which contains any quantity of:
2705 (A) amphetamine or any of its optical isomers;
2706 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
2707 (C) any substance which the Secretary of Health and Human Services or the Attorney
2708 General of the United States after investigation has found and by regulation designated
2709 habit-forming because of its stimulant effect on the central nervous system;
2710 (iii) lysergic acid diethylamide; or
2711 (iv) any drug which contains any quantity of a substance which the Secretary of Health
2712 and Human Services or the Attorney General of the United States after investigation has found
2713 to have, and by regulation designated as having, a potential for abuse because of its depressant
2714 or stimulant effect on the central nervous system or its hallucinogenic effect.
2715 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
2716 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
2717 distributing to, leaving with, giving away, or disposing of that substance as well as the
2718 packaging, labeling, or compounding necessary to prepare the substance for delivery.
2719 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
2720 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
2721 substance or a listed chemical.
2722 (p) "Distributor" means a person who distributes controlled substances.
2723 (q) "Division" means the Division of Occupational and Professional Licensing created
2724 in Section [58-1-103](#).

2725 (r) (i) "Drug" means:

2726 (A) a substance recognized in the official United States Pharmacopoeia, Official
2727 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
2728 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
2729 prevention of disease in humans or animals;

2730 (B) a substance that is required by any applicable federal or state law or rule to be
2731 dispensed by prescription only or is restricted to administration by practitioners only;

2732 (C) a substance other than food intended to affect the structure or any function of the
2733 body of humans or other animals; and

2734 (D) substances intended for use as a component of any substance specified in
2735 Subsections (1)(r)(i)(A), (B), and (C).

2736 (ii) "Drug" does not include dietary supplements.

2737 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
2738 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
2739 dependent upon the use of controlled substances as to have lost the power of self-control with
2740 reference to the individual's dependency.

2741 (t) "Food" means:

2742 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
2743 specified in this chapter, and normally ingested by human beings; and

2744 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
2745 pathological, or other condition including but not limited to the conditions of disease,
2746 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
2747 overweight; uses for supplying a particular dietary need which exist by reason of age including
2748 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
2749 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
2750 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
2751 purposes.

2752 (u) "Immediate precursor" means a substance which the Attorney General of the United
2753 States has found to be, and by regulation designated as being, the principal compound used or
2754 produced primarily for use in the manufacture of a controlled substance, or which is an
2755 immediate chemical intermediary used or likely to be used in the manufacture of a controlled

2756 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
2757 controlled substance.

2758 (v) "Indian" means a member of an Indian tribe.

2759 (w) "Indian religion" means any religion:

2760 (i) the origin and interpretation of which is from within a traditional Indian culture or
2761 community; and

2762 (ii) which is practiced by Indians.

2763 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
2764 community of Indians, including any Alaska Native village, which is legally recognized as
2765 eligible for and is consistent with the special programs, services, and entitlements provided by
2766 the United States to Indians because of their status as Indians.

2767 (y) "Manufacture" means the production, preparation, propagation, compounding, or
2768 processing of a controlled substance, either directly or indirectly by extraction from substances
2769 of natural origin, or independently by means of chemical synthesis or by a combination of
2770 extraction and chemical synthesis.

2771 (z) "Manufacturer" includes any person who packages, repackages, or labels any
2772 container of any controlled substance, except pharmacists who dispense or compound
2773 prescription orders for delivery to the ultimate consumer.

2774 (aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus,
2775 whether growing or not~~[-the]~~, including:

2776 (A) seeds ~~[of it; the]~~;

2777 (B) resin extracted from any part of the plant~~[-and]~~, including the resin extracted from
2778 the mature stalks;

2779 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant,
2780 ~~[its] seeds, or resin[-The term];~~ and

2781 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa
2782 or any other species of the genus cannabis which are chemically indistinguishable and
2783 pharmacologically active.

2784 (ii) "Marijuana" does not include:

2785 (A) the mature stalks of the plant~~[-];~~

2786 (B) fiber produced from the stalks~~[-];~~

2787 (C) oil or cake made from the seeds of the plant~~[-];~~;

2788 (D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture,
2789 salt, derivative, mixture, or preparation of the mature stalks, ~~[except the resin extracted from~~
2790 ~~them,]~~ fiber, oil or cake~~[-or];~~;

2791 (E) the sterilized seed of the plant which is incapable of germination~~[-. Any synthetic~~
2792 ~~equivalents of the substances contained in the plant cannabis sativa or any other species of the~~
2793 ~~genus cannabis which are chemically indistinguishable and pharmacologically active are also~~
2794 ~~included.]; or~~

2795 (F) any compound, mixture, or preparation approved by the Federal Food and Drug
2796 Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
2797 that is not listed in a schedule of controlled substances in Section [58-27-4](#) or in the federal
2798 Controlled Substances Act, Title II, P.L. 91-513.

2799 (bb) "Money" means officially issued coin and currency of the United States or any
2800 foreign country.

2801 (cc) "Narcotic drug" means any of the following, whether produced directly or
2802 indirectly by extraction from substances of vegetable origin, or independently by means of
2803 chemical synthesis, or by a combination of extraction and chemical synthesis:

2804 (i) opium, coca leaves, and opiates;

2805 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
2806 opiates;

2807 (iii) opium poppy and poppy straw; or

2808 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
2809 substance, which is chemically identical with any of the substances referred to in Subsection
2810 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
2811 extracts of coca leaves which do not contain cocaine or ecgonine.

2812 (dd) "Negotiable instrument" means documents, containing an unconditional promise
2813 to pay a sum of money, which are legally transferable to another party by endorsement or
2814 delivery.

2815 (ee) "Opiate" means any drug or other substance having an addiction-forming or
2816 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
2817 having addiction-forming or addiction-sustaining liability.

2818 (ff) "Opium poppy" means the plant of the species papaver somniferum L., except the
2819 seeds of the plant.

2820 (gg) "Person" means any corporation, association, partnership, trust, other institution or
2821 entity or one or more individuals.

2822 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
2823 mowing.

2824 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
2825 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
2826 or consumption, as distinguished from distribution, of controlled substances and includes
2827 individual, joint, or group possession or use of controlled substances. For a person to be a
2828 possessor or user of a controlled substance, it is not required that the person be shown to have
2829 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that
2830 the person jointly participated with one or more persons in the use, possession, or control of
2831 any substances with knowledge that the activity was occurring, or the controlled substance is
2832 found in a place or under circumstances indicating that the person had the ability and the intent
2833 to exercise dominion and control over it.

2834 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
2835 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
2836 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
2837 in teaching or chemical analysis a controlled substance in the course of professional practice or
2838 research in this state.

2839 (kk) "Prescribe" means to issue a prescription:

2840 (i) orally or in writing; or

2841 (ii) by telephone, facsimile transmission, computer, or other electronic means of
2842 communication as defined by division rule.

2843 (ll) "Prescription" means an order issued:

2844 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
2845 by collaborative pharmacy practice agreement; and

2846 (ii) for a controlled substance or other prescription drug or device for use by a patient
2847 or an animal.

2848 (mm) "Production" means the manufacture, planting, cultivation, growing, or

2849 harvesting of a controlled substance.

2850 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
2851 property.

2852 (oo) "State" means the state of Utah.

2853 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
2854 for the person's own use, for the use of a member of the person's household, or for
2855 administration to an animal owned by the person or a member of the person's household.

2856 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
2857 Utah Criminal Code, shall apply.

2858 Section 34. Section **58-37-3.7** is amended to read:

2859 **58-37-3.7. Medical cannabis decriminalization.**

2860 (1) As used in this section:

2861 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

2862 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

2863 (c) "Medical cannabis card" means the same as that term is defined in Section
2864 [26-61a-102](#).

2865 [~~(d) "Medical cannabis device" means the same as that term is defined in Section~~
2866 ~~[26-61a-102](#);~~]

2867 [~~(e)~~] (d) "Medical cannabis pharmacy" means the same as that term is defined in
2868 Section [26-61a-102](#).

2869 [~~(f)~~] (e) "Medicinal dosage form" means the same as that term is defined in Section
2870 [26-61a-102](#).

2871 (f) "Nonresident patient" means the same as that term is defined in Section [26-61a-102](#).

2872 (g) "Qualified medical provider" means the same as that term is defined in Section
2873 [26-61a-102](#).

2874 (h) "Qualifying condition" means the same as that term is defined in Section
2875 [26-61a-102](#).

2876 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
2877 [58-37-3.9](#).

2878 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
2879 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

2880 (a) at the time of the arrest or citation, the individual:
 2881 (i) (A) had been diagnosed with a qualifying condition; and
 2882 (B) had a pre-existing provider-patient relationship with an advanced practice
 2883 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
 2884 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
 2885 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
 2886 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness
 2887 described in Subsection (2)(a)(i)(A) could benefit from the use in question;

2888 (ii) for possession, was:
 2889 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
 2890 is a minor; or

2891 (B) the spouse of an individual described in Subsection (2)(a)(i); or
 2892 (iii) (A) for possession, was a medical cannabis cardholder; or
 2893 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
 2894 condition under the supervision of a medical cannabis guardian cardholder; and

2895 (b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in one of the
 2896 following amounts:
 2897 (i) no more than 56 grams by weight of unprocessed cannabis; or
 2898 (ii) an amount of cannabis products that contains, in total, no more than 10 grams of
 2899 total composite tetrahydrocannabinol.

2900 (3) ~~[An individual]~~ A nonresident patient is not guilty under this chapter for the use or
 2901 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia ~~[under this~~
 2902 ~~chapter if: (a) at the time of the arrest or citation, the individual: (i) was not a resident of Utah~~
 2903 ~~or has been a resident of Utah for less than 45 days; (ii) had a currently valid medical cannabis~~
 2904 ~~card or the equivalent of a medical cannabis card under the laws of another state, district,~~
 2905 ~~territory, commonwealth, or insular possession of the United States; and (iii) had been~~
 2906 ~~diagnosed with a qualifying condition as described in Section 26-61a-104; and (b)]~~ if the
 2907 marijuana or tetrahydrocannabinol is in a medicinal dosage form in one of the following
 2908 amounts:

2909 ~~[(i)]~~ (a) no more than 113 grams by weight of unprocessed cannabis; or
 2910 ~~[(ii)]~~ (b) an amount of cannabis products that contains, in total, no more than 20 grams

2911 of total composite tetrahydrocannabinol.

2912 (4) (a) There is a rebuttable presumption against an allegation of use or possession of
2913 marijuana or tetrahydrocannabinol if:

2914 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the
2915 sample; and

2916 (ii) the individual asserts that the individual only used cannabidiol or a cannabidiol
2917 product.

2918 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that
2919 the individual purchased or possessed any form of marijuana or tetrahydrocannabinol that is
2920 not legal under:

2921 (i) Section [4-41-402](#); or

2922 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

2923 Section 35. Section **58-37-3.9** is amended to read:

2924 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**
2925 **illness.**

2926 (1) As used in this section:

2927 (a) "Cannabis" means marijuana.

2928 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

2929 (c) "Drug paraphernalia" means the same as that term is defined in Section [58-37a-3](#).

2930 (d) "Medical cannabis cardholder" means the same as that term is defined in Section
2931 [26-61a-102](#).

2932 (e) "Medical cannabis device" means the same as that term is defined in Section
2933 [26-61a-102](#).

2934 (f) " Medicinal dosage form" means the same as that term is defined in Section
2935 [26-61a-102](#).

2936 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic
2937 description as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

2938 (2) Notwithstanding any other provision of law, except as otherwise provided in this
2939 section:

2940 (a) an individual is not guilty of a violation of this title for the following conduct if the
2941 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis

2942 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

2943 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,
2944 selling, or offering to sell cannabis or a cannabis product; or

2945 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct
2946 described in Subsection (2)(a)(i); and

2947 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if
2948 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,
2949 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

2950 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis
2951 device; or

2952 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct
2953 described in Subsection (2)(b)(i).

2954 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or
2955 heating of medical cannabis.

2956 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical
2957 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking
2958 or combustion of cannabis.

2959 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or
2960 engages in any other conduct described in Subsection (3)(b):

2961 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah
2962 Medical Cannabis Act; and

2963 (ii) is [~~subject to charges under this chapter~~]₂ for the use or possession of marijuana,
2964 tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection
2965 (3)(b)[-]:

2966 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

2967 (B) for a second or subsequent offense, subject to charges under this chapter.

2968 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,
2969 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
2970 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a
2971 penalty described in this chapter for:

2972 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis

2973 product; or

2974 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

2975 Section 36. Section **58-37-4** is amended to read:

2976 **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings**
2977 **required -- Specific substances included in schedules.**

2978 (1) There are established five schedules of controlled substances known as Schedules I,
2979 II, III, IV, and V which consist of substances listed in this section.

2980 (2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by
2981 the official name, common or usual name, chemical name, or brand name designated:

2982 (a) Schedule I:

2983 (i) Unless specifically excepted or unless listed in another schedule, any of the
2984 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
2985 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
2986 chemical designation:

2987 (A) Acetyl-alpha-methylfentanyl

2988 (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

2989 (B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

2990 (C) Acetylmethadol;

2991 (D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

2992 (E) Allylprodine;

2993 (F) Alphacetylmethadol, except levo-alphacetylmethadol also known as
2994 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

2995 (G) Alphameprodine;

2996 (H) Alphamethadol;

2997 (I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]
2998 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

2999 (J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
3000 piperidinyl]-N-phenylpropanamide);

3001 (K) Benzylpiperazine;

3002 (L) Benzethidine;

3003 (M) Betacetylmethadol;

- 3004 (N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
3005 piperidinyl]-N-phenylpropanamide);
- 3006 (O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-
3007 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- 3008 (P) Betameprodine;
- 3009 (Q) Betamethadol;
- 3010 (R) Betaprodine;
- 3011 (S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);
- 3012 (T) Clonitazene;
- 3013 (U) Cyclopropyl fentanyl
3014 (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);
- 3015 (V) Dextromoramide;
- 3016 (W) Diampromide;
- 3017 (X) Diethylthiambutene;
- 3018 (Y) Difenoxyin;
- 3019 (Z) Dimenoxadol;
- 3020 (AA) Dimepheptanol;
- 3021 (BB) Dimethylthiambutene;
- 3022 (CC) Dioxaphetyl butyrate;
- 3023 (DD) Dipipanone;
- 3024 (EE) Ethylmethylthiambutene;
- 3025 (FF) Etizolam
3026 (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);
- 3027 (GG) Etonitazene;
- 3028 (HH) Etoxeridine;
- 3029 (II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]
3030 furan-2-carboxamide);
- 3031 (JJ) Furethidine;
- 3032 (KK) Hydroxypethidine;
- 3033 (LL) Ketobemidone;
- 3034 (MM) Levomoramide;

- 3035 (NN) Levophenacymorphan;
- 3036 (OO) Methoxyacetyl fentanyl
- 3037 (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);
- 3038 (PP) Morpheridine;
- 3039 (QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 3040 (RR) Noracymethadol;
- 3041 (SS) Norlevorphanol;
- 3042 (TT) Normethadone;
- 3043 (UU) Norpipanone;
- 3044 (VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]
3045 propanamide);
- 3046 (WW) Para-fluoroisobutyryl fentanyl
- 3047 (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
- 3048 (XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 3049 (YY) Phenadoxone;
- 3050 (ZZ) Phenampromide;
- 3051 (AAA) Phenomorphan;
- 3052 (BBB) Phenoperidine;
- 3053 (CCC) Piritramide;
- 3054 (DDD) Proheptazine;
- 3055 (EEE) Properidine;
- 3056 (FFF) Propiram;
- 3057 (GGG) Racemoramide;
- 3058 (HHH) Tetrahydrofuran fentanyl
- 3059 (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);
- 3060 (III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;
- 3061 (JJJ) Tilidine;
- 3062 (KKK) Trimeperidine;
- 3063 (LLL) 3-methylfentanyl, including the optical and geometric isomers
- 3064 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide);
- 3065 (MMM) 3-methylthiofentanyl

- 3066 (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
3067 (NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also
3068 known as U-47700; and
3069 (OOO) 4-cyano CUMYL-BUTINACA.
3070 (ii) Unless specifically excepted or unless listed in another schedule, any of the
3071 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the
3072 salts, isomers, and salts of isomers is possible within the specific chemical designation:
3073 (A) Acetorphine;
3074 (B) Acetyldihydrocodeine;
3075 (C) Benzylmorphine;
3076 (D) Codeine methylbromide;
3077 (E) Codeine-N-Oxide;
3078 (F) Cyprenorphine;
3079 (G) Desomorphine;
3080 (H) Dihydromorphine;
3081 (I) Drotebanol;
3082 (J) Etorphine (except hydrochloride salt);
3083 (K) Heroin;
3084 (L) Hydromorphenol;
3085 (M) Methyldesorphine;
3086 (N) Methylhydromorphine;
3087 (O) Morphine methylbromide;
3088 (P) Morphine methylsulfonate;
3089 (Q) Morphine-N-Oxide;
3090 (R) Myrophine;
3091 (S) Nicocodeine;
3092 (T) Nicomorphine;
3093 (U) Normorphine;
3094 (V) Pholcodine; and
3095 (W) Thebacon.
3096 (iii) Unless specifically excepted or unless listed in another schedule, any material,

3097 compound, mixture, or preparation which contains any quantity of the following hallucinogenic
3098 substances, or which contains any of their salts, isomers, and salts of isomers when the
3099 existence of the salts, isomers, and salts of isomers is possible within the specific chemical
3100 designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position,
3101 and geometric isomers:

3102 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;
3103 α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;

3104 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:
3105 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;

3106 (C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names:
3107 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

3108 (D) 2,5-dimethoxyamphetamine, some trade or other names:
3109 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;

3110 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

3111 (F) 4-methoxyamphetamine, some trade or other names:

3112 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;

3113 (G) 5-methoxy-3,4-methylenedioxyamphetamine;

3114 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:

3115 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";

3116 (I) 3,4-methylenedioxy amphetamine;

3117 (J) 3,4-methylenedioxymethamphetamine (MDMA);

3118 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-

3119 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

3120 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as

3121 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

3122 (M) 3,4,5-trimethoxy amphetamine;

3123 (N) Bufotenine, some trade and other names:

3124 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,

3125 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

3126 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

3127 (P) Dimethyltryptamine, some trade or other names: DMT;

- 3128 (Q) Ibogaine, some trade and other names:
3129 7-Ethyl-6,6 β ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
3130 [5,4-b] indole; Tabernanthe iboga;
- 3131 (R) Lysergic acid diethylamide;
- 3132 (S) Marijuana;
- 3133 (T) Mescaline;
- 3134 (U) Parahexyl, some trade or other names:
3135 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
- 3136 (V) Peyote, meaning all parts of the plant presently classified botanically as
3137 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
3138 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or
3139 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));
- 3140 (W) N-ethyl-3-piperidyl benzilate;
- 3141 (X) N-methyl-3-piperidyl benzilate;
- 3142 (Y) Psilocybin;
- 3143 (Z) Psilocyn;
- 3144 (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis*
3145 (*cannabis* plant), as well as synthetic equivalents of the substances contained in the *cannabis*
3146 plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives,
3147 and their isomers with similar chemical structure and pharmacological activity to those
3148 substances contained in the plant, such as the following: Δ 1 cis or trans tetrahydrocannabinol,
3149 and their optical isomers Δ 6 cis or trans tetrahydrocannabinol, and their optical isomers Δ 3,4
3150 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these
3151 substances is not internationally standardized, compounds of these structures, regardless of
3152 numerical designation of atomic positions covered;
- 3153 (BB) Ethylamine analog of phencyclidine, some trade or other names:
3154 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,
3155 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
- 3156 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:
3157 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
- 3158 (DD) Thiophene analog of phencyclidine, some trade or other names:

- 3159 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and
3160 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.
- 3161 (iv) Unless specifically excepted or unless listed in another schedule, any material
3162 compound, mixture, or preparation which contains any quantity of the following substances
3163 having a depressant effect on the central nervous system, including its salts, isomers, and salts
3164 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
3165 specific chemical designation:
- 3166 (A) Mecloqualone; and
3167 (B) Methaqualone.
- 3168 (v) Any material, compound, mixture, or preparation containing any quantity of the
3169 following substances having a stimulant effect on the central nervous system, including their
3170 salts, isomers, and salts of isomers:
- 3171 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or
3172 4,5-dihydro-5-phenyl-2-oxazolamine;
- 3173 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone,
3174 alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
- 3175 (C) Fenethylamine;
- 3176 (D) Methcathinone, some other names: 2-(methylamino)-propiophenone;
3177 alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one;
3178 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;
3179 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of
3180 optical isomers;
- 3181 (E) (\pm)cis-4-methylaminorex ((\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
3182 (F) N-ethylamphetamine; and
3183 (G) N,N-dimethylamphetamine, also known as
3184 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.
- 3185 (vi) Any material, compound, mixture, or preparation which contains any quantity of
3186 the following substances, including their optical isomers, salts, and salts of isomers, subject to
3187 temporary emergency scheduling:
- 3188 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and
3189 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thienylfentanyl).

3190 (vii) Unless specifically excepted or unless listed in another schedule, any material,
3191 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate
3192 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

3193 (b) Schedule II:

3194 (i) Unless specifically excepted or unless listed in another schedule, any of the
3195 following substances whether produced directly or indirectly by extraction from substances of
3196 vegetable origin, or independently by means of chemical synthesis, or by a combination of
3197 extraction and chemical synthesis:

3198 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
3199 opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone,
3200 and their respective salts, but including:

3201 (I) Raw opium;

3202 (II) Opium extracts;

3203 (III) Opium fluid;

3204 (IV) Powdered opium;

3205 (V) Granulated opium;

3206 (VI) Tincture of opium;

3207 (VII) Codeine;

3208 (VIII) Ethylmorphine;

3209 (IX) Etorphine hydrochloride;

3210 (X) Hydrocodone;

3211 (XI) Hydromorphone;

3212 (XII) Metopon;

3213 (XIII) Morphine;

3214 (XIV) Oxycodone;

3215 (XV) Oxymorphone; and

3216 (XVI) Thebaine;

3217 (B) Any salt, compound, derivative, or preparation which is chemically equivalent or
3218 identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these
3219 substances may not include the isoquinoline alkaloids of opium;

3220 (C) Opium poppy and poppy straw;

3221 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and
3222 any salt, compound, derivative, or preparation which is chemically equivalent or identical with
3223 any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives,
3224 and salts of isomers and derivatives, whether derived from the coca plant or synthetically
3225 produced, except the substances may not include decocainized coca leaves or extraction of coca
3226 leaves, which extractions do not contain cocaine or ecgonine; and

3227 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either
3228 liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

3229 (ii) Unless specifically excepted or unless listed in another schedule, any of the
3230 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
3231 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
3232 chemical designation, except dextrophan and levopropoxyphene:

3233 (A) Alfentanil;

3234 (B) Alphaprodine;

3235 (C) Anileridine;

3236 (D) Bezitramide;

3237 (E) Bulk dextropropoxyphene (nondosage forms);

3238 (F) Carfentanil;

3239 (G) Dihydrocodeine;

3240 (H) Diphenoxylate;

3241 (I) Fentanyl;

3242 (J) Isomethadone;

3243 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
3244 levomethadyl acetate, or LAAM;

3245 (L) Levomethorphan;

3246 (M) Levorphanol;

3247 (N) Metazocine;

3248 (O) Methadone;

3249 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

3250 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
3251 acid;

- 3252 (R) Pethidine (meperidine);
- 3253 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 3254 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 3255 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 3256 (V) Phenazocine;
- 3257 (W) Piminodine;
- 3258 (X) Racemethorphan;
- 3259 (Y) Racemorphan;
- 3260 (Z) Remifentanyl; and
- 3261 (AA) Sufentanyl.
- 3262 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 3263 compound, mixture, or preparation which contains any quantity of the following substances
- 3264 having a stimulant effect on the central nervous system:
- 3265 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 3266 (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- 3267 (C) Phenmetrazine and its salts; and
- 3268 (D) Methylphenidate.
- 3269 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 3270 compound, mixture, or preparation which contains any quantity of the following substances
- 3271 having a depressant effect on the central nervous system, including its salts, isomers, and salts
- 3272 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
- 3273 specific chemical designation:
- 3274 (A) Amobarbital;
- 3275 (B) Glutethimide;
- 3276 (C) Pentobarbital;
- 3277 (D) Phencyclidine;
- 3278 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and
- 3279 1-piperidinocyclohexanecarbonitrile (PCC); and
- 3280 (F) Secobarbital.
- 3281 (v) (A) Unless specifically excepted or unless listed in another schedule, any material,
- 3282 compound, mixture, or preparation which contains any quantity of Phenylacetone.

3283 (B) Some of these substances may be known by trade or other names:
3284 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

3285 (vi) Nabilone, another name for nabilone:

3286 (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
3287 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

3288 (vii) A drug product or preparation that contains any component of marijuana,
3289 including tetrahydrocannabinol, and is approved by the United States Food and Drug
3290 Administration and scheduled by the Drug Enforcement Administration in Schedule II of the
3291 federal Controlled Substances Act, Title II, P.L. 91-513.

3292 (c) Schedule III:

3293 (i) Unless specifically excepted or unless listed in another schedule, any material,
3294 compound, mixture, or preparation which contains any quantity of the following substances
3295 having a stimulant effect on the central nervous system, including its salts, isomers whether
3296 optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers,
3297 and salts of isomers is possible within the specific chemical designation:

3298 (A) Those compounds, mixtures, or preparations in dosage unit form containing any
3299 stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were
3300 listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the
3301 Code of Federal Regulations, and any other drug of the quantitative composition shown in that
3302 list for those drugs or which is the same except that it contains a lesser quantity of controlled
3303 substances;

3304 (B) Benzphetamine;

3305 (C) Chlorphentermine;

3306 (D) Clortermine; and

3307 (E) Phendimetrazine.

3308 (ii) Unless specifically excepted or unless listed in another schedule, any material,
3309 compound, mixture, or preparation which contains any quantity of the following substances
3310 having a depressant effect on the central nervous system:

3311 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,
3312 pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients
3313 which are not listed in any schedule;

- 3314 (B) Any suppository dosage form containing amobarbital, secobarbital, or
3315 pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug
3316 Administration for marketing only as a suppository;
- 3317 (C) Any substance which contains any quantity of a derivative of barbituric acid or any
3318 salt of any of them;
- 3319 (D) Chlorhexadol;
- 3320 (E) Buprenorphine;
- 3321 (F) Any drug product containing gamma hydroxybutyric acid, including its salts,
3322 isomers, and salts of isomers, for which an application is approved under the federal Food,
3323 Drug, and Cosmetic Act, Section 505;
- 3324 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:
3325 \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- 3326 (H) Lysergic acid;
- 3327 (I) Lysergic acid amide;
- 3328 (J) Methyprylon;
- 3329 (K) Sulfondiethylmethane;
- 3330 (L) Sulfonethylmethane;
- 3331 (M) Sulfonmethane; and
- 3332 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a
3333 tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:
3334 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam:
3335 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one,
3336 flupyrzapon.
- 3337 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
3338 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:
3339 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or
3340 (-)-delta-9-(trans)-tetrahydrocannabinol.
- 3341 (iv) Nalorphine.
- 3342 (v) Unless specifically excepted or unless listed in another schedule, any material,
3343 compound, mixture, or preparation containing limited quantities of any of the following
3344 narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

3345 (A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
3346 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of
3347 opium;

3348 (B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
3349 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
3350 therapeutic amounts;

3351 (C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
3352 than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline
3353 alkaloid of opium;

3354 (D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
3355 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3356 recognized therapeutic amounts;

3357 (E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90
3358 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
3359 therapeutic amounts;

3360 (F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more
3361 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3362 recognized therapeutic amounts;

3363 (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not
3364 more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3365 recognized therapeutic amounts; and

3366 (H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with
3367 one or more active, non-narcotic ingredients in recognized therapeutic amounts.

3368 (vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids
3369 including any of the following or any isomer, ester, salt, or derivative of the following that
3370 promotes muscle growth:

3371 (A) Boldenone;

3372 (B) Chlorotestosterone (4-chlortestosterone);

3373 (C) Clostebol;

3374 (D) Dehydrochlormethyltestosterone;

3375 (E) Dihydrotestosterone (4-dihydrotestosterone);

- 3376 (F) Drostanolone;
- 3377 (G) Ethylestrenol;
- 3378 (H) Fluoxymesterone;
- 3379 (I) Formebolone (formebolone);
- 3380 (J) Mesterolone;
- 3381 (K) Methandienone;
- 3382 (L) Methandranone;
- 3383 (M) Methandriol;
- 3384 (N) Methandrostenolone;
- 3385 (O) Methenolone;
- 3386 (P) Methyltestosterone;
- 3387 (Q) Mibolerone;
- 3388 (R) Nandrolone;
- 3389 (S) Norethandrolone;
- 3390 (T) Oxandrolone;
- 3391 (U) Oxymesterone;
- 3392 (V) Oxymetholone;
- 3393 (W) Stanolone;
- 3394 (X) Stanozolol;
- 3395 (Y) Testolactone;
- 3396 (Z) Testosterone; and
- 3397 (AA) Trenbolone.
- 3398 (vii) Anabolic steroids expressly intended for administration through implants to cattle
- 3399 or other nonhuman species, and approved by the Secretary of Health and Human Services for
- 3400 use, may not be classified as a controlled substance.
- 3401 (viii) A drug product or preparation that contains any component of marijuana,
- 3402 including tetrahydrocannabinol, and is approved by the United States Food and Drug
- 3403 Administration and scheduled by the Drug Enforcement Administration in Schedule III of the
- 3404 federal Controlled Substances Act, Title II, P.L. 91-513.
- 3405 (ix) Nabiximols.
- 3406 (d) Schedule IV:

3407 (i) Unless specifically excepted or unless listed in another schedule, any material,
3408 compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not
3409 less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

3410 (ii) Unless specifically excepted or unless listed in another schedule, any material,
3411 compound, mixture, or preparation which contains any quantity of the following substances,
3412 including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and
3413 salts of isomers is possible within the specific chemical designation:

3414 (A) Alprazolam;

3415 (B) Barbital;

3416 (C) Bromazepam;

3417 (D) Butorphanol;

3418 (E) Camazepam;

3419 (F) Carisoprodol;

3420 (G) Chloral betaine;

3421 (H) Chloral hydrate;

3422 (I) Chlordiazepoxide;

3423 (J) Clobazam;

3424 (K) Clonazepam;

3425 (L) Clorazepate;

3426 (M) Clotiazepam;

3427 (N) Cloxazolam;

3428 (O) Delorazepam;

3429 (P) Diazepam;

3430 (Q) Dichloralphenazone;

3431 (R) Estazolam;

3432 (S) Ethchlorvynol;

3433 (T) Ethinamate;

3434 (U) Ethyl loflazepate;

3435 (V) Fludiazepam;

3436 (W) Flunitrazepam;

3437 (X) Flurazepam;

- 3438 (Y) Halazepam;
- 3439 (Z) Haloxazolam;
- 3440 (AA) Ketazolam;
- 3441 (BB) Loprazolam;
- 3442 (CC) Lorazepam;
- 3443 (DD) Lormetazepam;
- 3444 (EE) Mebutamate;
- 3445 (FF) Medazepam;
- 3446 (GG) Meprobamate;
- 3447 (HH) Methohexital;
- 3448 (II) Methylphenobarbital (mephobarbital);
- 3449 (JJ) Midazolam;
- 3450 (KK) Nimetazepam;
- 3451 (LL) Nitrazepam;
- 3452 (MM) Nordiazepam;
- 3453 (NN) Oxazepam;
- 3454 (OO) Oxazolam;
- 3455 (PP) Paraldehyde;
- 3456 (QQ) Pentazocine;
- 3457 (RR) Petrichloral;
- 3458 (SS) Phenobarbital;
- 3459 (TT) Pinazepam;
- 3460 (UU) Prazepam;
- 3461 (VV) Quazepam;
- 3462 (WW) Temazepam;
- 3463 (XX) Tetrazepam;
- 3464 (YY) Tramadol;
- 3465 (ZZ) Triazolam;
- 3466 (AAA) Zaleplon; and
- 3467 (BBB) Zolpidem.
- 3468 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains

3469 any quantity of the following substances, including its salts, isomers whether optical, position,
3470 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of
3471 isomers is possible.

3472 (iv) Unless specifically excepted or unless listed in another schedule, any material,
3473 compound, mixture, or preparation which contains any quantity of the following substances
3474 having a stimulant effect on the central nervous system, including its salts, isomers whether
3475 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,
3476 isomers, and salts of isomers is possible within the specific chemical designation:

3477 (A) Cathine ((+)-norpseudoephedrine);

3478 (B) Diethylpropion;

3479 (C) Fencamfamine;

3480 (D) Fenproporex;

3481 (E) Mazindol;

3482 (F) Mefenorex;

3483 (G) Modafinil;

3484 (H) Pemoline, including organometallic complexes and chelates thereof;

3485 (I) Phentermine;

3486 (J) Pipradrol;

3487 (K) Sibutramine; and

3488 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

3489 (v) Unless specifically excepted or unless listed in another schedule, any material,
3490 compound, mixture, or preparation which contains any quantity of dextropropoxyphene
3491 (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

3492 (vi) A drug product or preparation that contains any component of marijuana and is
3493 approved by the United States Food and Drug Administration and scheduled by the Drug
3494 Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II,
3495 P.L. 91-513.

3496 (e) Schedule V:

3497 (i) Any compound, mixture, or preparation containing any of the following limited
3498 quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid,
3499 which includes one or more non-narcotic active medicinal ingredients in sufficient proportion

3500 to confer upon the compound, mixture, or preparation valuable medicinal qualities other than
3501 those possessed by the narcotic drug alone:

3502 (A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

3503 (B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100

3504 grams;

3505 (C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100

3506 grams;

3507 (D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of

3508 atropine sulfate per dosage unit;

3509 (E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

3510 (F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of

3511 atropine sulfate per dosage unit; and

3512 (G) unless specifically exempted or excluded or unless listed in another schedule, any

3513 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant

3514 effect on the central nervous system, including its salts, isomers, and salts of isomers.

3515 (ii) A drug product or preparation that contains any component of marijuana, including

3516 cannabidiol, and is approved by the United States Food and Drug Administration and

3517 scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled

3518 Substances Act, Title II, P.L. 91-513.

3519 Section 37. Section **58-37-8** is amended to read:

3520 **58-37-8. Prohibited acts -- Penalties.**

3521 (1) Prohibited acts A -- Penalties and reporting:

3522 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
3523 intentionally:

3524 (i) produce, manufacture, or dispense, or to possess with intent to produce,

3525 manufacture, or dispense, a controlled or counterfeit substance;

3526 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or

3527 arrange to distribute a controlled or counterfeit substance;

3528 (iii) possess a controlled or counterfeit substance with intent to distribute; or

3529 (iv) engage in a continuing criminal enterprise where:

3530 (A) the person participates, directs, or engages in conduct that results in a violation of

3531 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
3532 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
3533 Clandestine Drug Lab Act, that is a felony; and

3534 (B) the violation is a part of a continuing series of two or more violations of Chapters
3535 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation
3536 Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine
3537 Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons
3538 with respect to whom the person occupies a position of organizer, supervisor, or any other
3539 position of management.

3540 (b) A person convicted of violating Subsection (1)(a) with respect to:

3541 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
3542 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
3543 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
3544 subsequent conviction is guilty of a first degree felony;

3545 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
3546 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
3547 upon a second or subsequent conviction is guilty of a second degree felony; or

3548 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
3549 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
3550 felony.

3551 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
3552 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
3553 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
3554 person or in the person's immediate possession during the commission or in furtherance of the
3555 offense, the court shall additionally sentence the person convicted for a term of one year to run
3556 consecutively and not concurrently; and the court may additionally sentence the person
3557 convicted for an indeterminate term not to exceed five years to run consecutively and not
3558 concurrently.

3559 (d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
3560 felony punishable by imprisonment for an indeterminate term of not less than seven years and
3561 which may be for life. Imposition or execution of the sentence may not be suspended, and the

3562 person is not eligible for probation.

3563 (e) The Administrative Office of the Courts shall report to the Division of
3564 Occupational and Professional Licensing the name, case number, date of conviction, and if
3565 known, the date of birth of each person convicted of violating Subsection (1)(a).

3566 (2) Prohibited acts B -- Penalties and reporting:

3567 (a) It is unlawful:

3568 (i) for a person knowingly and intentionally to possess or use a controlled substance
3569 analog or a controlled substance, unless it was obtained under a valid prescription or order,
3570 directly from a practitioner while acting in the course of the person's professional practice, or as
3571 otherwise authorized by this chapter;

3572 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
3573 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
3574 by persons unlawfully possessing, using, or distributing controlled substances in any of those
3575 locations; or

3576 (iii) for a person knowingly and intentionally to possess an altered or forged
3577 prescription or written order for a controlled substance.

3578 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

3579 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

3580 or

3581 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
3582 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
3583 conviction is guilty of a third degree felony.

3584 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
3585 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
3586 penalty than provided in this Subsection (2).

3587 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
3588 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
3589 [58-37-4.2](#), or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
3590 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
3591 person is guilty of a third degree felony.

3592 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior

3593 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
3594 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
3595 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
3596 listed in:

3597 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
3598 indeterminate term as provided by law, and:

3599 (A) the court shall additionally sentence the person convicted to a term of one year to
3600 run consecutively and not concurrently; and

3601 (B) the court may additionally sentence the person convicted for an indeterminate term
3602 not to exceed five years to run consecutively and not concurrently; and

3603 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
3604 indeterminate term as provided by law, and the court shall additionally sentence the person
3605 convicted to a term of six months to run consecutively and not concurrently.

3606 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

3607 (i) on a first conviction, guilty of a class B misdemeanor;

3608 (ii) on a second conviction, guilty of a class A misdemeanor; and

3609 (iii) on a third or subsequent conviction, guilty of a third degree felony.

3610 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
3611 amounting to a violation of Section 76-5-207:

3612 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
3613 body any measurable amount of a controlled substance; and

3614 (ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined
3615 in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section
3616 76-1-601 or the death of another[-]; or

3617 (B) if the controlled substance is marijuana, operates a motor vehicle as defined in
3618 Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in
3619 Section 76-1-601 or the death of another.

3620 (h) A person who violates Subsection (2)(g) by having in the person's body:

3621 (i) a controlled substance classified under Schedule I, other than those described in

3622 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
3623 degree felony;

3624 (ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or
3625 equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in
3626 Section 58-37-4.2 is guilty of a third degree felony; or

3627 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A
3628 misdemeanor.

3629 (i) A person is guilty of a separate offense for each victim suffering serious bodily
3630 injury or death as a result of the person's negligent driving in violation of Subsection (2)(g)
3631 whether or not the injuries arise from the same episode of driving.

3632 (j) The Administrative Office of the Courts shall report to the Division of Occupational
3633 and Professional Licensing the name, case number, date of conviction, and if known, the date
3634 of birth of each person convicted of violating Subsection (2)(a).

3635 (3) Prohibited acts C -- Penalties:

3636 (a) It is unlawful for a person knowingly and intentionally:

3637 (i) to use in the course of the manufacture or distribution of a controlled substance a
3638 license number which is fictitious, revoked, suspended, or issued to another person or, for the
3639 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
3640 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
3641 person;

3642 (ii) to acquire or obtain possession of, to procure or attempt to procure the
3643 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
3644 attempting to acquire or obtain possession of, or to procure the administration of a controlled
3645 substance by misrepresentation or failure by the person to disclose receiving a controlled
3646 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
3647 prescription or written order for a controlled substance, or the use of a false name or address;

3648 (iii) to make a false or forged prescription or written order for a controlled substance,
3649 or to utter the same, or to alter a prescription or written order issued or written under the terms
3650 of this chapter; or

3651 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
3652 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
3653 device of another or any likeness of any of the foregoing upon any drug or container or labeling
3654 so as to render a drug a counterfeit controlled substance.

3655 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
3656 misdemeanor.

3657 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
3658 degree felony.

3659 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

3660 (4) Prohibited acts D -- Penalties:

3661 (a) Notwithstanding other provisions of this section, a person not authorized under this
3662 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
3663 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
3664 of fact finds the act is committed:

3665 (i) in a public or private elementary or secondary school or on the grounds of any of
3666 those schools during the hours of 6 a.m. through 10 p.m.;

3667 (ii) in a public or private vocational school or postsecondary institution or on the
3668 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

3669 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
3670 facility's hours of operation;

3671 (iv) in a public park, amusement park, arcade, or recreation center when the public or
3672 amusement park, arcade, or recreation center is open to the public;

3673 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

3674 (vi) in or on the grounds of a library when the library is open to the public;

3675 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
3676 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

3677 (viii) in the presence of a person younger than 18 years of age, regardless of where the
3678 act occurs; or

3679 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
3680 distribution of a substance in violation of this section to an inmate or on the grounds of a
3681 correctional facility as defined in Section 76-8-311.3.

3682 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
3683 and shall be imprisoned for a term of not less than five years if the penalty that would
3684 otherwise have been established but for this Subsection (4) would have been a first degree
3685 felony.

3686 (ii) Imposition or execution of the sentence may not be suspended, and the person is
3687 not eligible for probation.

3688 (c) If the classification that would otherwise have been established would have been
3689 less than a first degree felony but for this Subsection (4), a person convicted under this
3690 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
3691 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

3692 (d) (i) If the violation is of Subsection (4)(a)(ix):

3693 (A) the person may be sentenced to imprisonment for an indeterminate term as
3694 provided by law, and the court shall additionally sentence the person convicted for a term of
3695 one year to run consecutively and not concurrently; and

3696 (B) the court may additionally sentence the person convicted for an indeterminate term
3697 not to exceed five years to run consecutively and not concurrently; and

3698 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
3699 the mental state required for the commission of an offense, directly or indirectly solicits,
3700 requests, commands, coerces, encourages, or intentionally aids another person to commit a
3701 violation of Subsection (4)(a)(ix).

3702 (e) It is not a defense to a prosecution under this Subsection (4) that:

3703 (i) the actor mistakenly believed the individual to be 18 years of age or older at the
3704 time of the offense or was unaware of the individual's true age; or

3705 (ii) the actor mistakenly believed that the location where the act occurred was not as
3706 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
3707 described in Subsection (4)(a).

3708 (5) A violation of this chapter for which no penalty is specified is a class B
3709 misdemeanor.

3710 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
3711 guilty or no contest to a violation or attempted violation of this section or a plea which is held
3712 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
3713 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
3714 abeyance agreement.

3715 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
3716 conviction that is:

3717 (i) from a separate criminal episode than the current charge; and
3718 (ii) from a conviction that is separate from any other conviction used to enhance the
3719 current charge.

3720 (7) A person may be charged and sentenced for a violation of this section,
3721 notwithstanding a charge and sentence for a violation of any other section of this chapter.

3722 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
3723 of, a civil or administrative penalty or sanction authorized by law.

3724 (b) When a violation of this chapter violates a federal law or the law of another state,
3725 conviction or acquittal under federal law or the law of another state for the same act is a bar to
3726 prosecution in this state.

3727 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
3728 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
3729 substance or substances, is prima facie evidence that the person or persons did so with
3730 knowledge of the character of the substance or substances.

3731 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
3732 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
3733 administering controlled substances or from causing the substances to be administered by an
3734 assistant or orderly under the veterinarian's direction and supervision.

3735 (11) Civil or criminal liability may not be imposed under this section on:

3736 (a) a person registered under this chapter who manufactures, distributes, or possesses
3737 an imitation controlled substance for use as a placebo or investigational new drug by a
3738 registered practitioner in the ordinary course of professional practice or research; or

3739 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
3740 employment.

3741 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
3742 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
3743 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
3744 as defined in Section 58-37-2.

3745 (b) In a prosecution alleging violation of this section regarding peyote as defined in
3746 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
3747 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a

3748 traditional Indian religion.

3749 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
3750 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
3751 trial.

3752 (ii) The notice shall include the specific claims of the affirmative defense.

3753 (iii) The court may waive the notice requirement in the interest of justice for good
3754 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

3755 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
3756 a preponderance of the evidence. If the defense is established, it is a complete defense to the
3757 charges.

3758 (13) (a) It is an affirmative defense that the person produced, possessed, or
3759 administered a controlled substance listed in Section 58-37-4.2 if the person was:

3760 (i) engaged in medical research; and

3761 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

3762 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
3763 a controlled substance listed in Section 58-37-4.2.

3764 (14) It is an affirmative defense that the person possessed, in the person's body, a
3765 controlled substance listed in Section 58-37-4.2 if:

3766 (a) the person was the subject of medical research conducted by a holder of a valid
3767 license to possess controlled substances under Section 58-37-6; and

3768 (b) the substance was administered to the person by the medical researcher.

3769 (15) The application of any increase in penalty under this section to a violation of
3770 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
3771 Subsection (15) takes precedence over any conflicting provision of this section.

3772 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
3773 listed in Subsection (16)(b) that the person:

3774 (i) reasonably believes that the person or another person is experiencing an overdose
3775 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
3776 controlled substance or other substance;

3777 (ii) reports in good faith the overdose event to a medical provider, an emergency
3778 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911

3779 emergency call system, or an emergency dispatch system, or the person is the subject of a
3780 report made under this Subsection (16);

3781 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
3782 actual location of the overdose event that facilitates responding to the person experiencing the
3783 overdose event;

3784 (iv) remains at the location of the person experiencing the overdose event until a
3785 responding law enforcement officer or emergency medical service provider arrives, or remains
3786 at the medical care facility where the person experiencing an overdose event is located until a
3787 responding law enforcement officer arrives;

3788 (v) cooperates with the responding medical provider, emergency medical service
3789 provider, and law enforcement officer, including providing information regarding the person
3790 experiencing the overdose event and any substances the person may have injected, inhaled, or
3791 otherwise introduced into the person's body; and

3792 (vi) is alleged to have committed the offense in the same course of events from which
3793 the reported overdose arose.

3794 (b) The offenses referred to in Subsection (16)(a) are:

3795 (i) the possession or use of less than 16 ounces of marijuana;

3796 (ii) the possession or use of a scheduled or listed controlled substance other than
3797 marijuana; and

3798 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
3799 Imitation Controlled Substances Act.

3800 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
3801 include seeking medical assistance under this section during the course of a law enforcement
3802 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

3803 (17) If any provision of this chapter, or the application of any provision to any person
3804 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
3805 invalid provision or application.

3806 (18) A legislative body of a political subdivision may not enact an ordinance that is
3807 less restrictive than any provision of this chapter.

3808 (19) If a minor who is under 18 years of age is found by a court to have violated this
3809 section, the court may order the minor to complete:

- 3810 (a) a screening as defined in Section [41-6a-501](#);
- 3811 (b) an assessment as defined in Section [41-6a-501](#) if the screening indicates an
- 3812 assessment to be appropriate; and
- 3813 (c) an educational series as defined in Section [41-6a-501](#) or substance use disorder
- 3814 treatment as indicated by an assessment.

3815 Section 38. Section **76-10-101** is amended to read:

3816 **76-10-101. Definitions.**

3817 As used in this part:

3818 (1) "Cigar" means a product that contains nicotine, is intended to be burned under

3819 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in

3820 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described

3821 in Subsection (2).

3822 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under

3823 ordinary conditions of use, and consists of:

3824 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

3825 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of

3826 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to

3827 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

3828 (3) (a) "Electronic cigarette" means an electronic cigarette product, as defined in

3829 Section [59-14-802](#).

3830 (b) "Electronic cigarette" does not mean a medical cannabis device, as that term is

3831 defined in Section [26-61a-102](#).

3832 (4) "Place of business" includes:

3833 (a) a shop;

3834 (b) a store;

3835 (c) a factory;

3836 (d) a public garage;

3837 (e) an office;

3838 (f) a theater;

3839 (g) a recreation hall;

3840 (h) a dance hall;

- 3841 (i) a poolroom;
- 3842 (j) a café;
- 3843 (k) a cafeteria;
- 3844 (l) a cabaret;
- 3845 (m) a restaurant;
- 3846 (n) a hotel;
- 3847 (o) a lodging house;
- 3848 (p) a streetcar;
- 3849 (q) a bus;
- 3850 (r) an interurban or railway passenger coach;
- 3851 (s) a waiting room; and
- 3852 (t) any other place of business.
- 3853 (5) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
- 3854 lighted smoking equipment.

3855 Section 39. Section **76-10-528** is amended to read:

3856 **76-10-528. Carrying a dangerous weapon while under influence of alcohol or**
3857 **drugs unlawful.**

3858 (1) It is a class B misdemeanor for any person to carry a dangerous weapon while
3859 under the influence of:

- 3860 (a) alcohol as determined by the person's blood or breath alcohol concentration in
3861 accordance with Subsections [41-6a-502\(1\)\(a\)](#) through (c); or
- 3862 (b) a controlled substance as defined in Section [58-37-2](#).

3863 (2) This section does not apply to:

- 3864 (a) a person carrying a dangerous weapon that is either securely encased, as defined in
3865 this part, or not within such close proximity and in such a manner that it can be retrieved and
3866 used as readily as if carried on the person;

3867 (b) any person who uses or threatens to use force in compliance with Section [76-2-402](#);
3868 [~~or~~]

3869 (c) any person carrying a dangerous weapon in the person's residence or the residence
3870 of another with the consent of the individual who is lawfully in possession~~[-]; or~~

3871 (d) a person under the influence of cannabis or a cannabis product, as those terms are

3872 defined in Section 26-61a-102, if the person's use of the cannabis or cannabis product complies
3873 with Title 26, Chapter 61a, Utah Medical Cannabis Act.

3874 (3) It is not a defense to prosecution under this section that the person:

3875 (a) is licensed in the pursuit of wildlife of any kind; or

3876 (b) has a valid permit to carry a concealed firearm.

3877 Section 40. Section **77-40-105 (Superseded 05/01/20)** is amended to read:

3878 **77-40-105 (Superseded 05/01/20). Eligibility for expungement of conviction --**

3879 **Requirements.**

3880 (1) A person convicted of an offense may apply to the bureau for a certificate of
3881 eligibility to expunge the record of conviction as provided in this section.

3882 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau if:

3883 (a) the conviction for which expungement is sought is:

3884 (i) a capital felony;

3885 (ii) a first degree felony;

3886 (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

3887 (iv) felony automobile homicide;

3888 (v) a felony violation of Subsection 41-6a-501(2);

3889 (vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

3890 (vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

3891 (b) a criminal proceeding is pending against the petitioner; or

3892 (c) the petitioner intentionally or knowingly provides false or misleading information
3893 on the application for a certificate of eligibility.

3894 (3) A petitioner seeking to obtain expungement for a record of conviction is not
3895 eligible to receive a certificate of eligibility from the bureau until all of the following have
3896 occurred:

3897 (a) all fines and interest ordered by the court related to the conviction for which
3898 expungement is sought have been paid in full;

3899 (b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board
3900 of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and

3901 (c) the following time periods have elapsed from the date the petitioner was convicted
3902 or released from incarceration, parole, or probation, whichever occurred last, for each

3903 conviction the petitioner seeks to expunge:

3904 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a
3905 felony conviction of Subsection 58-37-8(2)(g);

3906 (ii) seven years in the case of a felony;

3907 (iii) five years in the case of any class A misdemeanor or a felony drug possession
3908 offense;

3909 (iv) four years in the case of a class B misdemeanor; or

3910 (v) three years in the case of any other misdemeanor or infraction.

3911 (4) The bureau may not count pending or previous infractions, traffic offenses, or
3912 minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or
3913 minor regulatory offenses, when determining expungement eligibility.

3914 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner
3915 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
3916 including previously expunged convictions, contains any of the following, except as provided
3917 in Subsection (8):

3918 (a) two or more felony convictions other than for drug possession offenses, each of
3919 which is contained in a separate criminal episode;

3920 (b) any combination of three or more convictions other than for drug possession
3921 offenses that include two class A misdemeanor convictions, each of which is contained in a
3922 separate criminal episode;

3923 (c) any combination of four or more convictions other than for drug possession
3924 offenses that include three class B misdemeanor convictions, each of which is contained in a
3925 separate criminal episode; or

3926 (d) five or more convictions other than for drug possession offenses of any degree
3927 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

3928 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner
3929 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
3930 including previously expunged convictions, contains any of the following:

3931 (a) three or more felony convictions for drug possession offenses, each of which is
3932 contained in a separate criminal episode; or

3933 (b) any combination of five or more convictions for drug possession offenses, each of

3934 which is contained in a separate criminal episode.

3935 (7) If the petitioner's criminal history contains convictions for both a drug possession
3936 offense and a non drug possession offense arising from the same criminal episode, that criminal
3937 episode shall be counted as provided in Subsection (5) if any non drug possession offense in
3938 that episode:

3939 (a) is a felony or class A misdemeanor; or

3940 (b) has the same or a longer waiting period under Subsection (3) than any drug
3941 possession offense in that episode.

3942 (8) If at least 10 years have elapsed from the date the petitioner was convicted or
3943 released from incarceration, parole, or probation, whichever occurred last, for all convictions,
3944 then each eligibility limit defined in Subsection (5) shall be increased by one.

3945 (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board
3946 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
3947 crimes pursuant to Section [77-27-5.1](#).

3948 (10) Notwithstanding Subsections (3), (5), (6), (7), and (8), a petitioner seeking to
3949 obtain expungement for a record of conviction related to cannabis possession is eligible to
3950 receive a certificate of eligibility from the bureau if the petitioner can demonstrate that:

3951 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
3952 conviction, a qualifying condition, as that term is defined in Section [26-61a-102](#); and

3953 (b) the possession of cannabis in question was in a form and an amount to medicinally
3954 treat the condition described in Subsection (10)(a).

3955 Section 41. Section **77-40-105 (Effective 05/01/20)** is amended to read:

3956 **77-40-105 (Effective 05/01/20). Requirements to apply for a certificate of**
3957 **eligibility to expunge conviction.**

3958 (1) An individual convicted of an offense may apply to the bureau for a certificate of
3959 eligibility to expunge the record of conviction as provided in this section.

3960 (2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

3961 (a) the conviction for which expungement is sought is:

3962 (i) a capital felony;

3963 (ii) a first degree felony;

3964 (iii) a violent felony as defined in Subsection [76-3-203.5\(1\)\(c\)\(i\)](#);

- 3965 (iv) felony automobile homicide;
- 3966 (v) a felony violation of Subsection 41-6a-501(2);
- 3967 (vi) a registerable sex offense as defined in Subsection 77-41-102(17); or
- 3968 (vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);
- 3969 (b) a criminal proceeding is pending against the petitioner; or
- 3970 (c) the petitioner intentionally or knowingly provides false or misleading information
- 3971 on the application for a certificate of eligibility.
- 3972 (3) A petitioner seeking to obtain expungement for a record of conviction is not
- 3973 eligible to receive a certificate of eligibility from the bureau until all of the following have
- 3974 occurred:
- 3975 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
- 3976 conviction for which expungement is sought;
- 3977 (b) the petitioner has paid in full all restitution ordered by the court pursuant to Section
- 3978 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6; and
- 3979 (c) the following time periods have elapsed from the date the petitioner was convicted
- 3980 or released from incarceration, parole, or probation, whichever occurred last, for each
- 3981 conviction the petitioner seeks to expunge:
- 3982 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a
- 3983 felony conviction of Subsection 58-37-8(2)(g);
- 3984 (ii) seven years in the case of a felony;
- 3985 (iii) five years in the case of any class A misdemeanor or a felony drug possession
- 3986 offense;
- 3987 (iv) four years in the case of a class B misdemeanor; or
- 3988 (v) three years in the case of any other misdemeanor or infraction.
- 3989 (4) The bureau may not count pending or previous infractions, traffic offenses, or
- 3990 minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or
- 3991 minor regulatory offenses, when determining expungement eligibility.
- 3992 (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner
- 3993 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
- 3994 including previously expunged convictions, contains any of the following, except as provided
- 3995 in Subsection (8):

3996 (a) two or more felony convictions other than for drug possession offenses, each of
3997 which is contained in a separate criminal episode;

3998 (b) any combination of three or more convictions other than for drug possession
3999 offenses that include two class A misdemeanor convictions, each of which is contained in a
4000 separate criminal episode;

4001 (c) any combination of four or more convictions other than for drug possession
4002 offenses that include three class B misdemeanor convictions, each of which is contained in a
4003 separate criminal episode; or

4004 (d) five or more convictions other than for drug possession offenses of any degree
4005 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

4006 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner
4007 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
4008 including previously expunged convictions, contains any of the following:

4009 (a) three or more felony convictions for drug possession offenses, each of which is
4010 contained in a separate criminal episode; or

4011 (b) any combination of five or more convictions for drug possession offenses, each of
4012 which is contained in a separate criminal episode.

4013 (7) If the petitioner's criminal history contains convictions for both a drug possession
4014 offense and a non drug possession offense arising from the same criminal episode, that criminal
4015 episode shall be counted as provided in Subsection (5) if any non drug possession offense in
4016 that episode:

4017 (a) is a felony or class A misdemeanor; or

4018 (b) has the same or a longer waiting period under Subsection (3) than any drug
4019 possession offense in that episode.

4020 (8) If at least 10 years have elapsed from the date the petitioner was convicted or
4021 released from incarceration, parole, or probation, whichever occurred last, for all convictions,
4022 then each eligibility limit defined in Subsection (5) shall be increased by one.

4023 (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board
4024 of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned
4025 crimes pursuant to Section [77-27-5.1](#).

4026 (10) Notwithstanding Subsections (3), (5), (6), (7), and (8), a petitioner seeking to

4027 obtain expungement for a record of conviction related to cannabis possession is eligible to
4028 receive a certificate of eligibility from the bureau if the petitioner can demonstrate that:

4029 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
4030 conviction, a qualifying condition, as that term is defined in Section [26-61a-102](#); and

4031 (b) the possession of cannabis in question was in a form and an amount to medicinally
4032 treat the condition described in Subsection (10)(a).

4033 Section 42. **Effective date.**

4034 If approved by two-thirds of all the members elected to each house, this bill takes effect
4035 upon approval by the governor, or the day following the constitutional time limit of Utah
4036 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
4037 the date of veto override.