

Senator Evan J. Vickers proposes the following substitute bill:

MEDICAL CANNABIS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Brad M. Daw

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 cultivators and processors;
- ▶ amends provisions regarding access to an inventory control system by certain financial institutions that the Division of Finance validates;
- ▶ amends proximity requirements regarding community locations;
- ▶ allows the Utah Department of Agriculture and Food (UDAF) to grant a partial-year limited license to operate as a cannabis processing facility in certain circumstances;
- ▶ increases the ability of UDAF to revoke a cannabis production establishment license;
- ▶ allows for UDAF to operate an independent cannabis testing laboratory;
- ▶ clarifies provisions regarding license renewal;



- 26 ▶ allows a cannabis cultivation facility to operate using up to two locations;
- 27 ▶ allows for the use of stacking plants within allotted square footage limitations;
- 28 ▶ allows for a cannabis production establishment to hold educational events under
29 certain circumstances and in accordance with UDAF rules;
- 30 ▶ allows an individual without a state cannabis-related license to transport medical
31 cannabis devices in certain circumstances;
- 32 ▶ amends provisions regarding flavoring of cannabis products;
- 33 ▶ allows the Cannabinoid Product Board to review a broader category of scientific
34 research;
- 35 ▶ clarifies legal dosage limits;
- 36 ▶ amends provisions regarding the packaging for raw cannabis flower;
- 37 ▶ amends the directions of use and dosing guidelines that may be associated with a
38 medical cannabis recommendation;
- 39 ▶ amends the medicinal dosage form for unprocessed cannabis flower;
- 40 ▶ amends provisions regarding access to the electronic verification system by law
41 enforcement and certain medical staff;
- 42 ▶ amends provisions regarding the obtaining and renewing of medical cannabis cards;
- 43 ▶ reduces the degree required for the professional who diagnoses or confirms
44 post-traumatic stress disorder as a qualifying condition;
- 45 ▶ requires the Compassionate Use Board to review recommendations for the use of
46 medical cannabis devices by patients under a certain age to vaporize medical
47 cannabis;
- 48 ▶ provides for an expedited petition process from the Compassionate Use Board to the
49 Department of Health (DoH);
- 50 ▶ exempts the Compassionate Use Board from certain compensation restrictions;
- 51 ▶ amends the patient limits on qualified medical providers and the specializations
52 which allow qualified medical providers to recommend medical cannabis to a larger
53 patient population;
- 54 ▶ amends provisions regarding medical professionals advertising regarding medical
55 cannabis;
- 56 ▶ provides protections for state or political subdivisions employees using medical

- 57 cannabis;
- 58 ▶ provides that private employers are not required to accommodate the use of medical
- 59 cannabis;
- 60 ▶ amends provisions regarding designated caregivers for certain minors and patients
- 61 in certain health care facilities;
- 62 ▶ directs DoH to establish a registration process that would allow out-of-state patients
- 63 visiting the state to purchase medical cannabis within the state under certain
- 64 conditions;
- 65 ▶ amends certain criminal penalties, including for certain nonresident patients, to be
- 66 infractions on a first offense;
- 67 ▶ increases the ability of DoH to revoke a medical cannabis pharmacy license;
- 68 ▶ amends requirements for pharmacist counseling or consultation based on the
- 69 directions of use and dosing guidelines that may accompany a medical cannabis
- 70 recommendation;
- 71 ▶ allows a medical cannabis pharmacy to purchase medical cannabis devices from a
- 72 seller that does not have a state cannabis-related license;
- 73 ▶ allow UDAF to conduct random sampling of medical cannabis in medical cannabis
- 74 pharmacies;
- 75 ▶ amends provisions regarding medical cannabis pharmacy advertising, including
- 76 allowing a medical cannabis pharmacy to hold educational events under certain
- 77 circumstances and in accordance with DoH rules;
- 78 ▶ amends provisions regarding the transportation of medical cannabis and medical
- 79 cannabis devices;
- 80 ▶ allows for the state central patient portal to facilitate electronic medical cannabis
- 81 orders for an individual to obtain in person at a medical cannabis pharmacy;
- 82 ▶ allows a pharmacy medical provider to transport medical cannabis in certain
- 83 circumstances;
- 84 ▶ provides that meetings of the Compassionate Use Board are closed meetings;
- 85 ▶ amends the definition of marijuana;
- 86 ▶ creates a rebuttable presumption for cannabidiol use in certain circumstances;
- 87 ▶ exempts cannabis metabolite from a driving-related crime in certain circumstances;

- 88 ▶ adds a cannabis-based drug to the Controlled Substances Act;
- 89 ▶ amends the level of negligence required for certain marijuana-related vehicular
- 90 injuries to constitute a felony;
- 91 ▶ distinguishes medical cannabis devices from electronic cigarettes;
- 92 ▶ exempts a lawful medical cannabis user from a weapons restriction;
- 93 ▶ provides for expungement of cannabis-related convictions in certain circumstances;
- 94 and
- 95 ▶ makes technical and conforming changes.

96 **Money Appropriated in this Bill:**

97 None

98 **Other Special Clauses:**

99 This bill provides a special effective date.

100 **Utah Code Sections Affected:**

101 AMENDS:

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

103 **4-41-402**, as last amended by Laws of Utah 2019, Chapter 23

104 **4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

105 **4-41a-103**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

106 **4-41a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

107 **4-41a-203**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

108 Chapter 1

109 **4-41a-204**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

110 **4-41a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

111 **4-41a-404**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

112 **4-41a-602**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

113 Chapter 1

114 **4-41a-603**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

115 Chapter 1

116 **26-61-202**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

117 **26-61a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

118 **26-61a-103**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

- 119 **26-61a-104**, as last amended by Laws of Utah 2019, Chapter 136
- 120 **26-61a-105**, as last amended by Laws of Utah 2019, Chapter 341
- 121 **26-61a-106**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 122 **26-61a-111**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 123 **26-61a-113**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 124 **26-61a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 125 **26-61a-202**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 126 **26-61a-204**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 127 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 128 **26-61a-303**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 129 Chapter 1
- 130 **26-61a-501**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 131 Chapter 1
- 132 **26-61a-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 133 **26-61a-504**, as last amended by Laws of Utah 2019, Chapter 136
- 134 **26-61a-505**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 135 **26-61a-506**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 136 **26-61a-601**, as repealed and reenacted by Laws of Utah 2019, First Special Session,
- 137 Chapter 5
- 138 **26-61a-603**, as repealed and reenacted by Laws of Utah 2019, First Special Session,
- 139 Chapter 5
- 140 **26-61a-605**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 141 **41-6a-517**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 142 **52-4-205**, as last amended by Laws of Utah 2019, Chapter 417
- 143 **58-37-2**, as last amended by Laws of Utah 2015, Chapter 258
- 144 **58-37-3.7**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 145 **58-37-3.9**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 146 **58-37-4**, as last amended by Laws of Utah 2019, Chapters 59 and 343
- 147 **58-37-8**, as last amended by Laws of Utah 2019, Chapter 58
- 148 **58-67-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 149 **58-68-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

150 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
151 by Coordination Clause, Laws of Utah 2015, Chapter 132
152 **76-10-528**, as last amended by Laws of Utah 2019, Chapter 458
153 **77-40-103 (Superseded 05/01/20)**, as last amended by Laws of Utah 2014, Chapter 263
154 **77-40-103 (Effective 05/01/20)**, as last amended by Laws of Utah 2019, Chapter 448
155 **77-40-107 (Superseded 05/01/20)**, as last amended by Laws of Utah 2018, Chapter 266
156 **77-40-107 (Effective 05/01/20)**, as last amended by Laws of Utah 2019, Chapter 448
157 **78A-2-231**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5
158 **78A-6-115**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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

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

162 **4-41-102. Definitions.**

163 As used in this chapter:

164 (1) "Cannabinoid product" means a chemical compound extracted from a hemp
165 product that:

- 166 (a) is processed into a medicinal dosage form; and
- 167 (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

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

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

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

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

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

180 (7) "Medicinal dosage form" means:

- 181 (a) a tablet;
- 182 (b) a capsule;
- 183 (c) a concentrated oil;
- 184 (d) a liquid suspension;
- 185 [~~(d)~~] (e) a sublingual preparation;
- 186 [~~(e)~~] (f) a topical preparation;
- 187 [~~(f)~~] (g) a transdermal preparation;
- 188 [~~(g)~~] (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
- 189 rectangular cuboid shape; or
- 190 [~~(h)~~] (i) other preparations that the department approves.
- 191 (8) "Person" means:
- 192 (a) an individual, partnership, association, firm, trust, limited liability company, or
- 193 corporation; and
- 194 (b) an agent or employee of an individual, partnership, association, firm, trust, limited
- 195 liability company, or corporation.
- 196 (9) "Research pilot program" means a program conducted by the department in
- 197 collaboration with at least one licensee to study methods of cultivating, processing, or
- 198 marketing industrial hemp.
- 199 Section 2. Section **4-41-402** is amended to read:
- 200 **4-41-402. Cannabinoid sales and use authorized.**
- 201 (1) The sale or use of a cannabinoid product is prohibited:
- 202 (a) except as provided in this chapter; or
- 203 (b) unless the United States Food and Drug Administration approves the product.
- 204 (2) The department shall keep a list of registered cannabinoid products that the
- 205 department has determined, in accordance with Section **4-41-403**, are safe for human
- 206 consumption.
- 207 (3) (a) A person may sell or use a cannabinoid product that is in the list of registered
- 208 ~~[cannabidiol]~~ cannabinoid products described in Subsection (2).
- 209 (b) An individual may use cannabidiol or a cannabidiol product that is not in the list of
- 210 registered cannabinoid products described in Subsection (2) if:
- 211 (i) the individual purchased the product outside the state; and

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

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

215 **4-41a-102. Definitions.**

216 As used in this chapter:

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

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

219 (a) possesses cannabis;

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

221 (ii) acquires or intends to acquire cannabis from a holder of an industrial hemp

222 cultivation license or an industrial hemp processor license under Title 4, Chapter 41, Hemp and
223 Cannabinoid Act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

242 (7) "Cannabis production establishment" means a cannabis cultivation facility, a

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

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

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

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

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

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

254 (11) "Cultivation space" means, quantified in square feet, the horizontal area in which
255 a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the
256 cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other
257 plants in multiple levels.

258 [(11)] (12) "Department" means the Department of Agriculture and Food.

259 [(12)] (13) "Family member" means a parent, step-parent, spouse, child, sibling,
260 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
261 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

262 [(13)] (14) (a) "Independent cannabis testing laboratory" means a person that:

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

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

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

268 [(14)] (15) "Independent cannabis testing laboratory agent" means an individual who:

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

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

271 [(15)] (16) "Inventory control system" means a system described in Section 4-41a-103.

272 [(16)] (17) "Medical cannabis" means the same as that term is defined in Section
273 26-61a-102.

274 [~~(17)~~] (18) "Medical cannabis card" means the same as that term is defined in Section
275 26-61a-102.

276 [~~(18)~~] (19) "Medical cannabis pharmacy" means the same as that term is defined in
277 Section 26-61a-102.

278 [~~(19)~~] (20) "Medical cannabis pharmacy agent" means the same as that term is defined
279 in Section 26-61a-102.

280 [~~(20)~~] (21) "Medical cannabis research license" means a license that the department
281 issues to a research university for the purpose of obtaining and possessing medical cannabis for
282 academic research.

283 [~~(21)~~] (22) "Medical cannabis research licensee" means a research university that the
284 department licenses to obtain and possess medical cannabis for academic research, in
285 accordance with Section 4-41a-901.

286 [(22)] (23) "Medical cannabis treatment" means the same as that term is defined in
287 Section 26-61a-102.

288 [~~(23)~~] (24) "Medicinal dosage form" means the same as that term is defined in Section
289 26-61a-102.

290 [(24)] (25) "Qualified medical provider" means the same as that term is defined in
291 Section 26-61a-102.

292 [(25)] (26) "Qualified Production Enterprise Fund" means the fund created in Section
293 4-41a-104.

294 [(26)] (27) "Research university" means the same as that term is defined in Section
295 53B-7-702.

296 [(27)] (28) "State electronic verification system" means the system described in Section
297 26-61a-103.

298 [(28)] (29) "Tetrahydrocannabinol" means a substance derived from cannabis or a
299 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

300 [(29)] (30) "Total composite tetrahydrocannabinol" means
301 delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

302 Section 4. Section 4-41a-103 is amended to read:

303 **4-41a-103. Inventory control system.**

304 (1) Each cannabis production establishment and each medical cannabis pharmacy shall

305 maintain an inventory control system that meets the requirements of this section.

306 (2) A cannabis production establishment and a medical cannabis pharmacy shall ensure
307 that the inventory control system maintained by the establishment or pharmacy:

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

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

313 (c) includes a video recording system that:

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

316 (ii) is tamper proof; and

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

318 (d) preserves compatibility with the state electronic verification system described in
319 Section [26-61a-103](#).

320 (3) A cannabis production establishment and a medical cannabis pharmacy shall allow
321 the [~~department or the Department of Health~~] following to access [~~to~~] the cannabis production
322 establishment's or the medical cannabis pharmacy's inventory control system at any time[-]:

323 (a) the department;

324 (b) the Department of Health; and

325 (c) a financial institution that the Division of Finance validates, in accordance with
326 Subsection (6).

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

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

334 (b) The department shall ensure that the rules described in Subsection (5)(a) address
335 record-keeping for the amount of planted seed, number of cuttings taken, date and time of

336 cutting and planting, number of plants established, and number of plants culled or dead.

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

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

340 (A) establish a process for validating financial institutions for access to an inventory
341 control system in accordance with Subsections (3)(c) and (6)(b); and

342 (B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);

343 (ii) review applications the Division of Finance receives in accordance with the process
344 established under Subsection (6)(a)(i);

345 (iii) validate a financial institution that meets the qualifications described in Subsection
346 (6)(a)(i); and

347 (iv) provide a list of validated financial institutions to the department and the
348 Department of Health.

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

351 (i) may only access an inventory control system for the purpose of reconciling
352 transactions and other financial activity of cannabis production establishments, medical
353 cannabis pharmacies, and medical cannabis couriers that use financial services that the
354 financial institution provides;

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

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

357 Section 5. Section **4-41a-201** is amended to read:

358 **4-41a-201. Cannabis production establishment -- License.**

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

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

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

365 (B) for a licensing process that the department initiates after September 23, 2019, the
366 department shall issue a license to operate a cannabis production establishment in accordance

367 with the procedures described in Subsection (2)(a)(iii).

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

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

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

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

374 (C) timely and objectively evaluate applications;

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

376 (E) select applicants to receive a license.

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

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

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

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

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

388 (iii) an operating plan that:

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

390 (B) includes operating procedures that comply with this chapter and any law the
391 municipality or county in which the person is located adopts that is consistent with Section
392 4-41a-406; and

393 (C) the department approves;

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

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

397 (B) \$50,000 for each cannabis processing facility or independent cannabis testing

398 laboratory for which the applicant applies;

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

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

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

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

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

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

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

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

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

419 ~~(a)~~ (i) the applicant shall pay the department:

420 (A) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the
421 department sets in accordance with Section 63J-1-504; ~~and~~ or

422 (B) a fee for a 120-day limited license to operate as a cannabis processing facility
423 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
424 Subsection (3)(a)(i)(A).

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

427 (b) (i) (A) Before July 1, 2020, the department may issue a 120-day limited license to
428 operate as a cannabis processing facility to an eligible applicant.

429 (B) Except as provided in Subsection (3)(b)(i)(C), the department may not renew the
430 120-day limited license.

431 (C) At the termination of the 120-day limited license, the department may issue a
432 full-year license in accordance with Section 4-41a-203.

433 (ii) An applicant is eligible for the 120-day limited license described in Subsection
434 (3)(b)(i) if the applicant:

435 (A) is eligible for a full-year license under this section; and

436 (B) has submitted an application for a full-year license under this section.

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

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

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

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

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

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

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

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

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

459 (i) a felony; or

- 460 (ii) after December 3, 2018, a misdemeanor for drug distribution;
- 461 (b) is younger than 21 years old; or
- 462 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.
- 463 (8) If an applicant for a cannabis production establishment license under this section
- 464 holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a,
- 465 Utah Medical Cannabis Act, the department:
- 466 (a) shall consult with the Department of Health regarding the applicant if the license
- 467 the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; ~~and~~
- 468 (b) may not give preference to the applicant based on the applicant's status as a holder
- 469 of a license described in this Subsection (8)[-]; and
- 470 (c) shall give preference to applicants that demonstrate an ability to increase efficiency
- 471 and decrease costs to patients.
- 472 (9) The department may revoke a license under this part:
- 473 (a) if the cannabis production establishment does not begin cannabis production
- 474 operations within one year after the day on which the department issues the initial license;
- 475 (b) after the ~~[cannabis production establishment makes]~~ third of the same violation of
- 476 this chapter [three times] in any of the licensee's licensed cannabis production establishments
- 477 or medical cannabis pharmacies;
- 478 (c) if any individual described in Subsection (2)(b) is convicted, while the license is
- 479 active, under state or federal law of:
- 480 (i) a felony; or
- 481 (ii) after December 3, 2018, a misdemeanor for drug distribution; ~~or~~
- 482 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
- 483 the time of application, or fails to supplement the information described in Subsection
- 484 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
- 485 application[-] within 14 calendar days after the licensee receives notice of the investigation or
- 486 adverse action; or
- 487 (e) if the cannabis production establishment demonstrates a willful or reckless
- 488 disregard for the requirements of this chapter or the rules the department makes in accordance
- 489 with this chapter.
- 490 (10) (a) A person who receives a cannabis production establishment license under this

491 chapter, if the municipality or county where the licensed cannabis production establishment
492 will be located requires a local land use permit, shall submit to the department a copy of the
493 licensee's approved application for the land use permit within 120 days after the day on which
494 the department issues the license.

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

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

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

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

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

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

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

508 (14) Notwithstanding this section, the department:

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

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

511 cease operating the independent cannabis testing laboratory unless:

512 (i) the department issues at least two licenses to independent cannabis testing
513 laboratories; and

514 (ii) the department has ensured that the licensed independent cannabis testing
515 laboratories have sufficient capacity to provide the testing necessary to support the state's
516 medical cannabis market; and

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

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

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

522 Section 6. Section 4-41a-203 is amended to read:

523 **4-41a-203. Renewal.**

524 The department shall renew a license issued under Section 4-41a-201 every year
525 without opening a process described in Subsection 4-41a-201(2)(a) or convert a 120-day
526 limited license described in Subsection 4-41a-201(3)(b) into a full-year license if, at the time of
527 renewal:

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

534 Section 7. Section 4-41a-204 is amended to read:

535 **4-41a-204. Operating plan.**

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

- 539 (a) a description of the physical characteristics of the proposed facility or, for a
540 cannabis cultivation facility, no more than two facility locations, including a floor plan and an
541 architectural elevation;
- 542 (b) a description of the credentials and experience of:
 - 543 (i) each officer, director, and owner of the proposed cannabis production
544 establishment; and
 - 545 (ii) any highly skilled or experienced prospective employee;
- 546 (c) the cannabis production establishment's employee training standards;
- 547 (d) a security plan;
- 548 (e) a description of the cannabis production establishment's inventory control system,
549 including a description of how the inventory control system is compatible with the state
550 electronic verification system described in Section 26-61a-103;
- 551 (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a
552 manner that is sanitary and preserves the integrity of the cannabis;

553 (g) for a cannabis cultivation facility, the information described in Subsection (2);
554 (h) for a cannabis processing facility, the information described in Subsection (3); and
555 (i) for an independent cannabis testing laboratory, the information described in
556 Subsection (4).

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

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

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

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

565 (i) for a facility that cultivates cannabis only indoors~~[-(A)]~~, use more than 100,000
566 total square feet ~~[for] of cultivation space[-, or (B) hang, suspend, stack or otherwise position~~
567 ~~plants above other plants to cultivate more plants through use of vertical space];~~

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

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

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

575 (ii) The department may, after conducting a review as described in Subsection
576 [4-41a-205\(2\)\(a\)](#), grant the authorization described in Subsection (2)(c)(i).

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

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

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

583 (e) The department shall, in accordance with Title 63G, Chapter 3, Utah

584 Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor
585 cultivation that:

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

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

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

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

594 [~~(f) Notwithstanding an applicant's proposed operating plan, a cannabis production~~
595 ~~establishment is subject to land use regulations, as defined in Sections [10-9a-103](#) and~~
596 ~~[17-27a-103](#), regarding the availability of outdoor cultivation in an industrial zone.]~~

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

599 (a) offered variety of cannabis product;

600 (b) cannabinoid extraction method;

601 (c) cannabinoid extraction equipment;

602 (d) processing equipment;

603 (e) processing techniques; and

604 (f) sanitation and manufacturing safety procedures for items for human consumption.

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

607 (a) cannabis and cannabis product testing capability;

608 (b) cannabis and cannabis product testing equipment; and

609 (c) testing methods, standards, practices, and procedures for testing cannabis and
610 cannabis products.

611 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
612 establishment is subject to land use regulations, as defined in Sections [10-9a-103](#) and
613 [17-27a-103](#), regarding the availability of outdoor cultivation in an industrial zone.

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

615 **4-41a-403. Advertising.**

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

618 (2) A cannabis production establishment may advertise an employment opportunity at
619 the cannabis production establishment.

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

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

622 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
623 devices.

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

627 (a) includes only:

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

629 (ii) a green cross;

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

631 (c) complies with local ordinances regulating signage.

632 (5) (a) A cannabis production establishment may hold an educational event for the
633 public or medical providers in accordance with this Subsection (5) and the rules described in
634 Subsection (5)(c).

635 (b) A cannabis production establishment may not include in an educational event
636 described in Subsection (5)(a):

637 (i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical
638 Cannabis Act;

639 (ii) any gift items or merchandise other than educational materials, as those terms are
640 defined by the department;

641 (iii) any marketing for a specific product from the cannabis production establishment;

642 or

643 (iv) a presenter other than the following:

644 (A) a cannabis production establishment agent;

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

646 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
647 Practice Act;

648 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
649 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

650 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
651 Act; or

652 (F) a state employee.

653 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
654 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
655 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

656 Section 9. Section **4-41a-404** is amended to read:

657 **4-41a-404. Medical cannabis transportation.**

658 (1) (a) Only the following individuals may transport cannabis [~~in a medicinal dosage~~
659 ~~form, a cannabis product in a medicinal dosage form, or a medical cannabis device]~~ or a
660 cannabis product under this chapter:

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

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

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

667 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter
668 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall
669 possess a transportation manifest that:

670 (a) includes a unique identifier that links the cannabis[;] or cannabis product[; ~~or~~
671 ~~medical cannabis device]~~ to a relevant inventory control system;

672 (b) includes origin and destination information for any cannabis[;] or cannabis
673 product[; ~~or medical cannabis device]~~ that the individual is transporting; and

674 (c) identifies the departure and arrival times and locations of the individual
675 transporting the cannabis[;] or cannabis product[; ~~or medical cannabis device]~~.

676 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may

677 establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
678 Act, requirements for transporting cannabis [~~in a medicinal dosage form, a cannabis product in~~
679 ~~a medicinal dosage form, or a medical cannabis device~~] or cannabis product to ensure that the
680 cannabis[;] or cannabis product[~~, or medical cannabis device~~] remains safe for human
681 consumption.

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

683 (i) between a cannabis [~~cultivation facility~~] production establishment and[~~-(A)~~]
684 another cannabis [~~cultivation facility; or (B) a cannabis processing facility~~] production
685 establishment; and

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

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

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

692 (i) guilty of an infraction; and

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

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

697 (d) If the agent described in Subsection (4)(a) is transporting more cannabis[;] or
698 cannabis product[~~, or medical cannabis devices~~] than the manifest identifies, except for a de
699 minimis administrative error:

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

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

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

706 (6) An individual other than an individual described in Subsection (1) may transport a
707 medical cannabis device within the state if the transport does not also contain medical

708 cannabis.

709 Section 10. Section **4-41a-602** is amended to read:

710 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

714 (i) clearly and unambiguously states that the cannabis product or package contains
715 cannabis;

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

718 (iii) has a unique identification number that:

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

720 (B) identifies the unique cannabis product manufacturing process the cannabis
721 processing facility used to manufacture the cannabis product;

722 (iv) identifies the cannabinoid extraction process that the cannabis processing facility
723 used to create the cannabis product;

724 (v) does not display an image, word, or phrase that the facility knows or should know
725 appeals to children; and

726 (vi) discloses each active or potentially active ingredient, in order of prominence, and
727 possible allergen; and

728 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a
729 container that:

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

731 (ii) does not appeal to children;

732 (iii) does not mimic a candy container;

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

734 (v) complies with child-resistant effectiveness standards that the United States
735 Consumer Product Safety Commission establishes; and

736 (vi) includes a warning label that states: "WARNING: Cannabis has intoxicating
737 effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP
738 OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed

739 by a qualified medical provider."

740 (2) For any cannabis or cannabis product that the cannabis processing facility processes
741 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
742 cuboid shape, the facility shall:

743 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or
744 other image of the content of the container; and

745 (b) include on the label described in Subsection (1)(a) a warning about the risks of
746 over-consumption.

747 (3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
748 Administrative Rulemaking Act~~[, establishing]~~ to establish:

749 (a) a standard labeling format that:

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

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

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

754 Section 11. Section ~~4-41a-603~~ is amended to read:

755 **4-41a-603. Cannabis product -- Product quality.**

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

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

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

760 ~~[(c)]~~ (iii) except as provided in Subsection (1)(b), for a cannabis product used in
761 vaporization other than unprocessed cannabis flower, includes a candy-like flavor or another
762 flavor that the facility knows or should know appeals to children.

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

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

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

770 Section 12. Section **26-61-202** is amended to read:

771 **26-61-202. Cannabinoid Product Board -- Duties.**

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

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

775 (b) was conducted or approved by the federal government[~~;~~]; or

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

777 (ii) demonstrates, as determined by the board, a sufficient level of scientific reliability

778 and significance to merit the board's review.

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

782 (a) medical conditions that respond to cannabis, cannabinoid products, and expanded
783 cannabinoid products;

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

785 (c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products
786 with other treatments; and

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

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

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

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

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

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

- 801 (4) The board shall submit the guidelines described in Subsection (3) to:
- 802 (a) the director of the Division of Occupational and Professional Licensing; and
- 803 (b) the Health and Human Services Interim Committee.
- 804 (5) The board shall report the board's findings before November 1 of each year to the
- 805 Health and Human Services Interim Committee.
- 806 (6) Guidelines that the board develops under this section may not limit the availability
- 807 of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4,
- 808 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
- 809 Cannabis Act.

810 Section 13. Section **26-61a-102** is amended to read:

811 **26-61a-102. Definitions.**

812 As used in this chapter:

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

814 ~~dose of cannabis or a cannabis product in a blister pack.]~~

815 [~~(2)~~] ~~"Blister pack" means a plastic, paper, or foil package with multiple blisters each~~

816 ~~containing no more than a single dose of cannabis or a cannabis product.]~~

817 [~~(3)~~] (1) "Cannabis" means marijuana.

818 [~~(4)~~] (2) "Cannabis cultivation facility" means the same as that term is defined in

819 Section [4-41a-102](#).

820 [~~(5)~~] (3) "Cannabis processing facility" means the same as that term is defined in

821 Section [4-41a-102](#).

822 [~~(6)~~] (4) "Cannabis product" means a product that:

823 (a) is intended for human use; and

824 (b) contains cannabis or tetrahydrocannabinol.

825 [~~(7)~~] (5) "Cannabis production establishment" means the same as that term is defined

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

827 [~~(8)~~] (6) "Cannabis production establishment agent" means the same as that term is

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

829 [~~(9)~~] (7) "Cannabis production establishment agent registration card" means the same

830 as that term is defined in Section [4-41a-102](#).

831 [~~(10)~~] (8) "Community location" means a public or private elementary or secondary

832 school, ~~[a licensed child-care facility or preschool,]~~ a church, a public library, a public
833 playground, or a public park.

834 ~~[(11)]~~ (9) "Department" means the Department of Health.

835 ~~[(12)]~~ (10) "Designated caregiver" means:

836 (a) an individual:

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

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

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

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

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

845 ~~[(13)]~~ (12) "Dosing ~~[parameters]~~ guidelines" means a quantity~~[-, routes,]~~ range and
846 frequency of administration for a recommended treatment of ~~[cannabis in a medicinal dosage~~
847 ~~form or a cannabis product in a medicinal dosage form]~~ medical cannabis.

848 ~~[(14)]~~ (13) "Financial institution" means a bank, trust company, savings institution, or
849 credit union, chartered and supervised under state or federal law.

850 ~~[(15)]~~ (14) "Home delivery medical cannabis pharmacy" means a medical cannabis
851 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
852 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
853 that the state central patient portal facilitates.

854 ~~[(16)]~~ (15) "Independent cannabis testing laboratory" means the same as that term is
855 defined in Section [4-41a-102](#).

856 ~~[(17)]~~ (16) "Inventory control system" means the system described in Section
857 [4-41a-103](#).

858 (17) "Legal dosage limit" means an amount that:

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

862 (b) may not exceed:

863 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and
864 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
865 greater than 20 grams of total composite tetrahydrocannabinol.

866 (18) "Legal use termination date" means a date on the label of a container of
867 unprocessed cannabis flower:

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

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

871 ~~[(18)]~~ (19) "Marijuana" means the same as that term is defined in Section 58-37-2.

872 ~~[(19)]~~ (20) "Medical cannabis" means cannabis in a medicinal dosage form or a
873 cannabis product in a medicinal dosage form.

874 ~~[(20)]~~ (21) "Medical cannabis card" means a medical cannabis patient card, a medical
875 cannabis guardian card, or a medical cannabis caregiver card.

876 ~~[(21)]~~ (22) "Medical cannabis cardholder" means:

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

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

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

881 26-61a-202(1)(b); and

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

883 (A) a caregiver designation described in Subsection 26-61a-202(1)(b);

884 (B) the identity of the individual presenting the documentation; and

885 (C) the relation of the individual presenting the documentation to the caregiver
886 designation.

887 ~~[(22)]~~ (23) "Medical cannabis caregiver card" means an electronic document that a
888 cardholder may print or store on an electronic device or a physical card or document that:

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

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

892 ~~[(23)]~~ (24) "Medical cannabis courier" means a courier that:

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

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

896 [~~24~~] (25) (a) "Medical cannabis device" means a device that an individual uses to
897 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
898 dosage form.

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

900 (i) facilitates cannabis combustion; or

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

902 [~~25~~] (26) "Medical cannabis guardian card" means an electronic document that a
903 cardholder may print or store on an electronic device or a physical card or document that:

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

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

907 [~~26~~] (27) "Medical cannabis patient card" means an electronic document that a
908 cardholder may print or store on an electronic device or a physical card or document that:

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

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

911 [~~27~~] (28) "Medical cannabis pharmacy" means a person that:

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

913 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
914 form from a cannabis processing facility; or

915 (B) a medical cannabis device; or

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

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

920 [~~28~~] (29) "Medical cannabis pharmacy agent" means an individual who:

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

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

923 [~~29~~] (30) "Medical cannabis pharmacy agent registration card" means a registration
924 card issued by the department that authorizes an individual to act as a medical cannabis

925 pharmacy agent.

926 ~~[(30)]~~ (31) "Medical cannabis shipment" means a shipment of medical cannabis or a
 927 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
 928 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
 929 electronic medical cannabis order that the state central patient portal facilitates.

930 ~~[(31)]~~ (32) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
 931 cannabis product in a medicinal dosage form, or a medical cannabis device.

932 ~~[(32)]~~ (33) (a) "Medicinal dosage form" means:

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

935 (A) a tablet;

936 (B) a capsule;

937 (C) a concentrated liquid or viscous oil;

938 (D) a liquid suspension;

939 (E) a topical preparation;

940 (F) a transdermal preparation;

941 (G) a sublingual preparation;

942 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
 943 rectangular cuboid shape; or

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

946 (ii) for unprocessed cannabis flower, ~~[a blister pack, with each individual blister]~~ a
 947 container described in Section 4-41a-602 that:

948 (A) ~~[containing a specific and consistent weight that does not exceed one gram and]~~
 949 contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight
 950 at the time of packaging; [and]

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

954 ~~[(B)]~~ (C) ~~[after December 31, 2020;]~~ is labeled with the container's content and
 955 weight, the date of purchase, the legal use termination date, and after December 31, 2020, a

956 barcode that provides information connected to an inventory control system [~~and the individual~~
957 ~~blister's content and weight~~]; and

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

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

960 (i) the medical cannabis cardholder has recently removed from the [~~blister pack~~]
961 container described in Subsection [~~(32)~~] (33)(a)(ii) for use; and

962 (ii) does not exceed the quantity described in Subsection [~~(32)~~] (33)(a)(ii).

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

964 (i) any unprocessed cannabis flower outside of the [~~blister pack~~] container described in
965 Subsection (33)(a)(ii), except as provided in Subsection [~~(32)~~] (33)(b); [~~or~~]

966 (ii) any unprocessed cannabis flower in a container described in Subsection (33)(a)(ii)
967 after the legal use termination date; or

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

970 (34) "Nonresident patient" means an individual who:

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

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

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

976 [~~(33)~~] (35) "Payment provider" means an entity that contracts with a cannabis
977 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
978 the establishment or pharmacy and other businesses or individuals.

979 [~~(34)~~] (36) "Pharmacy medical provider" means the medical provider required to be on
980 site at a medical cannabis pharmacy under Section 26-61a-403.

981 [~~(35)~~] (37) "Provisional patient card" means a card that:

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

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

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

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

987 [~~(36)~~] (38) "Qualified medical provider" means an individual who is qualified to
988 recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

989 [~~(37)~~] (39) "Qualified Patient Enterprise Fund" means the enterprise fund created in
990 Section 26-61a-109.

991 [~~(38)~~] (40) "Qualifying condition" means a condition described in Section 26-61a-104.

992 (41) "Recommend" or "recommendation" means, for a qualified medical provider, the
993 act of suggesting the use of medical cannabis treatment, which:

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

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

997 [~~(39)~~] (42) "State central patient portal" means the website the department creates, in
998 accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic
999 medical cannabis order.

1000 [~~(40)~~] (43) "State central patient portal medical provider" means a physician or
1001 pharmacist that the department employs in relation to the state central patient portal to consult
1002 with medical cannabis cardholders in accordance with Section 26-61a-602.

1003 [~~(41)~~] (44) "State electronic verification system" means the system described in Section
1004 26-61a-103.

1005 [~~(42)~~] (45) "Valid form of photo identification" means a valid United States federal- or
1006 state-issued photo identification, including:

1007 (a) a driver license;

1008 (b) a United States passport;

1009 (c) a United States passport card; or

1010 (d) a United States military identification card.

1011 Section 14. Section **26-61a-103** is amended to read:

1012 **26-61a-103. Electronic verification system.**

1013 (1) The Department of Agriculture and Food, the department, the Department of Public
1014 Safety, and the Department of Technology Services shall:

1015 (a) enter into a memorandum of understanding in order to determine the function and
1016 operation of the state electronic verification system in accordance with Subsection (2);

1017 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah

1018 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1019 maintain the state electronic verification system in coordination with the Department of
1020 Technology Services; and

1021 (c) select a third-party provider who:

1022 (i) meets the requirements contained in the request for proposals issued under
1023 Subsection (1)(b); and

1024 (ii) may not have any commercial or ownership interest in a cannabis production
1025 establishment or a medical cannabis pharmacy.

1026 (2) The Department of Agriculture and Food, the department, the Department of Public
1027 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
1028 2020, the state electronic verification system described in Subsection (1):

1029 (a) allows an individual~~[, with the individual's qualified medical provider in the~~
1030 ~~qualified medical provider's office,]~~ to apply for a medical cannabis patient card or, if
1031 applicable, a medical cannabis guardian card, provided that the card may not become active
1032 until the relevant qualified medical provider completes the associated medical cannabis
1033 recommendation;

1034 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1035 cannabis guardian card in accordance with Section 26-61a-201;

1036 (c) allows a qualified medical provider, or an employee described in Subsection (3)
1037 acting on behalf of the qualified medical provider, to:

1038 (i) access dispensing and card status information regarding a patient:

1039 (A) with whom the qualified medical provider has a provider-patient relationship; and

1040 (B) for whom the qualified medical provider has recommended or is considering
1041 recommending a medical cannabis card;

1042 (ii) electronically recommend, ~~[during a]~~ after an initial face-to-face visit with a patient
1043 described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form
1044 or a cannabis product in a medicinal dosage form and optionally recommend dosing
1045 ~~[parameters]~~ guidelines;

1046 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1047 medical cannabis guardian cardholder:

1048 (A) using telehealth services, for the qualified medical provider who originally

1049 recommended a medical cannabis treatment[~~as that term is defined in Section 26-61a-102,~~
1050 ~~using telehealth services~~] during a face-to-face visit with the patient; or

1051 (B) during a face-to-face visit with the patient, for a qualified medical provider who
1052 did not originally recommend the medical cannabis treatment[~~;~~] during a face-to-face visit
1053 [~~with a patient~~]; and

1054 (iv) notate a determination of physical difficulty or undue hardship, described in
1055 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

1056 (d) connects with:

1057 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1058 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1059 medicinal dosage form, or a medical cannabis device, including:

1060 (A) the time and date of each purchase;

1061 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1062 purchased;

1063 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1064 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1065 device; and

1066 (D) the personally identifiable information of the medical cannabis cardholder who
1067 made the purchase; and

1068 (ii) any commercially available inventory control system that a cannabis production
1069 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1070 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1071 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1072 track and confirm compliance;

1073 (e) provides access to:

1074 (i) the department to the extent necessary to carry out the department's functions and
1075 responsibilities under this chapter;

1076 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
1077 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1078 41a, Cannabis Production Establishments; and

1079 (iii) the Division of Occupational and Professional Licensing to the extent necessary to

1080 carry out the functions and responsibilities related to the participation of the following in the
1081 recommendation and dispensing of medical cannabis:

1082 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
1083 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1084 Practice Act;

1085 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1086 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1087 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1088 Assistant Act;

1089 (f) provides access to and interaction with the state central patient portal;

1090 (g) provides access to state or local law enforcement:

1091 (i) during a ~~[traffic stop]~~ law enforcement encounter for the purpose of determining if
1092 the individual subject to the ~~[traffic stop]~~ law enforcement encounter is in compliance with
1093 state medical cannabis law; or

1094 (ii) after obtaining a warrant; and

1095 (h) creates a record each time a person accesses the database that identifies the person
1096 who accesses the database and the individual whose records the person accesses.

1097 (3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1098 verification system is functionally capable of allowing employee access under this Subsection
1099 (3), an employee of a qualified medical provider may access the electronic verification system
1100 for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

1101 (i) the qualified medical provider has designated the employee as an individual
1102 authorized to access the electronic verification system on behalf of the qualified medical
1103 provider;

1104 (ii) the qualified medical provider provides written notice to the department of the
1105 employee's identity and the designation described in Subsection (3)(a)(i); and

1106 (iii) the department grants to the employee access to the electronic verification system.

1107 (b) An employee of a business that employs a qualified medical provider may access
1108 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1109 qualified medical provider if:

1110 (i) the qualified medical provider has designated the employee as an individual

1111 authorized to access the electronic verification system on behalf of the qualified medical
1112 provider;

1113 (ii) the qualified medical provider and the employing business jointly provide written
1114 notice to the department of the employee's identity and the designation described in Subsection
1115 (3)(b)(i); and

1116 (iii) the department grants to the employee access to the electronic verification system.

1117 [~~3~~] (4) The department may release limited data that the system collects for the
1118 purpose of:

1119 (a) conducting medical and other department approved research;

1120 (b) providing the report required by Section 26-61a-703; and

1121 (c) other official department purposes.

1122 [~~4~~] (5) The department shall make rules, in accordance with Title 63G, Chapter 3,
1123 Utah Administrative Rulemaking Act, to establish:

1124 (a) the limitations on access to the data in the state electronic verification system as
1125 described in this section; and

1126 (b) standards and procedures to ensure accurate identification of an individual
1127 requesting information or receiving information in this section.

1128 [~~5~~] (6) (a) Any person who knowingly and intentionally releases any information in
1129 the state electronic verification system in violation of this section is guilty of a third degree
1130 felony.

1131 (b) Any person who negligently or recklessly releases any information in the state
1132 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1133 [~~6~~] (7) (a) Any person who obtains or attempts to obtain information from the state
1134 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1135 (b) Any person who obtains or attempts to obtain information from the state electronic
1136 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1137 degree felony.

1138 [~~7~~] (8) (a) Except as provided in Subsection [~~7~~] (8)(e), a person may not knowingly
1139 and intentionally use, release, publish, or otherwise make available to any other person
1140 information obtained from the state electronic verification system for any purpose other than a
1141 purpose specified in this section.

1142 (b) Each separate violation of this Subsection [~~(7)~~] (8) is:

1143 (i) a third degree felony; and

1144 (ii) subject to a civil penalty not to exceed \$5,000.

1145 (c) The department shall determine a civil violation of this Subsection [~~(7)~~] (8) in

1146 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1147 (d) Civil penalties assessed under this Subsection [~~(7)~~] (8) shall be deposited into the

1148 General Fund.

1149 (e) This Subsection [~~(7)~~] (8) does not prohibit a person who obtains information from

1150 the state electronic verification system under Subsection (2)(a), (c), or (f) from:

1151 (i) including the information in the person's medical chart or file for access by a person

1152 authorized to review the medical chart or file;

1153 (ii) providing the information to a person in accordance with the requirements of the

1154 Health Insurance Portability and Accountability Act of 1996; or

1155 (iii) discussing or sharing that information about the patient with the patient.

1156 Section 15. Section **26-61a-104** is amended to read:

1157 **26-61a-104. Qualifying condition.**

1158 (1) By designating a particular condition under Subsection (2) for which the use of
1159 medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively
1160 state that:

1161 (a) current scientific evidence clearly supports the efficacy of a medical cannabis
1162 treatment for the condition; or

1163 (b) a medical cannabis treatment will treat, cure, or positively affect the condition.

1164 (2) For the purposes of this chapter, each of the following conditions is a qualifying
1165 condition:

1166 (a) HIV or acquired immune deficiency syndrome;

1167 (b) Alzheimer's disease;

1168 (c) amyotrophic lateral sclerosis;

1169 (d) cancer;

1170 (e) cachexia;

1171 (f) persistent nausea that is not significantly responsive to traditional treatment, except
1172 for nausea related to:

- 1173 (i) pregnancy;
- 1174 (ii) cannabis-induced cyclical vomiting syndrome; or
- 1175 (iii) cannabinoid hyperemesis syndrome;
- 1176 (g) Crohn's disease or ulcerative colitis;
- 1177 (h) epilepsy or debilitating seizures;
- 1178 (i) multiple sclerosis or persistent and debilitating muscle spasms;
- 1179 (j) post-traumatic stress disorder that is being treated and monitored by a licensed
- 1180 mental health therapist, as that term is defined in Section 58-60-102, and that:
- 1181 (i) has been diagnosed by a healthcare provider or mental health provider employed or
- 1182 contracted by the United States Veterans Administration, evidenced by copies of medical
- 1183 records from the United States Veterans Administration that are included as part of the
- 1184 qualified medical provider's pre-treatment assessment and medical record documentation; or
- 1185 (ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of
- 1186 the patient, by a provider who is:
- 1187 (A) a licensed board-eligible or board-certified psychiatrist;
- 1188 (B) a licensed psychologist with a [~~doctorate~~] master's-level degree;
- 1189 (C) a licensed clinical social worker with a [~~doctorate~~] master's-level degree; or
- 1190 (D) a licensed advanced practice registered nurse who is qualified to practice within
- 1191 the psychiatric mental health nursing speciality and who has completed the clinical practice
- 1192 requirements in psychiatric mental health nursing, including in psychotherapy, in accordance
- 1193 with Subsection 58-31b-302(4)(g);
- 1194 (k) autism;
- 1195 (l) a terminal illness when the patient's remaining life expectancy is less than six
- 1196 months;
- 1197 (m) a condition resulting in the individual receiving hospice care;
- 1198 (n) a rare condition or disease that:
- 1199 (i) affects less than 200,000 individuals in the United States, as defined in Section 526
- 1200 of the Federal Food, Drug, and Cosmetic Act; and
- 1201 (ii) is not adequately managed despite treatment attempts using:
- 1202 (A) conventional medications other than opioids or opiates; or
- 1203 (B) physical interventions;

1204 (o) pain lasting longer than two weeks that is not adequately managed, in the qualified
1205 medical provider's opinion, despite treatment attempts using:

1206 (i) conventional medications other than opioids or opiates; or

1207 (ii) physical interventions; and

1208 (p) a condition that the [~~compassionate use board~~] Compassionate Use Board approves
1209 under Section 26-61a-105, on an individual, case-by-case basis.

1210 Section 16. Section **26-61a-105** is amended to read:

1211 **26-61a-105. Compassionate Use Board.**

1212 (1) (a) The department shall establish a [~~compassionate use board~~] Compassionate Use
1213 Board consisting of:

1214 (i) seven qualified medical providers that the executive director appoints and the
1215 Senate confirms:

1216 (A) who are knowledgeable about the medicinal use of cannabis;

1217 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
1218 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1219 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
1220 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
1221 pediatrics, or gastroenterology; and

1222 (ii) as a nonvoting member and the chair of the [~~board~~] Compassionate Use Board, the
1223 executive director or the director's designee.

1224 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
1225 the executive director shall ensure that at least two have a board certification in pediatrics.

1226 (2) (a) Of the members of the [~~board~~] Compassionate Use Board that the executive
1227 director first appoints:

1228 (i) three shall serve an initial term of two years; and

1229 (ii) the remaining members shall serve an initial term of four years.

1230 (b) After an initial term described in Subsection (2)(a) expires:

1231 (i) each term is four years; and

1232 (ii) each board member is eligible for reappointment.

1233 (c) A member of the [~~board~~] Compassionate Use Board may serve until a successor is
1234 appointed.

1235 (3) Four members constitute a quorum of the [~~compassionate use board~~]
1236 Compassionate Use Board.

1237 (4) A member of the [~~board~~] Compassionate Use Board may receive:

1238 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
1239 service; and

1240 (b) [~~per diem and~~] travel expenses in accordance with [~~Section 63A-3-106;~~] Section
1241 63A-3-107[~~;~~] and rules made by the Division of Finance [~~pursuant to Sections 63A-3-106 and~~]
1242 in accordance with Section 63A-3-107.

1243 (5) The [~~compassionate use board~~] Compassionate Use Board shall:

1244 (a) review and recommend for department approval a petition to the board regarding an
1245 individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection
1246 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
1247 card to obtain a medical cannabis card for compassionate use if:

1248 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
1249 the individual's qualified medical provider is actively treating the individual for an intractable
1250 condition that:

1251 (A) substantially impairs the individual's quality of life; and
1252 (B) has not, in the qualified medical provider's professional opinion, adequately
1253 responded to conventional treatments;

1254 (ii) the qualified medical provider:

1255 (A) recommends that the individual or minor be allowed to use medical cannabis; and
1256 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
1257 describing relevant treatment history including rationale for considering the use of medical
1258 cannabis; and

1259 (iii) the [~~board~~] Compassionate Use Board determines that:

1260 (A) the recommendation of the individual's qualified medical provider is justified; and
1261 (B) based on available information, it may be in the best interests of the individual to
1262 allow the use of medical cannabis;

1263 (b) review and approve or deny the use of a medical cannabis device for an individual
1264 described in Subsection 26-61a-201(2)(a) or a minor described in Subsection 26-61a-201(2)(c)
1265 if the individual's or minor's qualified medical provider recommends that the individual or

1266 minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

1267 ~~[(b)]~~ (c) unless no petitions are pending:

1268 (i) meet to receive or review compassionate use petitions at least quarterly; and

1269 (ii) if there are more petitions than the board can receive or review during the board's

1270 regular schedule, as often as necessary;

1271 ~~[(c)]~~ (d) except as provided in Subsection (6), complete a review of each petition and

1272 recommend to the department approval or denial of the applicant for qualification for a medical

1273 cannabis card within 90 days after the day on which the board received the petition; ~~and~~

1274 (e) consult with the department regarding the criteria described in Subsection (6); and

1275 ~~[(d)]~~ (f) report, before November 1 of each year, to the Health and Human Services

1276 Interim Committee:

1277 (i) the number of compassionate use recommendations the board issued during the past

1278 year; and

1279 (ii) the types of conditions for which the board ~~[approved]~~ recommended

1280 compassionate use.

1281 (6) The department shall make rules, in consultation with the Compassionate Use

1282 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to

1283 establish a process and criteria for a petition to the board to automatically qualify for expedited

1284 final review and approval or denial by the department in cases where, in the determination of

1285 the department and the board:

1286 (a) time is of the essence;

1287 (b) engaging the full review process would be unreasonable in light of the petitioner's

1288 physical condition; and

1289 (c) sufficient factors are present regarding the petitioner's safety.

1290 ~~[(6)]~~ (7) (a) (i) The department shall review:

1291 (A) any compassionate use for which the ~~[board]~~ Compassionate Use Board

1292 recommends approval under Subsection (5)~~[(c)]~~(d) to determine whether the board properly

1293 exercised the board's discretion under this section[-]; and

1294 (B) any expedited petitions the department receives under the process described in

1295 Subsection (6).

1296 (ii) If the department determines that the ~~[board]~~ Compassionate Use Board properly

1297 exercised the board's discretion in recommending approval under Subsection (5)[(e)](d) or that
1298 the expedited petition merits approval based on the criteria established in accordance with
1299 Subsection (6), the department shall:

1300 (A) issue the relevant medical cannabis card; and

1301 (B) provide for the renewal of the medical cannabis card in accordance with the
1302 recommendation of the qualified medical provider described in Subsection (5)(a).

1303 (b) (i) If the [~~board~~] Compassionate Use Board recommends denial under Subsection
1304 (5)[(e)](d), the individual seeking to obtain a medical cannabis card may petition the
1305 department to review the board's decision.

1306 (ii) If the department determines that the [~~board's~~] Compassionate Use Board's
1307 recommendation for denial under Subsection (5)[(e)](d) was arbitrary or capricious:

1308 (A) the department shall notify the [~~board~~] Compassionate Use Board of the
1309 department's determination; and

1310 (B) the board shall reconsider the [~~board's~~] Compassionate Use Board's refusal to
1311 recommend approval under this section.

1312 (c) In reviewing the [~~board's~~] Compassionate Use Board's recommendation for
1313 approval or denial under Subsection (5)[(e)](d) in accordance with this Subsection [(6)] (7), the
1314 department shall presume the board properly exercised the board's discretion unless the
1315 department determines that the board's recommendation was arbitrary or capricious.

1316 [(7)] (8) Any individually identifiable health information contained in a petition that
1317 the [~~board~~] Compassionate Use Board or department receives under this section is a protected
1318 record in accordance with Title 63G, Chapter 2, Government Records Access and Management
1319 Act.

1320 [(8)] (9) The [~~compassionate use board~~] Compassionate Use Board shall annually
1321 report the board's activity to the Cannabinoid Product Board created in Section 26-61-201.

1322 Section 17. Section 26-61a-106 is amended to read:

1323 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1324 **Treatment recommendation.**

1325 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a
1326 medical cannabis treatment unless the department registers the individual as a qualified
1327 medical provider in accordance with this section.

1328 (b) An individual who meets the qualifications in Subsections [26-61a-106\(2\)\(a\)\(iii\)](#)
1329 and (iv) may recommend a medical cannabis treatment without registering under Subsection
1330 (1)(a) until January 1, 2021.

1331 (2) (a) The department shall, within 15 days after the day on which the department
1332 receives an application from an individual, register and issue a qualified medical provider
1333 registration card to the individual if the individual:

1334 (i) provides to the department the individual's name and address;

1335 (ii) provides to the department a report detailing the individual's completion of the
1336 applicable continuing education requirement described in Subsection (3);

1337 (iii) provides to the department evidence that the individual:

1338 (A) has the authority to write a prescription;

1339 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1340 Controlled Substances Act; and

1341 (C) possesses the authority, in accordance with the individual's scope of practice, to
1342 prescribe a Schedule II controlled substance;

1343 (iv) provides to the department evidence that the individual is:

1344 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1345 Practice Act;

1346 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1347 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1348 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1349 Act, whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),
1350 includes the recommending of medical cannabis, and whose supervising physician is a
1351 qualified medical provider; and

1352 (v) pays the department a fee in an amount that:

1353 (A) the department sets, in accordance with Section [63J-1-504](#); and

1354 (B) does not exceed \$300 for an initial registration.

1355 (b) The department may not register an individual as a qualified medical provider if the
1356 individual is:

1357 (i) a pharmacy medical provider; or

1358 (ii) an owner, officer, director, board member, employee, or agent of a cannabis

1359 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

1360 (3) (a) An individual shall complete the continuing education described in this

1361 Subsection (3) in the following amounts:

1362 (i) for an individual as a condition precedent to registration, four hours; and

1363 (ii) for a qualified medical provider as a condition precedent to renewal, four hours

1364 every two years.

1365 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1366 (i) complete continuing education:

1367 (A) regarding the topics described in Subsection (3)(d); and

1368 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1369 continuing education provider that the department recognizes as offering continuing education
1370 appropriate for the recommendation of cannabis to patients; and

1371 (ii) make a continuing education report to the department in accordance with a process
1372 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1373 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1374 Professional Licensing and:

1375 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1376 Nurse Practice Act, the Board of Nursing;

1377 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1378 Practice Act, the Physicians Licensing Board;

1379 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1380 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1381 and

1382 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1383 Assistant Act, the Physician Assistant Licensing Board.

1384 (c) The department may, in consultation with the Division of Occupational and
1385 Professional Licensing, develop the continuing education described in this Subsection (3).

1386 (d) The continuing education described in this Subsection (3) may discuss:

1387 (i) the provisions of this chapter;

1388 (ii) general information about medical cannabis under federal and state law;

1389 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,

1390 including risks and benefits;

1391 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1392 patient in pain management, risk management, potential addiction, or palliative care; and

1393 (v) best practices for recommending the form and dosage of medical cannabis products
1394 based on the qualifying condition underlying a medical cannabis recommendation.

1395 (4) (a) Except as provided in Subsection (4)(b) [~~or (c)~~], a qualified medical provider
1396 may not recommend a medical cannabis treatment to more than [~~175~~] 275 of the qualified
1397 medical provider's patients at the same time, as determined by the number of medical cannabis
1398 cards under the qualified medical provider's name in the state electronic verification system.

1399 (b) [~~Except as provided in Subsection (4)(c), a~~] A qualified medical provider may
1400 recommend a medical cannabis treatment to up to [~~300~~] 600 of the qualified medical provider's
1401 patients at any given time, as determined by the number of medical cannabis cards under the
1402 qualified medical provider's name in the state electronic verification system, if:

1403 (i) the appropriate American medical board has certified the qualified medical provider
1404 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1405 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1406 psychiatry; or

1407 (ii) a licensed business employs or contracts with the qualified medical provider for the
1408 specific purpose of providing hospice and palliative care.

1409 [~~(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in~~
1410 ~~Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for~~
1411 ~~authorization to exceed the limit described in Subsection (4)(b) by graduating increments of~~
1412 ~~100 patients per authorization, not to exceed three authorizations.]~~

1413 [~~(ii) The Division of Occupational and Professional Licensing shall grant the~~
1414 ~~authorization described in Subsection (4)(c)(i) if:]~~

1415 [~~(A) the petitioning qualified medical provider pays a \$100 fee;]~~

1416 [~~(B) the division performs a review that includes the qualified medical provider's~~
1417 ~~medical cannabis recommendation activity in the state electronic verification system, relevant~~
1418 ~~information related to patient demand, and any patient medical records that the division~~
1419 ~~determines would assist in the division's review; and]~~

1420 [~~(C) after the review described in this Subsection (4)(c)(ii), the division determines that~~

1421 ~~granting the authorization would not adversely affect public safety, adversely concentrate the~~
1422 ~~overall patient population among too few qualified medical providers, or adversely concentrate~~
1423 ~~the use of medical cannabis among the provider's patients.]~~

1424 (5) A qualified medical provider may recommend medical cannabis to an individual
1425 under this chapter only in the course of a qualified medical provider-patient relationship after
1426 the qualifying medical provider has completed and documented in the patient's medical record
1427 a thorough assessment of the patient's condition and medical history based on the appropriate
1428 standard of care for the patient's condition.

1429 (6) (a) Except as provided in Subsection (6)(b), ~~[a qualified medical provider]~~ an
1430 individual may not advertise that the ~~[qualified medical provider]~~ individual recommends
1431 medical cannabis treatment in accordance with this chapter.

1432 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1433 website, by an individual described in Subsection (6)(c), does not constitute advertising:

- 1434 (i) a green cross;
1435 (ii) a qualifying condition that the qualified medical provider treats; or
1436 (iii) a scientific study regarding medical cannabis use.

1437 (c) The following may communicate the content described in Subsection (6)(b):

1438 (i) before the department begins registering qualified medical providers:

1439 (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

1440 (B) a physician described in Subsection (2)(a)(iv)(B); or

1441 (C) a physician assistant described in Subsection (2)(a)(iv)(C); and

1442 (ii) after the department begins registering qualified medical providers, a qualified
1443 medical provider.

1444 (7) (a) A qualified medical provider registration card expires two years after the day on
1445 which the department issues the card.

1446 (b) The department shall renew a qualified medical provider's registration card if the
1447 provider:

- 1448 (i) applies for renewal;
1449 (ii) is eligible for a qualified medical provider registration card under this section,
1450 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);
1451 (iii) certifies to the department in a renewal application that the information in

1452 Subsection (2)(a) is accurate or updates the information;
1453 (iv) submits a report detailing the completion of the continuing education requirement
1454 described in Subsection (3); and
1455 (v) pays the department a fee in an amount that:
1456 (A) the department sets, in accordance with Section 63J-1-504; and
1457 (B) does not exceed \$50 for a registration renewal.
1458 (8) The department may revoke the registration of a qualified medical provider who
1459 fails to maintain compliance with the requirements of this section.

1460 (9) A qualified medical provider may not receive any compensation or benefit for the
1461 qualified medical provider's medical cannabis treatment recommendation from:

- 1462 (a) a cannabis production establishment or an owner, officer, director, board member,
1463 employee, or agent of a cannabis production establishment;
- 1464 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1465 employee, or agent of a medical cannabis pharmacy; or
- 1466 (c) a qualified medical provider or pharmacy medical provider.

1467 Section 18. Section 26-61a-111 is amended to read:

1468 **26-61a-111. Nondiscrimination for medical care or government employment --**
1469 **Notice to prospective and current public employees -- No effect on private employers.**

1470 (1) For purposes of medical care, including an organ or tissue transplant, a patient's
1471 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis
1472 product in a medicinal dosage form:

- 1473 (a) is considered the equivalent of the authorized use of any other medication used at
1474 the discretion of a physician; and
- 1475 (b) does not constitute the use of an illicit substance or otherwise disqualify an
1476 individual from needed medical care.

1477 (2) (a) Notwithstanding any other provision of law and except as provided in
1478 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
1479 cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or
1480 political subdivision treats employee use of any prescribed controlled substance.

1481 (b) A state or political subdivision employee who has a valid medical cannabis card is
1482 not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test

1483 due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or
1484 otherwise adversely affected in the employee's job performance due to the use of medical
1485 cannabis.

1486 ~~[(b)]~~ (c) ~~[Subsection]~~ Subsections (2)(a) [does] and (b) do not apply where the
1487 application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security
1488 clearance, or any other federal background determination required for the employee's position,
1489 or if the employee's position is dependent on a license that is subject to federal regulations.

1490 (3) (a) (i) A state employer or a political subdivision employer shall take the action
1491 described in Subsection (3)(a)(ii) before:

1492 (A) giving to a current employee an assignment or duty that arises from or directly
1493 relates to an obligation under this chapter; or

1494 (B) hiring a prospective employee whose assignments or duties would include an
1495 assignment or duty that arises from or directly relates to an obligation under this chapter.

1496 (ii) The employer described in Subsection (3)(a)(i) shall give the employee or
1497 prospective employee described in Subsection (3)(a)(i) a written notice that notifies the
1498 employee or prospective employee:

1499 (A) that the employee's or prospective employee's job duties may require the employee
1500 or prospective employee to engage in conduct which is in violation of the criminal laws of the
1501 United States; and

1502 (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i),
1503 although the employee or prospective employee is entitled to the protections of Title 67,
1504 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to
1505 carry out an assignment or duty that may be a violation of the criminal laws of the United
1506 States with respect to the manufacture, sale, or distribution of cannabis.

1507 (b) The Department of Human Resource Management shall create, revise, and publish
1508 the form of the notice described in Subsection (3)(a).

1509 (c) Notwithstanding Subsection [67-21-3\(3\)](#), an employee who has signed the notice
1510 described in Subsection (3)(a) may not:

1511 (i) claim in good faith that the employee's actions violate or potentially violate the laws
1512 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

1513 (ii) refuse to carry out a directive that the employee reasonably believes violates the

1514 criminal laws of the United States with respect to the manufacture, sale, or distribution of
1515 cannabis.

1516 (d) An employer [~~of an employee who has signed the notice described in Subsection~~
1517 ~~(3)(a)~~] may not take retaliatory action as defined in Section 67-19a-101 against a current
1518 employee who refuses to sign the notice described in Subsection (3)(a).

1519 (4) Nothing in this section requires a private employer to accommodate the use of
1520 medical cannabis or affects the ability of a private employer to have policies restricting the use
1521 of medical cannabis by applicants or employees.

1522 Section 19. Section 26-61a-113 is amended to read:

1523 **26-61a-113. No effect on use of hemp extract -- Cannabinoid product -- Approved**
1524 **drugs.**

1525 (1) Nothing in this chapter prohibits an individual:

1526 (a) [~~with a valid hemp extract registration card that the department issues under Section~~
1527 ~~26-56-103~~] from possessing, administering, or using hemp extract in accordance with Section
1528 58-37-4.3; or

1529 (b) from purchasing, selling, possessing, or using a [~~cannabidiol~~] cannabinoid product
1530 in accordance with Section 4-41-402.

1531 (2) Nothing in this chapter restricts or otherwise affects the prescription, distribution,
1532 or dispensing of a product that the United States Food and Drug Administration has approved.

1533 Section 20. Section 26-61a-201 is amended to read:

1534 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**
1535 **application -- Fees -- Studies.**

1536 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
1537 which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202
1538 submits an application in accordance with this section or Section 26-61a-202:

1539 (a) issue a medical cannabis patient card to an individual described in Subsection
1540 (2)(a);

1541 (b) issue a medical cannabis guardian card to an individual described in Subsection
1542 (2)(b);

1543 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1544 (d) issue a medical cannabis caregiver card to an individual described in Subsection

1545 26-61a-202(4).

1546 (2) (a) An individual is eligible for a medical cannabis patient card if:

1547 (i) (A) the individual is at least 21 years old; or

1548 (B) the individual is 18, 19, or 20 years old, the individual petitions the [~~compassionate~~
1549 ~~use board~~] Compassionate Use Board under Section 26-61a-105, and the [~~compassionate use~~
1550 ~~board~~] Compassionate Use Board recommends department approval of the petition;

1551 (ii) the individual is a Utah resident;

1552 (iii) the individual's qualified medical provider recommends treatment with medical
1553 cannabis in accordance with Subsection (4);

1554 (iv) the individual signs an acknowledgment stating that the individual received the
1555 information described in Subsection (8); and

1556 (v) the individual pays to the department a fee in an amount that, subject to Subsection
1557 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

1558 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1559 (A) is at least 18 years old;

1560 (B) is a Utah resident;

1561 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
1562 provider recommends a medical cannabis treatment, the individual petitions the
1563 [~~compassionate use board~~] Compassionate Use Board under Section 26-61a-105, and the
1564 [~~compassionate use board~~] Compassionate Use Board recommends department approval of the
1565 petition;

1566 (D) the individual signs an acknowledgment stating that the individual received the
1567 information described in Subsection (8);

1568 (E) pays to the department a fee in an amount that, subject to Subsection
1569 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1570 criminal background check described in Section 26-61a-203; and

1571 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
1572 offense under either state or federal law, unless the individual completed any imposed sentence
1573 six months or more before the day on which the individual applies for a medical cannabis
1574 guardian card.

1575 (ii) The department shall notify the Department of Public Safety of each individual that

1576 the department registers for a medical cannabis guardian card.

1577 (c) (i) A minor is eligible for a provisional patient card if:

1578 (A) the minor has a qualifying condition;

1579 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1580 to address the minor's qualifying condition;

1581 (C) the minor's parent or legal guardian petitions the [~~compassionate use board~~]
1582 Compassionate Use Board under Section [26-61a-105](#), and the [~~compassionate use board~~]
1583 Compassionate Use Board recommends department approval of the petition; and

1584 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1585 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1586 medical cannabis caregiver card under Section [26-61a-202](#).

1587 (ii) The department shall automatically issue a provisional patient card to the minor
1588 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1589 guardian card to the minor's parent or legal guardian.

1590 (d) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1591 verification system is functionally capable of servicing the designation, if the parent or legal
1592 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a
1593 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1594 designate up to two caregivers in accordance with Subsection [26-61a-202\(1\)\(c\)](#) to ensure that
1595 the minor has adequate and safe access to the recommended medical cannabis treatment.

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

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

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

1603 (iii) with information including:

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

1605 (B) the number of the applicant's valid form of photo identification;

1606 (C) for a medical cannabis guardian card, the name, gender, and age of the minor

1607 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1608 and

1609 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1610 holds the associated medical cannabis guardian card.

1611 (b) The department shall ensure that a medical cannabis card the department issues
1612 under this section contains the information described in Subsection (3)(a)(iii).

1613 (c) (i) If a qualified medical provider determines that, because of age, illness, or
1614 disability, a medical cannabis patient cardholder requires assistance in administering the
1615 medical cannabis treatment that the qualified medical provider recommends, the qualified
1616 medical provider may indicate the cardholder's need in the state electronic verification system.

1617 (ii) If a qualified medical provider makes the indication described in Subsection
1618 (3)(c)(i):

1619 (A) the department shall add a label to the relevant medical cannabis patient card
1620 indicating the cardholder's need for assistance; and

1621 (B) any adult who is [~~21~~] 18 years old or older and who is physically present with the
1622 cardholder at the time the cardholder needs to use the recommended medical cannabis
1623 treatment may handle the medical cannabis treatment and any associated medical cannabis
1624 device as needed to assist the cardholder in administering the recommended medical cannabis
1625 treatment, including in the event of an emergency medical condition under Subsection
1626 [26-61a-204\(2\)](#).

1627 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

1628 (A) ingest or inhale medical cannabis;

1629 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1630 of the immediate area where the cardholder is present or with an intent other than to provide
1631 assistance to the cardholder; or

1632 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1633 the cardholder is not in the process of being dosed with medical cannabis.

1634 (4) To recommend a medical cannabis treatment to a patient or to renew a
1635 recommendation, a qualified medical provider shall:

1636 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
1637 a medicinal dosage form:

- 1638 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1639 guardian's valid form of identification described in Subsection (3)(a);
- 1640 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1641 or legal guardian in:
- 1642 (A) the state electronic verification system; and
1643 (B) the controlled substance database created in Section 58-37f-201; and
- 1644 (iii) consider the recommendation in light of the patient's qualifying condition and
1645 history of medical cannabis and controlled substance use during an initial face-to-face visit
1646 with the patient; and
- 1647 (b) state in the qualified medical provider's recommendation that the patient:
- 1648 (i) suffers from a qualifying condition, including the type of qualifying condition; and
1649 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1650 product in a medicinal dosage form.
- 1651 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1652 department issues under this section is valid for the lesser of:
- 1653 (i) an amount of time that the qualified medical provider determines; or
1654 (ii) (A) for the first issuance, 30 days; or
1655 (B) for a renewal, six months.
- 1656 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1657 illness described in Section 26-61a-104 does not expire.
- 1658 (ii) The recommending qualified medical provider may revoke a recommendation that
1659 the provider made in relation to a terminal illness described in Section 26-61a-104 if the
1660 medical cannabis cardholder no longer has the terminal illness.
- 1661 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1662 renewable if:
- 1663 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1664 (b); or
- 1665 (ii) the cardholder received the medical cannabis card through the recommendation of
1666 the [~~compassionate use board~~] Compassionate Use Board under Section 26-61a-105.
- 1667 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:
- 1668 (i) using the application process described in Subsection (3); or

1669 (ii) through phone or video conference with the qualified medical provider who made
1670 the recommendation underlying the card, at the qualifying medical provider's discretion.

1671 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1672 pay to the department a renewal fee in an amount that:

1673 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1674 63J-1-504; and

1675 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1676 comparison to the original application process.

1677 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1678 patient card renews automatically at the time the minor's parent or legal guardian renews the
1679 parent or legal guardian's associated medical cannabis guardian card.

1680 (e) The department may revoke a medical cannabis guardian card if the cardholder
1681 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
1682 under either state or federal law.

1683 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1684 cannabis card with the patient's name.

1685 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1686 purchase, in accordance with this chapter and the recommendation underlying the card,
1687 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1688 medical cannabis device.

1689 (ii) A cardholder under this section may possess or transport, in accordance with this
1690 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1691 cannabis product in a medicinal dosage form, or a medical cannabis device.

1692 (iii) To address the qualifying condition underlying the medical cannabis treatment
1693 recommendation:

1694 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1695 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1696 or a medical cannabis device; and

1697 (B) a medical cannabis guardian cardholder may assist the associated provisional
1698 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1699 product in a medicinal dosage form, or a medical cannabis device.

1700 (c) If a licensed medical cannabis pharmacy is not operating within the state after
1701 January 1, 2021, a cardholder under this section [~~is not subject to prosecution for the~~
1702 ~~possession of~~]:

1703 (i) may possess:

1704 [~~(i) no more than 113 grams of marijuana~~]

1705 (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

1706 [~~(ii) an amount of~~]

1707 (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form [that

1708 ~~contains no more than 20 grams of tetrahydrocannabinol; or]; and~~

1709 [~~(iii) (C) marijuana drug paraphernalia[-]; and~~

1710 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

1711 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1712 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1713 to an individual receiving a medical cannabis card:

1714 (a) risks associated with medical cannabis treatment;

1715 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1716 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1717 Subsection [26-61a-104](#)(1); and

1718 (c) other relevant warnings and safety information that the department determines.

1719 (9) The department may establish procedures by rule, in accordance with Title 63G,
1720 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1721 provisions of this section.

1722 (10) (a) On or before January 1, 2021, the department shall establish by rule, in
1723 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1724 an individual from another state to register with the Department of Health in order to purchase
1725 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
1726 individual is visiting the state.

1727 (b) The department may only provide the registration process described in Subsection
1728 (10)(a):

1729 (i) to a nonresident patient; and

1730 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days

1731 per visitation period.

1732 [~~(10)~~] (11) (a) A person may submit to the department a request to conduct a research
1733 study using medical cannabis cardholder data that the state electronic verification system
1734 contains.

1735 (b) The department shall review a request described in Subsection [~~(10)~~] (11)(a) to
1736 determine whether an institutional review board, as that term is defined in Section 26-61-102,
1737 could approve the research study.

1738 (c) At the time an individual applies for a medical cannabis card, the department shall
1739 notify the individual:

1740 (i) of how the individual's information will be used as a cardholder;

1741 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1742 consent under Subsection [~~(10)~~] (11)(d), the individual consents to the use of the individual's
1743 information for external research; and

1744 (iii) that the individual may withdraw consent for the use of the individual's
1745 information for external research at any time, including at the time of application.

1746 (d) An applicant may, through the medical cannabis card application, and a medical
1747 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
1748 cardholder's consent to participate in external research at any time.

1749 (e) The department may release, for the purposes of a study described in this
1750 Subsection [~~(10)~~] (11), information about a cardholder under this section who consents to
1751 participate under Subsection [~~(10)~~] (11)(c).

1752 (f) If an individual withdraws consent under Subsection [~~(10)~~] (11)(d), the withdrawal
1753 of consent:

1754 (i) applies to external research that is initiated after the withdrawal of consent; and

1755 (ii) does not apply to research that was initiated before the withdrawal of consent.

1756 (g) The department may establish standards for a medical research study's validity, by
1757 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1758 Section 21. Section 26-61a-202 is amended to read:

1759 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**
1760 **Revocation.**

1761 (1) (a) A cardholder described in Section 26-61a-201 may designate, through the state

1762 central patient portal, up to two individuals, or an individual and a facility in accordance with
1763 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical
1764 provider notates in the electronic verification system that the provider determines that, due to
1765 physical difficulty or undue hardship, including concerns of distance to a medical cannabis
1766 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the
1767 qualified medical provider recommends.

1768 (b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1769 verification system is functionally capable of servicing the designation, a cardholder described
1770 in Section 26-61a-201 who is a patient in one of the following types of facilities may designate
1771 the facility as one of the caregivers described in Subsection (1)(a):

1772 (A) an assisted living facility, as that term is defined in Section 26-21-2;

1773 (B) a nursing care facility, as that term is defined in Section 26-1-2; or

1774 (C) a general acute hospital, as that term is defined in Section 26-1-2.

1775 (ii) A facility may assign one or more employees to assist patients with medical
1776 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1777 (iii) The department shall make rules to regulate the practice of facilities and facility
1778 employees serving as designated caregivers under this Subsection (1)(b).

1779 (c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in
1780 consultation with the minor and the minor's qualified medical provider, may designate, through
1781 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1782 minor, if the department determines that the parent or legal guardian is not eligible for a
1783 medical cannabis guardian card under Section 26-61a-201.

1784 (2) An individual that the department registers as a designated caregiver under this
1785 section and a facility described in Subsection (1)(b):

1786 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
1787 card;

1788 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1789 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1790 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1791 cardholder;

1792 (c) may not charge a fee to an individual to act as the individual's designated caregiver

1793 or for a service that the designated caregiver provides in relation to the role as a designated
1794 caregiver;

1795 (d) may accept reimbursement from the designating medical cannabis cardholder for
1796 direct costs the designated caregiver incurs for assisting with the designating cardholder's
1797 medicinal use of cannabis; and

1798 (e) if a licensed medical cannabis pharmacy is not operating within the state after
1799 January 1, 2021~~[- is not subject to prosecution for the possession of: (i) no more than 113~~
1800 ~~grams of marijuana]~~;

1801 (i) may possess up to the legal dosage limit of:

1802 (A) unprocessed medical cannabis in a medicinal dosage form;

1803 ~~[(ii) an amount of]~~

1804 (B) a cannabis product in a medicinal dosage form ~~[that contains no more than 20~~
1805 ~~grams of tetrahydrocannabinol; or]~~; and

1806 ~~[(iii)]~~ (ii) may possess marijuana drug paraphernalia[-]; and

1807 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

1808 (3) (a) The department shall:

1809 (i) within 15 days after the day on which an individual submits an application in
1810 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1811 (A) is designated as a caregiver under Subsection (1);

1812 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1813 (C) complies with this section; and

1814 (ii) notify the Department of Public Safety of each individual that the department
1815 registers as a designated caregiver.

1816 (b) The department shall ensure that a medical cannabis caregiver card contains the
1817 information described in Subsection (5)(b).

1818 (4) An individual is eligible for a medical cannabis caregiver card if the individual:

1819 (a) is at least 21 years old;

1820 (b) is a Utah resident;

1821 (c) pays to the department a fee in an amount that, subject to Subsection

1822 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#), plus the cost of the
1823 criminal background check described in Section [26-61a-203](#);

1824 (d) signs an acknowledgment stating that the applicant received the information
1825 described in Subsection 26-61a-201(8); and

1826 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
1827 a felony under either state or federal law, unless the individual completes any imposed sentence
1828 two or more years before the day on which the individual submits the application.

1829 (5) An eligible applicant for a medical cannabis caregiver card shall:

1830 (a) submit an application for a medical cannabis caregiver card to the department
1831 through an electronic application connected to the state electronic verification system; and

1832 (b) submit the following information in the application described in Subsection (5)(a):

1833 (i) the applicant's name, gender, age, and address;

1834 (ii) the name, gender, age, and address of the cardholder described in Section
1835 26-61a-201 who designated the applicant; and

1836 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
1837 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
1838 cannabis guardian cardholder.

1839 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1840 department issues under this section is valid for the lesser of:

1841 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1842 designated the caregiver determines; or

1843 (b) the amount of time remaining before the card of the cardholder described in Section
1844 26-61a-201 expires.

1845 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1846 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1847 cardholder described in Section 26-61a-201 who designated the caregiver:

1848 (i) renews the cardholder's card; and

1849 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1850 (b) The department shall provide a method in the card renewal process to allow a
1851 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1852 (i) signify that the cardholder renews the caregiver's designation;

1853 (ii) remove a caregiver's designation; or

1854 (iii) designate a new caregiver.

1855 (8) The department may revoke a medical cannabis caregiver card if the designated
1856 caregiver:

1857 (a) violates this chapter; or

1858 (b) is convicted under state or federal law of:

1859 (i) a felony; or

1860 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1861 Section 22. Section **26-61a-204** is amended to read:

1862 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**

1863 **requirements -- Rebuttable presumption.**

1864 (1) (a) A medical cannabis cardholder who possesses medical cannabis [~~in a medicinal~~
1865 ~~dosage form or a cannabis product in a medicinal dosage form~~] that the cardholder purchased
1866 under this chapter [~~shall: (i) carry~~]:

1867 (i) shall carry:

1868 (A) at all times the cardholder's medical cannabis card; and

1869 [~~(ii) carry;~~] (B) with the medical cannabis [~~in a medicinal dosage form or cannabis~~
1870 ~~product in a medicinal dosage form~~], a label that identifies that the medical cannabis [~~or~~
1871 ~~cannabis product: (A)~~] was sold from a licensed medical cannabis pharmacy[~~; and (B)~~] and

1872 includes an identification number that links the cannabis or cannabis product to the inventory
1873 control system; and

1874 [~~(iii) possess not more than~~]

1875 (ii) may possess up to the legal dosage limit of:

1876 (A) [~~13 grams of~~] unprocessed cannabis in medicinal dosage form; [~~or (B) an amount~~
1877 ~~of cannabis product that contains 20 grams of total composite tetrahydrocannabinol;~~] and

1878 (B) a cannabis product in medicinal dosage form; and

1879 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii).

1880 (b) [~~A~~] Except as provided in Subsection (1)(c) or (e), medical cannabis cardholder
1881 who possesses medical cannabis [~~in a medicinal dosage form or a cannabis product in a~~
1882 ~~medicinal dosage form~~] in violation of Subsection (1)(a) is:

1883 (i) guilty of an infraction; and

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

1885 (c) A medical cannabis cardholder or a nonresident patient who possesses [~~between~~

1886 ~~113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains~~
1887 ~~between 20 and 40 grams of total composite tetrahydrocannabinol]~~ medical cannabis in an
1888 amount that is greater than the legal dosage limit and equal to or less than twice the legal
1889 dosage limit is:

1890 (i) for a first offense:

1891 (A) guilty of an infraction; and

1892 (B) subject to a fine of up to \$100; and

1893 (ii) for a second or subsequent offense:

1894 [(i)] (A) guilty of a class B misdemeanor; and

1895 [(ii)] (B) subject to a fine of \$1,000.

1896 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
1897 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
1898 conduct underlying the penalty described in Subsection (1)(b) or (c).

1899 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
1900 dosage form is:

1901 (i) for a first offense:

1902 (A) guilty of an infraction; and

1903 (B) subject to a fine of up to \$100; and

1904 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,
1905 Chapter 37, Utah Controlled Substances Act.

1906 ~~[(e)]~~ (f) A medical cannabis cardholder or a nonresident patient who possesses [more
1907 ~~than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains~~
1908 ~~more than 40 grams of total composite tetrahydrocannabinol]~~ medical cannabis in an amount
1909 that is greater than twice the legal dosage limit is subject to the penalties described in Title 58,
1910 Chapter 37, Utah Controlled Substances Act.

1911 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
1912 as that term is defined in Section [31A-22-627](#).

1913 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder
1914 ~~[or]~~, a provisional patient cardholder, or a nonresident patient may not use, in public view,
1915 medical cannabis or a cannabis product.

1916 (c) In the event of an emergency medical condition, an individual described in

1917 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
1918 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
1919 medicinal dosage form or a cannabis product in a medicinal dosage form.

1920 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

1921 (i) for a first offense:

1922 (A) guilty of an infraction; and

1923 (B) subject to a fine of up to \$100; and

1924 (ii) for a second or subsequent offense:

1925 (A) guilty of a class B misdemeanor; and

1926 (B) subject to a fine of \$1,000.

1927 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
1928 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
1929 medical cannabis device that corresponds with the cannabis or cannabis product:

1930 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,
1931 cannabis product, or medical cannabis device legally; and

1932 (b) there is no probable cause, based solely on the cardholder's possession of the
1933 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
1934 cannabis device, to believe that the cardholder is engaging in illegal activity.

1935 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
1936 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
1937 device, and the individual represents to the law enforcement officer that the individual holds a
1938 valid medical cannabis card, but the individual does not have the medical cannabis card in the
1939 individual's possession at the time of the stop by the law enforcement officer, the law
1940 enforcement officer shall attempt to access the state electronic verification system to determine
1941 whether the individual holds a valid medical cannabis card.

1942 (b) If the law enforcement officer is able to verify that the individual described in
1943 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

1944 (i) may not arrest or take the individual into custody for the sole reason that the
1945 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
1946 medicinal dosage form, or a medical cannabis device; and

1947 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1948 Section 23. Section **26-61a-301** is amended to read:

1949 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

1950 (1) A person may not operate as a medical cannabis pharmacy without a license that
1951 the department issues under this part.

1952 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department
1953 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
1954 Chapter 6a, Utah Procurement Code.

1955 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
1956 an applicant who is not eligible for a license under this section.

1957 (b) An applicant is eligible for a license under this section if the applicant submits to
1958 the department:

1959 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
1960 operate the medical cannabis pharmacy;

1961 (ii) the name and address of an individual who:

1962 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis
1963 pharmacy; or

1964 (B) has the power to direct or cause the management or control of a proposed cannabis
1965 production establishment;

1966 (iii) a statement that the applicant will obtain and maintain a performance bond that a
1967 surety authorized to transact surety business in the state issues in an amount of at least
1968 \$125,000 for each application that the applicant submits to the department;

1969 (iv) an operating plan that:

1970 (A) complies with Section **26-61a-304**;

1971 (B) includes operating procedures to comply with the operating requirements for a
1972 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
1973 law that is consistent with Section **26-61a-507**; and

1974 (C) the department approves;

1975 (v) an application fee in an amount that, subject to Subsection **26-61a-109(5)**, the
1976 department sets in accordance with Section **63J-1-504**; and

1977 (vi) a description of any investigation or adverse action taken by any licensing
1978 jurisdiction, government agency, law enforcement agency, or court in any state for any

1979 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
1980 or businesses.

1981 (c) (i) A person may not locate a medical cannabis pharmacy:

1982 (A) within 200 feet of a community location; or

1983 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
1984 as primarily residential.

1985 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
1986 from the nearest entrance to the medical cannabis pharmacy establishment by following the
1987 shortest route of ordinary pedestrian travel to the property boundary of the community location
1988 or residential area.

1989 (iii) The department may grant a waiver to reduce the proximity requirements in
1990 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
1991 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

1992 (iv) An applicant for a license under this section shall provide evidence of compliance
1993 with the proximity requirements described in Subsection (2)(c)(i).

1994 (d) The department may not issue a license to an eligible applicant that the department
1995 has selected to receive a license until the selected eligible applicant obtains the performance
1996 bond described in Subsection (2)(b)(iii).

1997 (e) If the department receives more than one application for a medical cannabis
1998 pharmacy within the same city or town, the department shall consult with the local land use
1999 authority before approving any of the applications pertaining to that city or town.

2000 (3) If the department selects an applicant for a medical cannabis pharmacy license
2001 under this section, the department shall:

2002 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2003 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

2004 (b) notify the Department of Public Safety of the license approval and the names of
2005 each individual described in Subsection (2)(b)(ii).

2006 (4) The department may not issue a license to operate a medical cannabis pharmacy to
2007 an applicant if an individual described in Subsection (2)(b)(ii):

2008 (a) has been convicted under state or federal law of:

2009 (i) a felony; or

2010 (ii) after December 3, 2018, a misdemeanor for drug distribution;
2011 (b) is younger than 21 years old; or
2012 (c) after the effective date of this bill until January 1, 2023, is actively serving as a
2013 legislator.
2014 (5) If an applicant for a medical cannabis pharmacy license under this section holds a
2015 license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a,
2016 Cannabis Production Establishments, the department:
2017 (a) shall consult with the Department of Agriculture and Food regarding the applicant;
2018 [~~and~~]
2019 (b) may not give preference to the applicant based on the applicant's status as a holder
2020 of a license described in this Subsection (5)[-]; and
2021 (c) shall give preference to applicants that demonstrate an ability to increase efficiency
2022 and decrease costs to patients.
2023 (6) The department may revoke a license under this part [~~if~~]:
2024 (a) if the medical cannabis pharmacy does not begin operations within one year after
2025 the day on which the department issues the initial license;
2026 (b) after the [~~medical cannabis pharmacy makes]~~ third of the same violation of this
2027 chapter [~~three times]~~ in any of the licensee's licensed cannabis production establishments or
2028 medical cannabis pharmacies;
2029 (c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is
2030 active, under state or federal law of:
2031 (i) a felony; or
2032 (ii) after December 3, 2018, a misdemeanor for drug distribution; [~~or~~]
2033 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
2034 the time of application, or fails to supplement the information described in Subsection
2035 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
2036 application[-] within 14 calendar days after the licensee receives notice of the investigation or
2037 adverse action; or
2038 (e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for
2039 the requirements of this chapter or the rules the department makes in accordance with this
2040 chapter.

2041 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
2042 if the municipality or county where the licensed medical cannabis pharmacy will be located
2043 requires a local land use permit, shall submit to the department a copy of the licensee's
2044 approved application for the land use permit within 120 days after the day on which the
2045 department issues the license.

2046 (b) If a licensee fails to submit to the department a copy the licensee's approved land
2047 use permit application in accordance with Subsection (7)(a), the department may revoke the
2048 licensee's license.

2049 (8) The department shall deposit the proceeds of a fee imposed by this section in the
2050 Qualified Patient Enterprise Fund.

2051 (9) The department shall begin accepting applications under this part on or before
2052 March 1, 2020.

2053 (10) (a) The department's authority to issue a license under this section is plenary and is
2054 not subject to review.

2055 (b) Notwithstanding Subsection (2), the decision of the department to award a license
2056 to an applicant is not subject to:

2057 (i) Title 63G, Chapter 6a, Part 16, Protests; or

2058 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2059 Section 24. Section **26-61a-303** is amended to read:

2060 **26-61a-303. Renewal.**

2061 (1) The department shall renew a license under this part every year if, at the time of
2062 renewal:

2063 (a) the licensee meets the requirements of Section [26-61a-301](#); ~~[and]~~

2064 (b) the licensee pays the department a license renewal fee in an amount that, subject to
2065 Subsection [26-61a-109](#)(5), the department sets in accordance with Section [63J-1-504](#)~~[-]~~; and

2066 (c) if the medical cannabis pharmacy changes the operating plan described in Section
2067 [26-61a-304](#) that the department approved under Subsection [26-61a-301](#)(2)(b)(iv), the
2068 department approves the new operating plan.

2069 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis
2070 pharmacy's license, the department shall publish notice of an available license:

2071 (i) in a newspaper of general circulation for the geographic area in which the medical

2072 cannabis pharmacy license is available; or

2073 (ii) on the Utah Public Notice Website established in Section 63F-1-701.

2074 (b) The department may establish criteria, in collaboration with the Division of
2075 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with
2076 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis
2077 pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

2078 Section 25. Section 26-61a-501 is amended to read:

2079 **26-61a-501. Operating requirements -- General.**

2080 (1) (a) A medical cannabis pharmacy shall operate:

2081 (i) at the physical address provided to the department under Section 26-61a-301; and

2082 (ii) in accordance with the operating plan provided to the department under Section
2083 26-61a-301 and, if applicable, 26-61a-304.

2084 (b) A medical cannabis pharmacy shall notify the department before a change in the
2085 medical cannabis pharmacy's physical address or operating plan.

2086 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

2087 (a) is at least 18 years old; and

2088 (b) except as provided in Subsection (5), possesses a valid:

2089 (i) medical cannabis pharmacy agent registration card; ~~or~~

2090 pharmacy medical provider registration card; or

2091 ~~[(ii)]~~ (iii) medical cannabis card.

2092 (3) A medical cannabis pharmacy may not employ an individual who is younger than
2093 21 years old.

2094 (4) A medical cannabis pharmacy may not employ an individual who has been
2095 convicted of a felony under state or federal law.

2096 (5) Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an
2097 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
2098 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
2099 the individual at all times while the individual is at the medical cannabis pharmacy and
2100 maintains a record of the individual's access.

2101 (6) A medical cannabis pharmacy shall operate in a facility that has:

2102 (a) a single, secure public entrance;

2103 (b) a security system with a backup power source that:
2104 (i) detects and records entry into the medical cannabis pharmacy; and
2105 (ii) provides notice of an unauthorized entry to law enforcement when the medical
2106 cannabis pharmacy is closed; and
2107 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
2108 cannabis product.

2109 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
2110 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
2111 [26-61a-502\(2\)](#).

2112 (8) A medical cannabis pharmacy may not allow any individual to consume cannabis
2113 on the property or premises of the medical cannabis pharmacy.

2114 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
2115 first indicating on the cannabis or cannabis product label the name of the medical cannabis
2116 pharmacy.

2117 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
2118 following information regarding each recommendation underlying a transaction:

- 2119 (i) the qualified medical provider's name, address, and telephone number;
- 2120 (ii) the patient's name and address;
- 2121 (iii) the date of issuance;
- 2122 (iv) ~~[dosing parameters]~~ directions of use and dosing guidelines or an indication that
2123 the qualified medical provider did not recommend specific directions of use or dosing
2124 ~~[parameters]~~ guidelines; and

2125 (v) if the patient did not complete the transaction, the name of the medical cannabis
2126 cardholder who completed the transaction.

2127 (b) (i) ~~[The]~~ Except as provided in Subsection (10)(b)(ii), a medical cannabis pharmacy
2128 may not sell medical cannabis ~~[or a cannabis product]~~ unless the medical cannabis ~~[or cannabis~~
2129 ~~product]~~ has a label securely affixed to the container indicating the following minimum
2130 information:

- 2131 ~~[(i)]~~ (A) the name, address, and telephone number of the medical cannabis pharmacy;
- 2132 ~~[(ii)]~~ (B) the unique identification number that the medical cannabis pharmacy assigns;
- 2133 ~~[(iii)]~~ (C) the date of the sale;

2134 [(iv)] (D) the name of the patient;
2135 [(v)] (E) the name of the qualified medical provider who recommended the medical
2136 cannabis treatment;

2137 [(vi)] (F) directions for use and cautionary statements, if any;
2138 [(vii)] (G) the amount dispensed and the cannabinoid content;

2139 [(viii)] (H) the ~~beyond~~ suggested use date; ~~and~~
2140 (I) for unprocessed cannabis flower, the legal use termination date; and

2141 [(ix)] (J) any other requirements that the department determines, in consultation with
2142 the Division of Occupational and Professional Licensing and the Board of Pharmacy.

2143 (ii) A medical cannabis pharmacy may sell medical cannabis to another medical
2144 cannabis pharmacy without a label described in Subsection (10)(b)(i).

2145 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

2146 (a) unless the medical cannabis cardholder has had a consultation under Subsection
2147 [26-61a-502\(4\)](#), verbally offer to a medical cannabis cardholder at the time of a purchase of
2148 cannabis, a cannabis product, or a medical cannabis device, personal~~, face-to-face~~ counseling
2149 with the pharmacy medical provider ~~[who is a pharmacist]~~; and

2150 (b) provide a telephone number or website by which the cardholder may contact a
2151 pharmacy medical provider for counseling.

2152 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
2153 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
2154 medical cannabis device, or medical cannabis product in a locked box or other secure
2155 receptacle within the medical cannabis pharmacy.

2156 (b) A medical cannabis pharmacy with a disposal program described in Subsection
2157 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
2158 can access deposited medical cannabis or medical cannabis products.

2159 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2160 medical cannabis products by:

2161 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2162 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2163 products from the medical cannabis pharmacy; and

2164 (ii) disposing of the deposited medical cannabis or medical cannabis products in

2165 accordance with:

- 2166 (A) federal and state law, rules, and regulations related to hazardous waste;
2167 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
2168 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
2169 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2170 3, Utah Administrative Rulemaking Act.

2171 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
2172 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
2173 by a medical cannabis pharmacy.

2174 Section 26. Section **26-61a-502** is amended to read:

2175 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
2176 **Reporting -- Form of cannabis or cannabis product.**

2177 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
2178 chapter:

2179 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2180 from a cannabis processing facility that is licensed under Section [4-41a-201](#);

2181 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2182 acquired from a cannabis processing facility that is licensed under Section [4-41a-201](#);

2183 (iii) a medical cannabis device; or

2184 (iv) educational material related to the medical use of cannabis.

2185 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2186 an individual with:

2187 (i) (A) a medical cannabis card; ~~and~~ or

2188 (B) a department registration described in Subsection [26-61a-202\(10\)](#); and

2189 (ii) a corresponding valid form of photo identification.

2190 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
2191 cannabis-based drug that the United States Food and Drug Administration has approved.

2192 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
2193 medical cannabis device to an individual described in Subsection [26-61a-201\(2\)\(a\)](#) or to a
2194 minor described in Subsection [26-61a-201\(2\)\(c\)](#) unless the individual or minor has the
2195 approval of the Compassionate Use Board in accordance with Subsection [26-61a-105\(5\)](#).

2196 (2) A medical cannabis pharmacy [~~may not dispense: (a)~~]:
2197 (a) may dispense to a medical cannabis cardholder, in any one 28-day period, [more
2198 ~~than the lesser] up to the legal dosage limit of:~~
2199 [~~(i) an amount sufficient to provide 30 days of treatment based on the dosing~~
2200 ~~parameters that the relevant qualified medical provider recommends; or (ii) (A) 113 grams by~~
2201 ~~weight of]~~
2202 (i) unprocessed cannabis that:
2203 (A) is in a medicinal dosage form; and [~~that~~]
2204 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
2205 cannabidiol in the cannabis; [~~or~~] and
2206 [~~(B) an amount of cannabis products that is in a medicinal dosage form and that~~
2207 ~~contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or]~~
2208 (ii) a cannabis product that is in a medicinal dosage form; and
2209 (b) may not dispense:
2210 (i) more medical cannabis than described in Subsection (2)(a); or
2211 [~~(b)~~] (ii) to an individual whose qualified medical provider did not recommend [dosing
2212 ~~parameters] directions of use and dosing guidelines, until the individual consults with the~~
2213 ~~pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis~~
2214 ~~products.~~
2215 (3) An individual with a medical cannabis card [~~may not purchase: (a) more~~]:
2216 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
2217 (i) unprocessed cannabis [or] in a medicinal dosage form; and
2218 (ii) a cannabis [products than the amounts designated in Subsection (2) in any one
2219 ~~28-day period; or] product in a medicinal dosage form;~~
2220 (b) may not purchase:
2221 (i) more medical cannabis than described in Subsection (3)(a); or
2222 [~~(b)~~] (ii) if the relevant qualified medical provider did not recommend [dosing
2223 ~~parameters] directions of use and dosing guidelines, until the individual consults with the~~
2224 ~~pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis~~
2225 ~~products[-]; and~~
2226 (c) may not use a route of administration that the relevant qualified medical provider or

2227 the pharmacy medical provider, in accordance with Subsection (4) or (5), has not
2228 recommended.

2229 (4) If a qualified medical provider recommends treatment with medical cannabis or a
2230 cannabis product but does not provide [~~dosing parameters~~] directions of use and dosing
2231 guidelines:

2232 (a) the qualified medical provider shall document in the recommendation:

2233 (i) an evaluation of the qualifying condition underlying the recommendation;

2234 (ii) prior treatment attempts with cannabis and cannabis products; and

2235 (iii) the patient's current medication list; and

2236 (b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal
2237 dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider
2238 shall:

2239 (i) review pertinent medical records, including the qualified medical provider
2240 documentation described in Subsection (4)(a); and

2241 (ii) unless the pertinent medical records show [~~dosing parameters~~] directions of use and
2242 dosing guidelines from a state central patient portal medical provider in accordance with
2243 Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting
2244 with the recommending qualified medical provider as needed, determine the best course of
2245 treatment through consultation with the cardholder regarding:

2246 (A) the patient's qualifying condition underlying the recommendation from the
2247 qualified medical provider;

2248 (B) indications for available treatments;

2249 (C) [~~dosing parameters~~] directions of use and dosing guidelines; and

2250 (D) potential adverse reactions.

2251 (5) (a) A state central patient portal medical provider may provide the consultation and
2252 make the determination described in Subsection (4)(b) for a medical cannabis patient
2253 cardholder regarding an electronic order that the state central patient portal facilitates.

2254 (b) The state central patient portal medical provider described in Subsection (5)(a)
2255 shall document the [~~dosing parameters~~] directions of use and dosing guidelines, determined
2256 under Subsection (5)(a) in the pertinent medical records.

2257 (6) A medical cannabis pharmacy shall:

2258 (a) (i) access the state electronic verification system before dispensing cannabis or a
2259 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
2260 where applicable, the associated patient has met the maximum amount of cannabis or cannabis
2261 products described in Subsection (2); and

2262 (ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the
2263 maximum amount described in Subsection (2):

2264 (A) decline the sale; and

2265 (B) notify the qualified medical provider who made the underlying recommendation;

2266 (b) submit a record to the state electronic verification system each time the medical
2267 cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

2268 (c) package any cannabis or cannabis product that is in a [~~blister pack in a~~] container
2269 that:

2270 (i) complies with Subsection [4-41a-602\(2\)](#) or, if applicable, [26-61a-102\(31\)\(a\)\(ii\)](#);

2271 (ii) is tamper-resistant and tamper-evident; and

2272 (iii) opaque; and

2273 (d) for a product that is a cube that is designed for ingestion through chewing or
2274 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2275 of over-consumption.

2276 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2277 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2278 intentionally designed or constructed to resemble a cigarette.

2279 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2280 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2281 individual's respiratory system.

2282 (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical
2283 cannabis pharmacy is allowed to sell under Subsection (1).

2284 (9) The department may impose a uniform fee on each medical cannabis cardholder
2285 transaction in a medical cannabis pharmacy in an amount that, subject to Subsection
2286 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2287 (10) A medical cannabis pharmacy may purchase and store medical cannabis devices
2288 regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter

2289 41a, Cannabis Production Establishments.

2290 Section 27. Section **26-61a-504** is amended to read:

2291 **26-61a-504. Inspections.**

2292 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
2293 treatment recommendation files and other records in accordance with this chapter, department
2294 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
2295 104-191, 110 Stat. 1936, as amended.

2296 (2) The department or the Department of Agriculture and Food may inspect the records
2297 [~~and~~], facility, and inventory of a medical cannabis pharmacy at any time during business hours
2298 in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4,
2299 Chapter 41a, Cannabis Production Establishments.

2300 (3) An inspection under this section may include:

2301 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other
2302 physical or electronic information, or any combination of the above;

2303 (b) questioning of any relevant individual; [~~or~~]

2304 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
2305 or label[~~;~~];

2306 (d) random sampling of medical cannabis by the Department of Agriculture and Food
2307 to make the determinations described in Subsection 4-41a-701(2) in accordance with rules
2308 described in Section 4-41a-701; or

2309 (e) seizure of medical cannabis, medical cannabis devices, or educational material as
2310 evidence in a department investigation or inspection or in instances of compliance failure.

2311 (4) In making an inspection under this section, the department or the Department of
2312 Agriculture and Food may freely access any area and review and make copies of a book,
2313 record, paper, document, data, or other physical or electronic information, including financial
2314 data, sales data, shipping data, pricing data, and employee data.

2315 (5) Failure to provide the department [~~or the department's~~], the Department of
2316 Agriculture and Food, or the authorized agents of the department or the Department of
2317 Agriculture and Food immediate access to records and facilities during business hours in
2318 accordance with this section may result in:

2319 (a) the imposition of a civil monetary penalty that the department sets in accordance

2320 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2321 (b) license or registration suspension or revocation; or

2322 (c) an immediate cessation of operations under a cease and desist order that the
2323 department issues.

2324 (6) Notwithstanding any other provision of law, the department may temporarily store
2325 in any department facility the items the department seizes under Subsection (3)(e) until the
2326 department:

2327 (a) determines that sufficient compliance justifies the return of the seized items; or

2328 (b) disposes of the items in the same manner as a cannabis production establishment in
2329 accordance with Section 4-41a-405.

2330 Section 28. Section **26-61a-505** is amended to read:

2331 **26-61a-505. Advertising.**

2332 (1) Except as provided in [~~Subsections (2) and (3)~~] this section, a medical cannabis
2333 pharmacy may not advertise in any medium.

2334 (2) A medical cannabis pharmacy may advertise an employment opportunity at the
2335 medical cannabis pharmacy.

2336 [~~(2)~~] (3) Notwithstanding any municipal or county ordinance prohibiting signage, a
2337 medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy
2338 that:

2339 (a) includes only:

2340 (i) the medical cannabis pharmacy's name and hours of operation; and

2341 (ii) a green cross;

2342 (b) does not exceed four feet by five feet in size; and

2343 (c) complies with local ordinances regulating signage.

2344 [~~(3)~~] (4) (a) A medical cannabis pharmacy may maintain a website that includes
2345 information about:

2346 [~~(a)~~] (i) the location and hours of operation of the medical cannabis pharmacy;

2347 [~~(b)~~] (ii) a product or service available at the medical cannabis pharmacy;

2348 [~~(c)~~] (iii) personnel affiliated with the medical cannabis pharmacy;

2349 [~~(d)~~] (iv) best practices that the medical cannabis pharmacy upholds; and

2350 [~~(e)~~] (v) educational material related to the medical use of cannabis, as defined by the

2351 department.

2352 (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2353 Administrative Rulemaking Act, to define the educational material described in Subsection
2354 (4)(a).

2355 (5) (a) A medical cannabis pharmacy may hold an educational event for the public or
2356 medical providers in accordance with this Subsection (5) and the rules described in Subsection
2357 (5)(c).

2358 (b) A medical cannabis pharmacy may not include in an educational event described in
2359 Subsection (5)(a):

2360 (i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis
2361 Production Establishments;

2362 (ii) any gift items or merchandise other than educational materials, as those terms are
2363 defined by the department;

2364 (iii) any marketing for a specific product from the medical cannabis pharmacy; or

2365 (iv) a presenter other than the following:

2366 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

2367 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
2368 Practice Act;

2369 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
2370 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2371 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
2372 Assistant Act; or

2373 (E) a state employee.

2374 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2375 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
2376 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

2377 Section 29. Section **26-61a-506** is amended to read:

2378 **26-61a-506. Medical cannabis transportation.**

2379 (1) Only the following individuals may transport medical cannabis [~~in a medicinal~~
2380 ~~dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device]~~
2381 under this chapter:

- 2382 (a) a registered medical cannabis pharmacy agent;
- 2383 (b) a registered medical cannabis courier agent; ~~[or]~~
- 2384 (c) a registered pharmacy medical provider; or
- 2385 ~~[(c)]~~ (d) a medical cannabis cardholder who is transporting a medical cannabis
- 2386 treatment that the cardholder is authorized to transport.
- 2387 (2) Except for an individual with a valid medical cannabis card under this chapter who
- 2388 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an
- 2389 individual described in Subsection (1) shall possess a transportation manifest that:
- 2390 (a) includes a unique identifier that links the cannabis~~;~~ or cannabis product~~;~~~~or~~
- 2391 ~~medical cannabis device]~~ to a relevant inventory control system;
- 2392 (b) includes origin and destination information for the medical cannabis~~;~~~~a cannabis~~
- 2393 ~~product, or a medical cannabis device]~~ that the individual is transporting; and
- 2394 (c) identifies the departure and arrival times and locations of the individual
- 2395 transporting the medical cannabis~~;~~~~cannabis product, or medical cannabis device]~~.
- 2396 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
- 2397 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
- 2398 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
- 2399 Rulemaking Act, requirements for transporting ~~[cannabis in a medicinal dosage form, a~~
- 2400 ~~cannabis product in a medicinal dosage form, or a medical cannabis device]~~ medical cannabis
- 2401 to ensure that the medical cannabis~~;~~~~cannabis product, or medical cannabis device]~~ remains
- 2402 safe for human consumption.
- 2403 (b) The transportation described in Subsection (1)(a) is limited to transportation
- 2404 between a medical cannabis pharmacy and:
- 2405 (i) another medical cannabis pharmacy; or
- 2406 (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.
- 2407 (4) (a) It is unlawful for ~~[a registered medical cannabis pharmacy agent or a registered~~
- 2408 ~~medical cannabis courier agent]~~ an individual described in Subsection (1) to make a transport
- 2409 described in this section with a manifest that does not meet the requirements of this section.
- 2410 (b) Except as provided in Subsection (4)(d), an ~~[agent]~~ individual who violates
- 2411 Subsection (4)(a) is:
- 2412 (i) guilty of an infraction; and

2413 (ii) subject to a \$100 fine.

2414 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
2415 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2416 underlying the violation described in Subsection (4)(b).

2417 (d) If the individual described in Subsection (4)(a) is transporting more medical
2418 ~~cannabis~~[~~cannabis product, or medical cannabis devices~~] than the manifest identifies, except
2419 for a de minimis administrative error:

2420 (i) this chapter does not apply; and

2421 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2422 Substances Act.

2423 (5) An individual other than an individual described in Subsection (1) may transport a
2424 medical cannabis device within the state if the transport does not also contain medical
2425 cannabis.

2426 Section 30. Section **26-61a-601** is amended to read:

2427 **26-61a-601. State central patient portal -- Department duties.**

2428 (1) On or before July 1, 2020, the department shall establish or contract to establish, in
2429 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as
2430 described in this section.

2431 (2) The state central patient portal shall:

2432 (a) authenticate each user to ensure the user is a valid medical cannabis patient
2433 cardholder;

2434 (b) allow a medical cannabis patient cardholder to:

2435 (i) obtain and download the cardholder's medical cannabis card;

2436 (ii) review the cardholder's medical cannabis purchase history; and

2437 (iii) manage the cardholder's personal information, including withdrawing consent for
2438 the use of the cardholder's information for a study described in Subsection

2439 ~~26-61a-201~~~~(10)~~(11);

2440 (c) if the cardholder's qualified medical provider recommended the use of medical
2441 cannabis without providing directions of use and dosing [~~parameters~~] guidelines and the
2442 cardholder has not yet received the counseling or consultation required in Subsection

2443 ~~26-61a-502~~(4):

2444 (i) alert the cardholder of the outstanding need for consultation; and
2445 (ii) provide the cardholder with access to the contact information for each state central
2446 patient portal medical provider and each pharmacy medical provider;
2447 (d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis
2448 order;
2449 (i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or
2450 (ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in
2451 person from the pharmacy;
2452 (e) prohibit a patient from completing an electronic medical cannabis order described
2453 in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection
2454 ~~[26-61a-501]~~ 26-61a-502(2)(a) or (b);
2455 (f) provide educational information to medical cannabis patient cardholders regarding
2456 the state's medical cannabis laws and regulatory programs and other relevant information
2457 regarding medical cannabis; and
2458 (g) allow the patient to designate up to two caregivers who may receive a medical
2459 cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in
2460 accordance with this chapter.
2461 (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah
2462 Administrative Rulemaking Act, to implement the state central patient portal.
2463 Section 31. Section **26-61a-603** is amended to read:
2464 **26-61a-603. Payment provider for electronic medical cannabis transactions.**
2465 (1) A cannabis production establishment [~~seeking to use a payment provider~~], a
2466 medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy
2467 seeking to use a payment provider shall submit to the Division of Finance and the state
2468 treasurer information regarding the payment provider the prospective licensee will use to
2469 conduct financial transactions related to medical cannabis, including:
2470 (a) the name and contact information of the payment provider;
2471 (b) the nature of the relationship between the establishment, pharmacy, or prospective
2472 pharmacy and the payment provider; and
2473 (c) for a prospective home delivery medical cannabis pharmacy, the processes the
2474 prospective licensee and the payment provider have in place to safely and reliably conduct

2475 financial transactions for medical cannabis shipments.

2476 (2) The Division of Finance shall, in consultation with the state treasurer:

2477 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2478 make rules to establish standards for identifying payment providers that demonstrate the
2479 functional and technical ability to safely conduct financial transactions related to medical
2480 cannabis, including medical cannabis shipments;

2481 (b) review submissions the Division of Finance and the state treasurer receive under
2482 Subsection (1);

2483 (c) approve a payment provider that meets the standards described in Subsection (2)(a);
2484 and

2485 (d) establish a list of approved payment providers.

2486 (3) Any licensed cannabis production establishment, licensed medical cannabis
2487 pharmacy, or medical cannabis courier may use a payment provider that the Division of
2488 Finance approves, in consultation with the state treasurer, to conduct transactions related to the
2489 establishment's, pharmacy's, or courier's respective medical cannabis business.

2490 (4) If Congress passes legislation that allows a cannabis-related business to facilitate
2491 payments through or deposit funds in a financial institution, a cannabis production
2492 establishment or a medical cannabis pharmacy may facilitate payments through or deposit
2493 funds in a financial institution in addition to or instead of a payment provider that the Division
2494 of Finance approves, in consultation with the state treasurer, under this section.

2495 Section 32. Section **26-61a-605** is amended to read:

2496 **26-61a-605. Medical cannabis shipment transportation.**

2497 (1) The department shall ensure that each home delivery medical cannabis pharmacy is
2498 capable of delivering, directly or through a medical cannabis courier, medical cannabis
2499 shipments in a secure manner.

2500 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed
2501 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
2502 cannabis orders that the state central patient portal facilitates.

2503 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
2504 Subsection (2)(a), the pharmacy shall:

2505 (i) impose security and personnel requirements on the medical cannabis courier

2506 sufficient to ensure the security and safety of medical cannabis shipments; and
2507 (ii) provide regular oversight of the medical cannabis courier.
2508 (3) Except for an individual with a valid medical cannabis card who transports a
2509 shipment the individual receives, an individual may not transport a medical cannabis shipment
2510 unless the individual is:
2511 (a) a registered pharmacy medical provider;
2512 [~~(a)~~] (b) a registered medical cannabis pharmacy agent; or
2513 [~~(b)~~] (c) a registered agent of the medical cannabis courier described in Subsection (2).
2514 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
2515 possess a transportation manifest that:
2516 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
2517 inventory control system;
2518 (b) includes origin and destination information for the medical cannabis shipment the
2519 individual is transporting; and
2520 (c) indicates the departure and arrival times and locations of the individual transporting
2521 the medical cannabis shipment.
2522 (5) In addition to the requirements in Subsections (3) and (4), the department may
2523 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2524 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2525 Rulemaking Act, requirements for transporting medical cannabis shipments that are related to
2526 safety for human consumption of cannabis or a cannabis product.
2527 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
2528 manifest that does not meet the requirements of Subsection (4).
2529 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
2530 (6)(a) is:
2531 (i) guilty of an infraction; and
2532 (ii) subject to a \$100 fine.
2533 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not
2534 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2535 underlying the violation described in Subsection (6)(b).
2536 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,

2537 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
2538 minimis administrative error:

2539 (i) this chapter does not apply; and

2540 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2541 Substances Act.

2542 Section 33. Section **41-6a-517** is amended to read:

2543 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
2544 **body -- Penalties -- Arrest without warrant.**

2545 (1) As used in this section:

2546 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

2547 (b) "Practitioner" means the same as that term is defined in Section [58-37-2](#).

2548 (c) "Prescribe" means the same as that term is defined in Section [58-37-2](#).

2549 (d) "Prescription" means the same as that term is defined in Section [58-37-2](#).

2550 (2) In cases not amounting to a violation of Section [41-6a-502](#), a person may not
2551 operate or be in actual physical control of a motor vehicle within this state if the person has the
2552 following in the person's body:

2553 (a) for a controlled substance other than cannabis, any measurable controlled substance
2554 or metabolite of a controlled substance [~~in the person's body.~~]; or

2555 (b) a pharmacologically active metabolite of cannabis.

2556 (3) It is an affirmative defense to prosecution under this section that the controlled
2557 substance was:

2558 (a) involuntarily ingested by the accused;

2559 (b) prescribed by a practitioner for use by the accused;

2560 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
2561 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
2562 Cannabis Act; or

2563 (d) otherwise legally ingested.

2564 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
2565 misdemeanor.

2566 (b) A person who violates this section is subject to conviction and sentencing under
2567 both this section and any applicable offense under Section [58-37-8](#).

2568 (5) A peace officer may, without a warrant, arrest a person for a violation of this
2569 section when the officer has probable cause to believe the violation has occurred, although not
2570 in the officer's presence, and if the officer has probable cause to believe that the violation was
2571 committed by the person.

2572 (6) The Driver License Division shall, if the person is 21 years of age or older on the
2573 date of arrest:

2574 (a) suspend, for a period of 120 days, the driver license of a person convicted under
2575 Subsection (2) of an offense committed on or after July 1, 2009; or

2576 (b) revoke, for a period of two years, the driver license of a person if:

2577 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2578 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
2579 and within a period of 10 years after the date of the prior violation.

2580 (7) The Driver License Division shall, if the person is 19 years of age or older but
2581 under 21 years of age on the date of arrest:

2582 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
2583 longer, the driver license of a person convicted under Subsection (2) of an offense committed
2584 on or after July 1, 2011; or

2585 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
2586 longer, the driver license of a person if:

2587 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2588 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
2589 and within a period of 10 years after the date of the prior violation.

2590 (8) The Driver License Division shall, if the person is under 19 years of age on the date
2591 of arrest:

2592 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
2593 under Subsection (2) of an offense committed on or after July 1, 2009; or

2594 (b) revoke, until the person is 21 years of age, the driver license of a person if:

2595 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2596 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
2597 and within a period of 10 years after the date of the prior violation.

2598 (9) The Driver License Division shall subtract from any suspension or revocation

2599 period the number of days for which a license was previously suspended under Section
2600 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
2601 which the record of conviction is based.

2602 (10) The Driver License Division shall:

2603 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
2604 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
2605 committed prior to July 1, 2009; or

2606 (b) deny, suspend, or revoke the operator's license of a person for the denial,
2607 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

2608 (i) the person was 20 years of age or older but under 21 years of age at the time of
2609 arrest; and

2610 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
2611 July 1, 2009, and prior to July 1, 2011.

2612 (11) A court that reported a conviction of a violation of this section for a violation that
2613 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
2614 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
2615 if the person:

2616 (a) completes at least six months of the license suspension;

2617 (b) completes a screening;

2618 (c) completes an assessment, if it is found appropriate by a screening under Subsection
2619 (11)(b);

2620 (d) completes substance abuse treatment if it is found appropriate by the assessment
2621 under Subsection (11)(c);

2622 (e) completes an educational series if substance abuse treatment is not required by the
2623 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

2624 (f) has not been convicted of a violation of any motor vehicle law in which the person
2625 was involved as the operator of the vehicle during the suspension period imposed under
2626 Subsection (7)(a) or (8)(a);

2627 (g) has complied with all the terms of the person's probation or all orders of the court if
2628 not ordered to probation; and

2629 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the

2630 person has not consumed a controlled substance not prescribed by a practitioner for use by the
2631 person or unlawfully consumed alcohol during the suspension period imposed under
2632 Subsection (7)(a) or (8)(a); or

2633 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
2634 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
2635 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
2636 for use by the person or unlawfully consumed alcohol during the suspension period imposed
2637 under Subsection (7)(a) or (8)(a).

2638 (12) If the court shortens a person's license suspension period in accordance with the
2639 requirements of Subsection (11), the court shall forward the order shortening the person's
2640 license suspension period prior to the completion of the suspension period imposed under
2641 Subsection (7)(a) or (8)(a) to the Driver License Division.

2642 (13) (a) The court shall notify the Driver License Division if a person fails to:

2643 (i) complete all court ordered screening and assessment, educational series, and
2644 substance abuse treatment; or

2645 (ii) pay all fines and fees, including fees for restitution and treatment costs.

2646 (b) Upon receiving the notification, the division shall suspend the person's driving
2647 privilege in accordance with Subsections 53-3-221(2) and (3).

2648 (14) The court:

2649 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person
2650 convicted under Subsection (2); and

2651 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
2652 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

2653 (15) (a) A court that reported a conviction of a violation of this section to the Driver
2654 License Division may shorten the suspension period imposed under Subsection (6) before
2655 completion of the suspension period if the person is participating in or has successfully
2656 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

2657 (b) If the court shortens a person's license suspension period in accordance with the
2658 requirements of this Subsection (15), the court shall forward to the Driver License Division the
2659 order shortening the person's suspension period.

2660 (c) The court shall notify the Driver License Division if a person fails to complete all

2661 requirements of a 24-7 sobriety program.

2662 (d) Upon receiving the notification described in Subsection (15)(c), the division shall
2663 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

2664 Section 34. Section 52-4-205 is amended to read:

2665 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
2666 **meetings.**

2667 (1) A closed meeting described under Section 52-4-204 may only be held for:

2668 (a) except as provided in Subsection (3), discussion of the character, professional
2669 competence, or physical or mental health of an individual;

2670 (b) strategy sessions to discuss collective bargaining;

2671 (c) strategy sessions to discuss pending or reasonably imminent litigation;

2672 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
2673 including any form of a water right or water shares, if public discussion of the transaction
2674 would:

2675 (i) disclose the appraisal or estimated value of the property under consideration; or

2676 (ii) prevent the public body from completing the transaction on the best possible terms;

2677 (e) strategy sessions to discuss the sale of real property, including any form of a water
2678 right or water shares, if:

2679 (i) public discussion of the transaction would:

2680 (A) disclose the appraisal or estimated value of the property under consideration; or

2681 (B) prevent the public body from completing the transaction on the best possible terms;

2682 (ii) the public body previously gave public notice that the property would be offered for
2683 sale; and

2684 (iii) the terms of the sale are publicly disclosed before the public body approves the
2685 sale;

2686 (f) discussion regarding deployment of security personnel, devices, or systems;

2687 (g) investigative proceedings regarding allegations of criminal misconduct;

2688 (h) as relates to the Independent Legislative Ethics Commission, conducting business
2689 relating to the receipt or review of ethics complaints;

2690 (i) as relates to an ethics committee of the Legislature, a purpose permitted under

2691 Subsection 52-4-204(1)(a)(iii)(C);

2692 (j) as relates to the Independent Executive Branch Ethics Commission created in
2693 Section 63A-14-202, conducting business relating to an ethics complaint;

2694 (k) as relates to a county legislative body, discussing commercial information as
2695 defined in Section 59-1-404;

2696 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
2697 board of directors, discussing fiduciary or commercial information as defined in Section
2698 53B-12-102;

2699 (m) deliberations, not including any information gathering activities, of a public body
2700 acting in the capacity of:

2701 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
2702 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

2703 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
2704 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

2705 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
2706 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
2707 Procurement Appeals Board;

2708 (n) the purpose of considering information that is designated as a trade secret, as
2709 defined in Section 13-24-2, if the public body's consideration of the information is necessary in
2710 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

2711 (o) the purpose of discussing information provided to the public body during the
2712 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
2713 the meeting:

2714 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
2715 disclosed to a member of the public or to a participant in the procurement process; and

2716 (ii) the public body needs to review or discuss the information in order to properly
2717 fulfill its role and responsibilities in the procurement process;

2718 (p) as relates to the governing board of a governmental nonprofit corporation, as that
2719 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
2720 as a trade secret, as that term is defined in Section 13-24-2, if:

2721 (i) public knowledge of the discussion would reasonably be expected to result in injury
2722 to the owner of the trade secret; and

2723 (ii) discussion of the information is necessary for the governing board to properly
2724 discharge the board's duties and conduct the board's business; or

2725 (q) a purpose for which a meeting is required to be closed under Subsection (2).

2726 (2) The following meetings shall be closed:

2727 (a) a meeting of the Health and Human Services Interim Committee to review a fatality
2728 review report described in Subsection [62A-16-301](#)(1)(a), and the responses to the report
2729 described in Subsections [62A-16-301](#)(2) and (4);

2730 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

2731 (i) review a fatality review report described in Subsection [62A-16-301](#)(1)(a), and the
2732 responses to the report described in Subsections [62A-16-301](#)(2) and (4); or

2733 (ii) review and discuss an individual case, as described in Subsection [62A-4a-207](#)(5);
2734 [~~and~~]

2735 (c) a meeting of a conservation district as defined in Section [17D-3-102](#) for the purpose
2736 of advising the Natural Resource Conservation Service of the United States Department of
2737 Agriculture on a farm improvement project if the discussed information is protected
2738 information under federal law[-]; and

2739 (d) a meeting of the Compassionate Use Board established in Section [26-61a-105](#) for
2740 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
2741 [26-61a-105](#).

2742 (3) In a closed meeting, a public body may not:

2743 (a) interview a person applying to fill an elected position;

2744 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
2745 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
2746 or

2747 (c) discuss the character, professional competence, or physical or mental health of the
2748 person whose name was submitted for consideration to fill a midterm vacancy or temporary
2749 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
2750 Temporary Absence in Elected Office.

2751 Section 35. Section **58-37-2** is amended to read:

2752 **58-37-2. Definitions.**

2753 (1) As used in this chapter:

2754 (a) "Administer" means the direct application of a controlled substance, whether by
2755 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
2756 by:

2757 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;
2758 or

2759 (ii) the patient or research subject at the direction and in the presence of the
2760 practitioner.

2761 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
2762 manufacturer, distributor, or practitioner but does not include a motor carrier, public
2763 warehouseman, or employee of any of them.

2764 (c) "Consumption" means ingesting or having any measurable amount of a controlled
2765 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
2766 controlled substance.

2767 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
2768 partnership, corporation, business trust, association, or other legal entity, and any union or
2769 groups of individuals associated in fact although not a legal entity, and includes illicit as well
2770 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
2771 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
2772 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
2773 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
2774 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
2775 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
2776 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
2777 unlawful conduct and be related either to each other or to the enterprise.

2778 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
2779 immediate precursor under Section [58-37-3](#).

2780 (f) (i) "Controlled substance" means a drug or substance:

2781 (A) included in Schedules I, II, III, IV, or V of Section [58-37-4](#);

2782 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,
2783 Title II, P.L. 91-513;

2784 (C) that is a controlled substance analog; or

- 2785 (D) listed in Section 58-37-4.2.
- 2786 (ii) "Controlled substance" does not include:
- 2787 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,
2788 Alcoholic Beverage Control Act;
- 2789 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
2790 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,
2791 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
2792 transferred, or furnished as an over-the-counter medication without prescription; or
- 2793 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances
2794 including concentrates or extracts, which:
- 2795 (I) are not otherwise regulated by law; and
- 2796 (II) may contain naturally occurring amounts of chemical or substances listed in this
2797 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking
2798 Act.
- 2799 (g) (i) "Controlled substance analog" means:
- 2800 (A) a substance the chemical structure of which is substantially similar to the chemical
2801 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance
2802 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,
2803 Title II, P.L. 91-513;
- 2804 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the
2805 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic
2806 effect on the central nervous system of controlled substances listed in Schedules I and II of
2807 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and
2808 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or
- 2809 (C) A substance which, with respect to a particular individual, is represented or
2810 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system
2811 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
2812 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,
2813 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal
2814 Controlled Substances Act, Title II, P.L. 91-513.
- 2815 (ii) "Controlled substance analog" does not include:

- 2816 (A) a controlled substance currently scheduled in Schedules I through V of Section
2817 58-37-4;
- 2818 (B) a substance for which there is an approved new drug application;
- 2819 (C) a substance with respect to which an exemption is in effect for investigational use
2820 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
2821 to the extent the conduct with respect to the substance is permitted by the exemption;
- 2822 (D) any substance to the extent not intended for human consumption before an
2823 exemption takes effect with respect to the substance;
- 2824 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
2825 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
2826 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
2827 transferred, or furnished as an over-the-counter medication without prescription; or
- 2828 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
2829 including concentrates or extracts, which are not otherwise regulated by law, which may
2830 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
2831 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2832 (h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
2833 or plea, whether guilty or no contest, for any offense proscribed by:
- 2834 (A) Chapter 37, Utah Controlled Substances Act;
- 2835 (B) Chapter 37a, Utah Drug Paraphernalia Act;
- 2836 (C) Chapter 37b, Imitation Controlled Substances Act;
- 2837 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- 2838 (E) Chapter 37d, Clandestine Drug Lab Act; or
- 2839 (ii) for any offense under the laws of the United States and any other state which, if
2840 committed in this state, would be an offense under:
- 2841 (A) Chapter 37, Utah Controlled Substances Act;
- 2842 (B) Chapter 37a, Utah Drug Paraphernalia Act;
- 2843 (C) Chapter 37b, Imitation Controlled Substances Act;
- 2844 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- 2845 (E) Chapter 37d, Clandestine Drug Lab Act.
- 2846 (i) "Counterfeit substance" means:

2847 (i) any controlled substance or container or labeling of any controlled substance that:

2848 (A) without authorization bears the trademark, trade name, or other identifying mark,
2849 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
2850 other than the person or persons who in fact manufactured, distributed, or dispensed the
2851 substance which falsely purports to be a controlled substance distributed by any other
2852 manufacturer, distributor, or dispenser; and

2853 (B) a reasonable person would believe to be a controlled substance distributed by an
2854 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as
2855 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled
2856 substance; or

2857 (ii) any substance other than under Subsection (1)(i)(i) that:

2858 (A) is falsely represented to be any legally or illegally manufactured controlled
2859 substance; and

2860 (B) a reasonable person would believe to be a legal or illegal controlled substance.

2861 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
2862 controlled substance or a listed chemical, whether or not an agency relationship exists.

2863 (k) "Department" means the Department of Commerce.

2864 (l) "Depressant or stimulant substance" means:

2865 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric
2866 acid;

2867 (ii) a drug which contains any quantity of:

2868 (A) amphetamine or any of its optical isomers;

2869 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

2870 (C) any substance which the Secretary of Health and Human Services or the Attorney
2871 General of the United States after investigation has found and by regulation designated
2872 habit-forming because of its stimulant effect on the central nervous system;

2873 (iii) lysergic acid diethylamide; or

2874 (iv) any drug which contains any quantity of a substance which the Secretary of Health
2875 and Human Services or the Attorney General of the United States after investigation has found
2876 to have, and by regulation designated as having, a potential for abuse because of its depressant
2877 or stimulant effect on the central nervous system or its hallucinogenic effect.

2878 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
2879 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
2880 distributing to, leaving with, giving away, or disposing of that substance as well as the
2881 packaging, labeling, or compounding necessary to prepare the substance for delivery.

2882 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.

2883 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
2884 substance or a listed chemical.

2885 (p) "Distributor" means a person who distributes controlled substances.

2886 (q) "Division" means the Division of Occupational and Professional Licensing created
2887 in Section [58-1-103](#).

2888 (r) (i) "Drug" means:

2889 (A) a substance recognized in the official United States Pharmacopoeia, Official
2890 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
2891 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
2892 prevention of disease in humans or animals;

2893 (B) a substance that is required by any applicable federal or state law or rule to be
2894 dispensed by prescription only or is restricted to administration by practitioners only;

2895 (C) a substance other than food intended to affect the structure or any function of the
2896 body of humans or other animals; and

2897 (D) substances intended for use as a component of any substance specified in
2898 Subsections (1)(r)(i)(A), (B), and (C).

2899 (ii) "Drug" does not include dietary supplements.

2900 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
2901 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
2902 dependent upon the use of controlled substances as to have lost the power of self-control with
2903 reference to the individual's dependency.

2904 (t) "Food" means:

2905 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
2906 specified in this chapter, and normally ingested by human beings; and

2907 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
2908 pathological, or other condition including but not limited to the conditions of disease,

2909 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
2910 overweight; uses for supplying a particular dietary need which exist by reason of age including
2911 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
2912 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
2913 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
2914 purposes.

2915 (u) "Immediate precursor" means a substance which the Attorney General of the United
2916 States has found to be, and by regulation designated as being, the principal compound used or
2917 produced primarily for use in the manufacture of a controlled substance, or which is an
2918 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
2919 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
2920 controlled substance.

2921 (v) "Indian" means a member of an Indian tribe.

2922 (w) "Indian religion" means any religion:

2923 (i) the origin and interpretation of which is from within a traditional Indian culture or
2924 community; and

2925 (ii) which is practiced by Indians.

2926 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
2927 community of Indians, including any Alaska Native village, which is legally recognized as
2928 eligible for and is consistent with the special programs, services, and entitlements provided by
2929 the United States to Indians because of their status as Indians.

2930 (y) "Manufacture" means the production, preparation, propagation, compounding, or
2931 processing of a controlled substance, either directly or indirectly by extraction from substances
2932 of natural origin, or independently by means of chemical synthesis or by a combination of
2933 extraction and chemical synthesis.

2934 (z) "Manufacturer" includes any person who packages, repackages, or labels any
2935 container of any controlled substance, except pharmacists who dispense or compound
2936 prescription orders for delivery to the ultimate consumer.

2937 (aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus,
2938 whether growing or not~~[-the]~~, including:

2939 (A) seeds ~~[of it; the]~~;

2940 (B) resin extracted from any part of the plant[~~;~~ and], including the resin extracted from
2941 the mature stalks;

2942 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant,
2943 [its] seeds, or resin[~~.~~ ~~The term~~]; and

2944 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa
2945 or any other species of the genus cannabis which are chemically indistinguishable and
2946 pharmacologically active.

2947 (ii) "Marijuana" does not include:

2948 (A) the mature stalks of the plant[~~;~~];

2949 (B) fiber produced from the stalks[~~;~~];

2950 (C) oil or cake made from the seeds of the plant[~~;~~];

2951 (D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture,
2952 salt, derivative, mixture, or preparation of the mature stalks, [except the resin extracted from
2953 them,] fiber, oil or cake[~~.~~ or];

2954 (E) the sterilized seed of the plant which is incapable of germination[~~.~~ Any synthetic
2955 equivalents of the substances contained in the plant cannabis sativa or any other species of the
2956 genus cannabis which are chemically indistinguishable and pharmacologically active are also
2957 included.]; or

2958 (F) any compound, mixture, or preparation approved by the Federal Food and Drug
2959 Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
2960 that is not listed in a schedule of controlled substances in Section [58-27-4](#) or in the federal
2961 Controlled Substances Act, Title II, P.L. 91-513.

2962 (bb) "Money" means officially issued coin and currency of the United States or any
2963 foreign country.

2964 (cc) "Narcotic drug" means any of the following, whether produced directly or
2965 indirectly by extraction from substances of vegetable origin, or independently by means of
2966 chemical synthesis, or by a combination of extraction and chemical synthesis:

2967 (i) opium, coca leaves, and opiates;

2968 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
2969 opiates;

2970 (iii) opium poppy and poppy straw; or

2971 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
2972 substance, which is chemically identical with any of the substances referred to in Subsection
2973 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
2974 extracts of coca leaves which do not contain cocaine or ecgonine.

2975 (dd) "Negotiable instrument" means documents, containing an unconditional promise
2976 to pay a sum of money, which are legally transferable to another party by endorsement or
2977 delivery.

2978 (ee) "Opiate" means any drug or other substance having an addiction-forming or
2979 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
2980 having addiction-forming or addiction-sustaining liability.

2981 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
2982 seeds of the plant.

2983 (gg) "Person" means any corporation, association, partnership, trust, other institution or
2984 entity or one or more individuals.

2985 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
2986 mowing.

2987 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
2988 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
2989 or consumption, as distinguished from distribution, of controlled substances and includes
2990 individual, joint, or group possession or use of controlled substances. For a person to be a
2991 possessor or user of a controlled substance, it is not required that the person be shown to have
2992 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that
2993 the person jointly participated with one or more persons in the use, possession, or control of
2994 any substances with knowledge that the activity was occurring, or the controlled substance is
2995 found in a place or under circumstances indicating that the person had the ability and the intent
2996 to exercise dominion and control over it.

2997 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
2998 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
2999 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
3000 in teaching or chemical analysis a controlled substance in the course of professional practice or
3001 research in this state.

3002 (kk) "Prescribe" means to issue a prescription:

3003 (i) orally or in writing; or

3004 (ii) by telephone, facsimile transmission, computer, or other electronic means of
3005 communication as defined by division rule.

3006 (ll) "Prescription" means an order issued:

3007 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
3008 by collaborative pharmacy practice agreement; and

3009 (ii) for a controlled substance or other prescription drug or device for use by a patient
3010 or an animal.

3011 (mm) "Production" means the manufacture, planting, cultivation, growing, or
3012 harvesting of a controlled substance.

3013 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
3014 property.

3015 (oo) "State" means the state of Utah.

3016 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
3017 for the person's own use, for the use of a member of the person's household, or for
3018 administration to an animal owned by the person or a member of the person's household.

3019 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
3020 Utah Criminal Code, shall apply.

3021 Section 36. Section ~~58-37-3.7~~ is amended to read:

3022 **58-37-3.7. Medical cannabis decriminalization.**

3023 (1) As used in this section:

3024 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

3025 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

3026 (c) "Legal dosage limit" means the same as that term is defined in Section [26-61a-102](#).

3027 ~~[(e)]~~ (d) "Medical cannabis card" means the same as that term is defined in Section
3028 [26-61a-102](#).

3029 ~~[(e)]~~ (e) "Medical cannabis device" means the same as that term is defined in Section
3030 [26-61a-102](#).

3031 ~~[(e)] "Medical cannabis pharmacy" means the same as that term is defined in Section~~
3032 [26-61a-102](#).]

3033 (f) "Medicinal dosage form" means the same as that term is defined in Section
3034 [26-61a-102](#).

3035 (g) "Nonresident patient" means the same as that term is defined in Section
3036 [26-61a-102](#).

3037 [~~(g) "Qualified medical provider" means the same as that term is defined in Section~~
3038 ~~[26-61a-102](#).~~]

3039 (h) "Qualifying condition" means the same as that term is defined in Section
3040 [26-61a-102](#).

3041 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
3042 [58-37-3.9](#).

3043 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
3044 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

3045 (a) at the time of the arrest or citation, the individual:

3046 (i) (A) had been diagnosed with a qualifying condition; and
3047 (B) had a pre-existing provider-patient relationship with an advanced practice
3048 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
3049 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
3050 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
3051 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness
3052 described in Subsection (2)(a)(i)(A) could benefit from the use in question;

3053 (ii) for possession, was:

3054 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
3055 is a minor; or
3056 (B) the spouse of an individual described in Subsection (2)(a)(i); or
3057 (iii) (A) for possession, was a medical cannabis cardholder; or
3058 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
3059 condition under the supervision of a medical cannabis guardian cardholder; and

3060 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
3061 tetrahydrocannabinol [was in a medicinal dosage form in one of the following amounts: (i) no
3062 more than 56 grams by weight of unprocessed cannabis; or (ii) an amount of cannabis products
3063 that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.] is one

3064 of the following in an amount that does not exceed the legal dosage limit:

3065 (A) unprocessed cannabis in a medicinal dosage form; or

3066 (B) a cannabis product in a medicinal dosage form; and

3067 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a

3068 medical cannabis device.

3069 (3) [~~An individual~~] A nonresident patient is not guilty under this chapter for the use or

3070 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this

3071 chapter if: [~~(a) at the time of the arrest or citation, the individual: (i) was not a resident of Utah~~

3072 ~~or has been a resident of Utah for less than 45 days; (ii) had a currently valid medical cannabis~~

3073 ~~card or the equivalent of a medical cannabis card under the laws of another state, district,~~

3074 ~~territory, commonwealth, or insular possession of the United States; and (iii) had been~~

3075 ~~diagnosed with a qualifying condition as described in Section 26-61a-104; and (b) the~~

3076 ~~marijuana or tetrahydrocannabinol is in a medicinal dosage form in one of the following~~

3077 ~~amounts:]~~

3078 [~~(i) no more than 113 grams by weight of unprocessed cannabis; or]~~

3079 [~~(ii) an amount of cannabis products that contains, in total, no more than 20 grams of~~

3080 ~~total composite tetrahydrocannabinol.]~~

3081 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or

3082 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal

3083 dosage limit:

3084 (i) unprocessed cannabis in a medicinal dosage form; or

3085 (ii) a cannabis product in a medicinal dosage form; and

3086 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a

3087 medical cannabis device.

3088 (4) (a) There is a rebuttable presumption against an allegation of use or possession of

3089 marijuana or tetrahydrocannabinol if:

3090 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the

3091 sample; and

3092 (ii) the individual provides evidence that the individual possessed or used cannabidiol

3093 or a cannabidiol product.

3094 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that

3095 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized
3096 under:

3097 (i) Section 4-41-402; or

3098 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

3099 Section 37. Section **58-37-3.9** is amended to read:

3100 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**
3101 **illness.**

3102 (1) As used in this section:

3103 (a) "Cannabis" means marijuana.

3104 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

3105 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

3106 (d) "Medical cannabis cardholder" means the same as that term is defined in Section
3107 26-61a-102.

3108 (e) "Medical cannabis device" means the same as that term is defined in Section
3109 26-61a-102.

3110 (f) " Medicinal dosage form" means the same as that term is defined in Section
3111 26-61a-102.

3112 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic
3113 description as described in Subsection 58-37-4(2)(a)(iii)(AA).

3114 (2) Notwithstanding any other provision of law, except as otherwise provided in this
3115 section:

3116 (a) an individual is not guilty of a violation of this title for the following conduct if the
3117 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis
3118 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

3119 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,
3120 selling, or offering to sell cannabis or a cannabis product; or

3121 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct
3122 described in Subsection (2)(a)(i); and

3123 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if
3124 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,
3125 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

3126 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis
3127 device; or

3128 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct
3129 described in Subsection (2)(b)(i).

3130 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or
3131 heating of medical cannabis.

3132 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical
3133 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking
3134 or combustion of cannabis.

3135 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or
3136 engages in any other conduct described in Subsection (3)(b):

3137 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah
3138 Medical Cannabis Act; and

3139 (ii) is [~~subject to charges under this chapter~~],² for the use or possession of marijuana,
3140 tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection
3141 (3)(b)[-]:

3142 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

3143 (B) for a second or subsequent offense, subject to charges under this chapter.

3144 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,
3145 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
3146 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a
3147 penalty described in this chapter for:

3148 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis
3149 product; or

3150 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3151 Section 38. Section **58-37-4** is amended to read:

3152 **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings**
3153 **required -- Specific substances included in schedules.**

3154 (1) There are established five schedules of controlled substances known as Schedules I,
3155 II, III, IV, and V which consist of substances listed in this section.

3156 (2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by

- 3157 the official name, common or usual name, chemical name, or brand name designated:
- 3158 (a) Schedule I:
- 3159 (i) Unless specifically excepted or unless listed in another schedule, any of the
- 3160 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
- 3161 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
- 3162 chemical designation:
- 3163 (A) Acetyl-alpha-methylfentanyl
- 3164 (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- 3165 (B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);
- 3166 (C) Acetylmethadol;
- 3167 (D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);
- 3168 (E) Allylprodine;
- 3169 (F) Alphacetylmethadol, except levo-alphacetylmethadol also known as
- 3170 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
- 3171 (G) Alphameprodine;
- 3172 (H) Alphamethadol;
- 3173 (I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]
- 3174 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- 3175 (J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
- 3176 piperidinyl]-N-phenylpropanamide);
- 3177 (K) Benzylpiperazine;
- 3178 (L) Benzethidine;
- 3179 (M) Betacetylmethadol;
- 3180 (N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
- 3181 piperidinyl]-N-phenylpropanamide);
- 3182 (O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-
- 3183 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- 3184 (P) Betameprodine;
- 3185 (Q) Betamethadol;
- 3186 (R) Betaprodine;
- 3187 (S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

- 3188 (T) Clonitazene;
- 3189 (U) Cyclopropyl fentanyl
- 3190 (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);
- 3191 (V) Dextromoramide;
- 3192 (W) Diampromide;
- 3193 (X) Diethylthiambutene;
- 3194 (Y) Difenoxy;
- 3195 (Z) Dimenoxadol;
- 3196 (AA) Dimepheptanol;
- 3197 (BB) Dimethylthiambutene;
- 3198 (CC) Dioxaphetyl butyrate;
- 3199 (DD) Dipipanone;
- 3200 (EE) Ethylmethylthiambutene;
- 3201 (FF) Etizolam
- 3202 (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);
- 3203 (GG) Etonitazene;
- 3204 (HH) Etoxadine;
- 3205 (II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]
- 3206 furan-2-carboxamide);
- 3207 (JJ) Furethidine;
- 3208 (KK) Hydroxypethidine;
- 3209 (LL) Ketobemidone;
- 3210 (MM) Levomoramide;
- 3211 (NN) Levophenacymorphan;
- 3212 (OO) Methoxyacetyl fentanyl
- 3213 (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);
- 3214 (PP) Morpheridine;
- 3215 (QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 3216 (RR) Noracymethadol;
- 3217 (SS) Norlevorphanol;
- 3218 (TT) Normethadone;

- 3219 (UU) Norpipanone;
- 3220 (VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl]
- 3221 propanamide);
- 3222 (WW) Para-fluoroisobutyryl fentanyl
- 3223 (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
- 3224 (XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 3225 (YY) Phenadoxone;
- 3226 (ZZ) Phenampromide;
- 3227 (AAA) Phenomorphan;
- 3228 (BBB) Phenoperidine;
- 3229 (CCC) Piritramide;
- 3230 (DDD) Proheptazine;
- 3231 (EEE) Properidine;
- 3232 (FFF) Propiram;
- 3233 (GGG) Racemoramide;
- 3234 (HHH) Tetrahydrofuran fentanyl
- 3235 (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);
- 3236 (III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;
- 3237 (JJJ) Tilidine;
- 3238 (KKK) Trimeperidine;
- 3239 (LLL) 3-methylfentanyl, including the optical and geometric isomers
- 3240 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide);
- 3241 (MMM) 3-methylthiofentanyl
- 3242 (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- 3243 (NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also
- 3244 known as U-47700; and
- 3245 (OOO) 4-cyano CUMYL-BUTINACA.
- 3246 (ii) Unless specifically excepted or unless listed in another schedule, any of the
- 3247 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the
- 3248 salts, isomers, and salts of isomers is possible within the specific chemical designation:
- 3249 (A) Acetorphine;

- 3250 (B) Acetyldihydrocodeine;
- 3251 (C) Benzylmorphine;
- 3252 (D) Codeine methylbromide;
- 3253 (E) Codeine-N-Oxide;
- 3254 (F) Cyprenorphine;
- 3255 (G) Desomorphine;
- 3256 (H) Dihydromorphine;
- 3257 (I) Drotebanol;
- 3258 (J) Etorphine (except hydrochloride salt);
- 3259 (K) Heroin;
- 3260 (L) Hydromorphenol;
- 3261 (M) Methyldesorphine;
- 3262 (N) Methylhydromorphine;
- 3263 (O) Morphine methylbromide;
- 3264 (P) Morphine methylsulfonate;
- 3265 (Q) Morphine-N-Oxide;
- 3266 (R) Myrophine;
- 3267 (S) Nicocodeine;
- 3268 (T) Nicomorphine;
- 3269 (U) Normorphine;
- 3270 (V) Pholcodine; and
- 3271 (W) Thebacon.
- 3272 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 3273 compound, mixture, or preparation which contains any quantity of the following hallucinogenic
- 3274 substances, or which contains any of their salts, isomers, and salts of isomers when the
- 3275 existence of the salts, isomers, and salts of isomers is possible within the specific chemical
- 3276 designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position,
- 3277 and geometric isomers:
- 3278 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;
- 3279 α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;
- 3280 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:

- 3281 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;
- 3282 (C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names:
- 3283 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- 3284 (D) 2,5-dimethoxyamphetamine, some trade or other names:
- 3285 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;
- 3286 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;
- 3287 (F) 4-methoxyamphetamine, some trade or other names:
- 3288 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;
- 3289 (G) 5-methoxy-3,4-methylenedioxyamphetamine;
- 3290 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:
- 3291 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";
- 3292 (I) 3,4-methylenedioxy amphetamine;
- 3293 (J) 3,4-methylenedioxymethamphetamine (MDMA);
- 3294 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-
- 3295 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
- 3296 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as
- 3297 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;
- 3298 (M) 3,4,5-trimethoxy amphetamine;
- 3299 (N) Bufotenine, some trade and other names:
- 3300 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,
- 3301 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- 3302 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
- 3303 (P) Dimethyltryptamine, some trade or other names: DMT;
- 3304 (Q) Ibogaine, some trade and other names:
- 3305 7-Ethyl-6,6 β ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
- 3306 [5,4-b] indole; Tabernanthe iboga;
- 3307 (R) Lysergic acid diethylamide;
- 3308 (S) Marijuana;
- 3309 (T) Mescaline;
- 3310 (U) Parahexyl, some trade or other names:
- 3311 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

3312 (V) Peyote, meaning all parts of the plant presently classified botanically as
3313 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
3314 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or
3315 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

3316 (W) N-ethyl-3-piperidyl benzilate;

3317 (X) N-methyl-3-piperidyl benzilate;

3318 (Y) Psilocybin;

3319 (Z) Psilocyn;

3320 (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis*
3321 (*cannabis* plant), as well as synthetic equivalents of the substances contained in the *cannabis*
3322 plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives,
3323 and their isomers with similar chemical structure and pharmacological activity to those
3324 substances contained in the plant, such as the following: Δ^1 cis or trans tetrahydrocannabinol,
3325 and their optical isomers Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers $\Delta^3,4$
3326 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these
3327 substances is not internationally standardized, compounds of these structures, regardless of
3328 numerical designation of atomic positions covered;

3329 (BB) Ethylamine analog of phencyclidine, some trade or other names:

3330 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,

3331 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

3332 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:

3333 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

3334 (DD) Thiophene analog of phencyclidine, some trade or other names:

3335 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TCP, TCP; and

3336 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

3337 (iv) Unless specifically excepted or unless listed in another schedule, any material
3338 compound, mixture, or preparation which contains any quantity of the following substances
3339 having a depressant effect on the central nervous system, including its salts, isomers, and salts
3340 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
3341 specific chemical designation:

3342 (A) Mecloqualone; and

- 3343 (B) Methaqualone.
- 3344 (v) Any material, compound, mixture, or preparation containing any quantity of the
3345 following substances having a stimulant effect on the central nervous system, including their
3346 salts, isomers, and salts of isomers:
- 3347 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or
3348 4,5-dihydro-5-phenyl-2-oxazolamine;
- 3349 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone,
3350 alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
- 3351 (C) Fenethylamine;
- 3352 (D) Methcathinone, some other names: 2-(methylamino)-propionophenone;
3353 alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one;
3354 alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone;
3355 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of
3356 optical isomers;
- 3357 (E) (\pm)cis-4-methylaminorex ((\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- 3358 (F) N-ethylamphetamine; and
- 3359 (G) N,N-dimethylamphetamine, also known as
3360 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.
- 3361 (vi) Any material, compound, mixture, or preparation which contains any quantity of
3362 the following substances, including their optical isomers, salts, and salts of isomers, subject to
3363 temporary emergency scheduling:
- 3364 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and
3365 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).
- 3366 (vii) Unless specifically excepted or unless listed in another schedule, any material,
3367 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate
3368 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.
- 3369 (b) Schedule II:
- 3370 (i) Unless specifically excepted or unless listed in another schedule, any of the
3371 following substances whether produced directly or indirectly by extraction from substances of
3372 vegetable origin, or independently by means of chemical synthesis, or by a combination of
3373 extraction and chemical synthesis:

3374 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
3375 opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone,
3376 and their respective salts, but including:

- 3377 (I) Raw opium;
- 3378 (II) Opium extracts;
- 3379 (III) Opium fluid;
- 3380 (IV) Powdered opium;
- 3381 (V) Granulated opium;
- 3382 (VI) Tincture of opium;
- 3383 (VII) Codeine;
- 3384 (VIII) Ethylmorphine;
- 3385 (IX) Etorphine hydrochloride;
- 3386 (X) Hydrocodone;
- 3387 (XI) Hydromorphone;
- 3388 (XII) Metopon;
- 3389 (XIII) Morphine;
- 3390 (XIV) Oxycodone;
- 3391 (XV) Oxymorphone; and
- 3392 (XVI) Thebaine;

3393 (B) Any salt, compound, derivative, or preparation which is chemically equivalent or
3394 identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these
3395 substances may not include the isoquinoline alkaloids of opium;

3396 (C) Opium poppy and poppy straw;

3397 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and
3398 any salt, compound, derivative, or preparation which is chemically equivalent or identical with
3399 any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives,
3400 and salts of isomers and derivatives, whether derived from the coca plant or synthetically
3401 produced, except the substances may not include decocainized coca leaves or extraction of coca
3402 leaves, which extractions do not contain cocaine or ecgonine; and

3403 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either
3404 liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

- 3405 (ii) Unless specifically excepted or unless listed in another schedule, any of the
3406 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
3407 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
3408 chemical designation, except dextrophan and levopropoxyphene:
- 3409 (A) Alfentanil;
 - 3410 (B) Alphaprodine;
 - 3411 (C) Anileridine;
 - 3412 (D) Bezitramide;
 - 3413 (E) Bulk dextropropoxyphene (nondosage forms);
 - 3414 (F) Carfentanil;
 - 3415 (G) Dihydrocodeine;
 - 3416 (H) Diphenoxylate;
 - 3417 (I) Fentanyl;
 - 3418 (J) Isomethadone;
 - 3419 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
3420 levomethadyl acetate, or LAAM;
 - 3421 (L) Levomethorphan;
 - 3422 (M) Levorphanol;
 - 3423 (N) Metazocine;
 - 3424 (O) Methadone;
 - 3425 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
 - 3426 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic
3427 acid;
 - 3428 (R) Pethidine (meperidine);
 - 3429 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
 - 3430 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
 - 3431 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
 - 3432 (V) Phenazocine;
 - 3433 (W) Piminodine;
 - 3434 (X) Racemethorphan;
 - 3435 (Y) Racemorphan;

- 3436 (Z) Remifentanyl; and
3437 (AA) Sufentanyl.
- 3438 (iii) Unless specifically excepted or unless listed in another schedule, any material,
3439 compound, mixture, or preparation which contains any quantity of the following substances
3440 having a stimulant effect on the central nervous system:
- 3441 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
3442 (B) Methamphetamine, its salts, isomers, and salts of its isomers;
3443 (C) Phenmetrazine and its salts; and
3444 (D) Methylphenidate.
- 3445 (iv) Unless specifically excepted or unless listed in another schedule, any material,
3446 compound, mixture, or preparation which contains any quantity of the following substances
3447 having a depressant effect on the central nervous system, including its salts, isomers, and salts
3448 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
3449 specific chemical designation:
- 3450 (A) Amobarbital;
3451 (B) Glutethimide;
3452 (C) Pentobarbital;
3453 (D) Phencyclidine;
3454 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and
3455 1-piperidinocyclohexanecarbonitrile (PCC); and
3456 (F) Secobarbital.
- 3457 (v) (A) Unless specifically excepted or unless listed in another schedule, any material,
3458 compound, mixture, or preparation which contains any quantity of Phenylacetone.
3459 (B) Some of these substances may be known by trade or other names:
3460 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.
- 3461 (vi) Nabilone, another name for nabilone:
3462 (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
3463 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.
- 3464 (vii) A drug product or preparation that contains any component of marijuana,
3465 including tetrahydrocannabinol, and is approved by the United States Food and Drug
3466 Administration and scheduled by the Drug Enforcement Administration in Schedule II of the

3467 federal Controlled Substances Act, Title II, P.L. 91-513.

3468 (c) Schedule III:

3469 (i) Unless specifically excepted or unless listed in another schedule, any material,
3470 compound, mixture, or preparation which contains any quantity of the following substances
3471 having a stimulant effect on the central nervous system, including its salts, isomers whether
3472 optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers,
3473 and salts of isomers is possible within the specific chemical designation:

3474 (A) Those compounds, mixtures, or preparations in dosage unit form containing any
3475 stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were
3476 listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the
3477 Code of Federal Regulations, and any other drug of the quantitative composition shown in that
3478 list for those drugs or which is the same except that it contains a lesser quantity of controlled
3479 substances;

3480 (B) Benzphetamine;

3481 (C) Chlorphentermine;

3482 (D) Clortermine; and

3483 (E) Phendimetrazine.

3484 (ii) Unless specifically excepted or unless listed in another schedule, any material,
3485 compound, mixture, or preparation which contains any quantity of the following substances
3486 having a depressant effect on the central nervous system:

3487 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,
3488 pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients
3489 which are not listed in any schedule;

3490 (B) Any suppository dosage form containing amobarbital, secobarbital, or
3491 pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug
3492 Administration for marketing only as a suppository;

3493 (C) Any substance which contains any quantity of a derivative of barbituric acid or any
3494 salt of any of them;

3495 (D) Chlorhexadol;

3496 (E) Buprenorphine;

3497 (F) Any drug product containing gamma hydroxybutyric acid, including its salts,

- 3498 isomers, and salts of isomers, for which an application is approved under the federal Food,
3499 Drug, and Cosmetic Act, Section 505;
- 3500 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:
3501 \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- 3502 (H) Lysergic acid;
- 3503 (I) Lysergic acid amide;
- 3504 (J) Methyprylon;
- 3505 (K) Sulfondiethylmethane;
- 3506 (L) Sulfonethylmethane;
- 3507 (M) Sulfonmethane; and
- 3508 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a
3509 tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:
3510 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam:
3511 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one,
3512 flupyrzapon.
- 3513 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
3514 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:
3515 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or
3516 (-)-delta-9-(trans)-tetrahydrocannabinol.
- 3517 (iv) Nalorphine.
- 3518 (v) Unless specifically excepted or unless listed in another schedule, any material,
3519 compound, mixture, or preparation containing limited quantities of any of the following
3520 narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:
- 3521 (A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
3522 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of
3523 opium;
- 3524 (B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
3525 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
3526 therapeutic amounts;
- 3527 (C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
3528 than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline

3529 alkaloid of opium;

3530 (D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
3531 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3532 recognized therapeutic amounts;

3533 (E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90
3534 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
3535 therapeutic amounts;

3536 (F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more
3537 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3538 recognized therapeutic amounts;

3539 (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not
3540 more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3541 recognized therapeutic amounts; and

3542 (H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with
3543 one or more active, non-narcotic ingredients in recognized therapeutic amounts.

3544 (vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids
3545 including any of the following or any isomer, ester, salt, or derivative of the following that
3546 promotes muscle growth:

3547 (A) Boldenone;

3548 (B) Chlorotestosterone (4-chlortestosterone);

3549 (C) Clostebol;

3550 (D) Dehydrochlormethyltestosterone;

3551 (E) Dihydrotestosterone (4-dihydrotestosterone);

3552 (F) Drostanolone;

3553 (G) Ethylestrenol;

3554 (H) Fluoxymesterone;

3555 (I) Formebolone (formebolone);

3556 (J) Mesterolone;

3557 (K) Methandienone;

3558 (L) Methandranone;

3559 (M) Methandriol;

- 3560 (N) Methandrostenolone;
- 3561 (O) Methenolone;
- 3562 (P) Methyltestosterone;
- 3563 (Q) Mibolerone;
- 3564 (R) Nandrolone;
- 3565 (S) Norethandrolone;
- 3566 (T) Oxandrolone;
- 3567 (U) Oxymesterone;
- 3568 (V) Oxymetholone;
- 3569 (W) Stanolone;
- 3570 (X) Stanozolol;
- 3571 (Y) Testolactone;
- 3572 (Z) Testosterone; and
- 3573 (AA) Trenbolone.
- 3574 (vii) Anabolic steroids expressly intended for administration through implants to cattle
- 3575 or other nonhuman species, and approved by the Secretary of Health and Human Services for
- 3576 use, may not be classified as a controlled substance.
- 3577 (viii) A drug product or preparation that contains any component of marijuana,
- 3578 including tetrahydrocannabinol, and is approved by the United States Food and Drug
- 3579 Administration and scheduled by the Drug Enforcement Administration in Schedule III of the
- 3580 federal Controlled Substances Act, Title II, P.L. 91-513.
- 3581 (ix) Nabiximols.
- 3582 (d) Schedule IV:
- 3583 (i) Unless specifically excepted or unless listed in another schedule, any material,
- 3584 compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not
- 3585 less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.
- 3586 (ii) Unless specifically excepted or unless listed in another schedule, any material,
- 3587 compound, mixture, or preparation which contains any quantity of the following substances,
- 3588 including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and
- 3589 salts of isomers is possible within the specific chemical designation:
- 3590 (A) Alprazolam;

- 3591 (B) Barbital;
- 3592 (C) Bromazepam;
- 3593 (D) Butorphanol;
- 3594 (E) Camazepam;
- 3595 (F) Carisoprodol;
- 3596 (G) Chloral betaine;
- 3597 (H) Chloral hydrate;
- 3598 (I) Chlordiazepoxide;
- 3599 (J) Clobazam;
- 3600 (K) Clonazepam;
- 3601 (L) Clorazepate;
- 3602 (M) Clotiazepam;
- 3603 (N) Cloxazolam;
- 3604 (O) Delorazepam;
- 3605 (P) Diazepam;
- 3606 (Q) Dichloralphenazone;
- 3607 (R) Estazolam;
- 3608 (S) Ethchlorvynol;
- 3609 (T) Ethinamate;
- 3610 (U) Ethyl loflazepate;
- 3611 (V) Fludiazepam;
- 3612 (W) Flunitrazepam;
- 3613 (X) Flurazepam;
- 3614 (Y) Halazepam;
- 3615 (Z) Haloxazolam;
- 3616 (AA) Ketazolam;
- 3617 (BB) Loprazolam;
- 3618 (CC) Lorazepam;
- 3619 (DD) Lormetazepam;
- 3620 (EE) Mebutamate;
- 3621 (FF) Medazepam;

- 3622 (GG) Meprobamate;
- 3623 (HH) Methohexital;
- 3624 (II) Methylphenobarbital (mephobarbital);
- 3625 (JJ) Midazolam;
- 3626 (KK) Nimetazepam;
- 3627 (LL) Nitrazepam;
- 3628 (MM) Nordiazepam;
- 3629 (NN) Oxazepam;
- 3630 (OO) Oxazolam;
- 3631 (PP) Paraldehyde;
- 3632 (QQ) Pentazocine;
- 3633 (RR) Petrichloral;
- 3634 (SS) Phenobarbital;
- 3635 (TT) Pinazepam;
- 3636 (UU) Prazepam;
- 3637 (VV) Quazepam;
- 3638 (WW) Temazepam;
- 3639 (XX) Tetrazepam;
- 3640 (YY) Tramadol;
- 3641 (ZZ) Triazolam;
- 3642 (AAA) Zaleplon; and
- 3643 (BBB) Zolpidem.
- 3644 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains
- 3645 any quantity of the following substances, including its salts, isomers whether optical, position,
- 3646 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of
- 3647 isomers is possible.
- 3648 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 3649 compound, mixture, or preparation which contains any quantity of the following substances
- 3650 having a stimulant effect on the central nervous system, including its salts, isomers whether
- 3651 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,
- 3652 isomers, and salts of isomers is possible within the specific chemical designation:

- 3653 (A) Cathine ((+)-norpseudoephedrine);
3654 (B) Diethylpropion;
3655 (C) Fencamfamine;
3656 (D) Fenproporex;
3657 (E) Mazindol;
3658 (F) Mefenorex;
3659 (G) Modafinil;
3660 (H) Pemoline, including organometallic complexes and chelates thereof;
3661 (I) Phentermine;
3662 (J) Pipradrol;
3663 (K) Sibutramine; and
3664 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).
3665 (v) Unless specifically excepted or unless listed in another schedule, any material,
3666 compound, mixture, or preparation which contains any quantity of dextropropoxyphene
3667 (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.
3668 (vi) A drug product or preparation that contains any component of marijuana and is
3669 approved by the United States Food and Drug Administration and scheduled by the Drug
3670 Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II,
3671 P.L. 91-513.
3672 (e) Schedule V:
3673 (i) Any compound, mixture, or preparation containing any of the following limited
3674 quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid,
3675 which includes one or more non-narcotic active medicinal ingredients in sufficient proportion
3676 to confer upon the compound, mixture, or preparation valuable medicinal qualities other than
3677 those possessed by the narcotic drug alone:
3678 (A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
3679 (B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100
3680 grams;
3681 (C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100
3682 grams;
3683 (D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of

3684 atropine sulfate per dosage unit;

3685 (E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

3686 (F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of
3687 atropine sulfate per dosage unit; and

3688 (G) unless specifically exempted or excluded or unless listed in another schedule, any
3689 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant
3690 effect on the central nervous system, including its salts, isomers, and salts of isomers.

3691 (ii) A drug product or preparation that contains any component of marijuana, including
3692 cannabidiol, and is approved by the United States Food and Drug Administration and
3693 scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled
3694 Substances Act, Title II, P.L. 91-513.

3695 Section 39. Section **58-37-8** is amended to read:

3696 **58-37-8. Prohibited acts -- Penalties.**

3697 (1) Prohibited acts A -- Penalties and reporting:

3698 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
3699 intentionally:

3700 (i) produce, manufacture, or dispense, or to possess with intent to produce,
3701 manufacture, or dispense, a controlled or counterfeit substance;

3702 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
3703 arrange to distribute a controlled or counterfeit substance;

3704 (iii) possess a controlled or counterfeit substance with intent to distribute; or

3705 (iv) engage in a continuing criminal enterprise where:

3706 (A) the person participates, directs, or engages in conduct that results in a violation of
3707 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
3708 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
3709 Clandestine Drug Lab Act, that is a felony; and

3710 (B) the violation is a part of a continuing series of two or more violations of Chapters
3711 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation
3712 Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine
3713 Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons
3714 with respect to whom the person occupies a position of organizer, supervisor, or any other

3715 position of management.

3716 (b) A person convicted of violating Subsection (1)(a) with respect to:

3717 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
3718 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
3719 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
3720 subsequent conviction is guilty of a first degree felony;

3721 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
3722 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
3723 upon a second or subsequent conviction is guilty of a second degree felony; or

3724 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
3725 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
3726 felony.

3727 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
3728 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
3729 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
3730 person or in the person's immediate possession during the commission or in furtherance of the
3731 offense, the court shall additionally sentence the person convicted for a term of one year to run
3732 consecutively and not concurrently; and the court may additionally sentence the person
3733 convicted for an indeterminate term not to exceed five years to run consecutively and not
3734 concurrently.

3735 (d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
3736 felony punishable by imprisonment for an indeterminate term of not less than seven years and
3737 which may be for life. Imposition or execution of the sentence may not be suspended, and the
3738 person is not eligible for probation.

3739 (e) The Administrative Office of the Courts shall report to the Division of
3740 Occupational and Professional Licensing the name, case number, date of conviction, and if
3741 known, the date of birth of each person convicted of violating Subsection (1)(a).

3742 (2) Prohibited acts B -- Penalties and reporting:

3743 (a) It is unlawful:

3744 (i) for a person knowingly and intentionally to possess or use a controlled substance
3745 analog or a controlled substance, unless it was obtained under a valid prescription or order,

3746 directly from a practitioner while acting in the course of the person's professional practice, or as
3747 otherwise authorized by this chapter;

3748 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
3749 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
3750 by persons unlawfully possessing, using, or distributing controlled substances in any of those
3751 locations; or

3752 (iii) for a person knowingly and intentionally to possess an altered or forged
3753 prescription or written order for a controlled substance.

3754 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

3755 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

3756 or

3757 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
3758 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
3759 conviction is guilty of a third degree felony.

3760 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
3761 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
3762 penalty than provided in this Subsection (2).

3763 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
3764 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
3765 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
3766 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
3767 person is guilty of a third degree felony.

3768 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
3769 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
3770 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
3771 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
3772 listed in:

3773 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
3774 indeterminate term as provided by law, and:

3775 (A) the court shall additionally sentence the person convicted to a term of one year to
3776 run consecutively and not concurrently; and

3777 (B) the court may additionally sentence the person convicted for an indeterminate term
3778 not to exceed five years to run consecutively and not concurrently; and

3779 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
3780 indeterminate term as provided by law, and the court shall additionally sentence the person
3781 convicted to a term of six months to run consecutively and not concurrently.

3782 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

3783 (i) on a first conviction, guilty of a class B misdemeanor;

3784 (ii) on a second conviction, guilty of a class A misdemeanor; and

3785 (iii) on a third or subsequent conviction, guilty of a third degree felony.

3786 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
3787 amounting to a violation of Section 76-5-207:

3788 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
3789 body any measurable amount of a controlled substance; and

3790 (ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined
3791 in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section
3792 76-1-601 or the death of another[-]; or

3793 (B) if the controlled substance is marijuana, operates a motor vehicle as defined in
3794 Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in
3795 Section 76-1-601 or the death of another.

3796 (h) A person who violates Subsection (2)(g) by having in the person's body:

3797 (i) a controlled substance classified under Schedule I, other than those described in
3798 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
3799 degree felony;

3800 (ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or
3801 equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in
3802 Section 58-37-4.2 is guilty of a third degree felony; or

3803 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A
3804 misdemeanor.

3805 (i) A person is guilty of a separate offense for each victim suffering serious bodily
3806 injury or death as a result of the person's negligent driving in violation of Subsection (2)(g)
3807 whether or not the injuries arise from the same episode of driving.

3808 (j) The Administrative Office of the Courts shall report to the Division of Occupational
3809 and Professional Licensing the name, case number, date of conviction, and if known, the date
3810 of birth of each person convicted of violating Subsection (2)(a).

3811 (3) Prohibited acts C -- Penalties:

3812 (a) It is unlawful for a person knowingly and intentionally:

3813 (i) to use in the course of the manufacture or distribution of a controlled substance a
3814 license number which is fictitious, revoked, suspended, or issued to another person or, for the
3815 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
3816 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
3817 person;

3818 (ii) to acquire or obtain possession of, to procure or attempt to procure the
3819 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
3820 attempting to acquire or obtain possession of, or to procure the administration of a controlled
3821 substance by misrepresentation or failure by the person to disclose receiving a controlled
3822 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
3823 prescription or written order for a controlled substance, or the use of a false name or address;

3824 (iii) to make a false or forged prescription or written order for a controlled substance,
3825 or to utter the same, or to alter a prescription or written order issued or written under the terms
3826 of this chapter; or

3827 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
3828 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
3829 device of another or any likeness of any of the foregoing upon any drug or container or labeling
3830 so as to render a drug a counterfeit controlled substance.

3831 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
3832 misdemeanor.

3833 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
3834 degree felony.

3835 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

3836 (4) Prohibited acts D -- Penalties:

3837 (a) Notwithstanding other provisions of this section, a person not authorized under this
3838 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is

3839 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
3840 of fact finds the act is committed:

3841 (i) in a public or private elementary or secondary school or on the grounds of any of
3842 those schools during the hours of 6 a.m. through 10 p.m.;

3843 (ii) in a public or private vocational school or postsecondary institution or on the
3844 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

3845 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
3846 facility's hours of operation;

3847 (iv) in a public park, amusement park, arcade, or recreation center when the public or
3848 amusement park, arcade, or recreation center is open to the public;

3849 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

3850 (vi) in or on the grounds of a library when the library is open to the public;

3851 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
3852 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

3853 (viii) in the presence of a person younger than 18 years of age, regardless of where the
3854 act occurs; or

3855 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
3856 distribution of a substance in violation of this section to an inmate or on the grounds of a
3857 correctional facility as defined in Section 76-8-311.3.

3858 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
3859 and shall be imprisoned for a term of not less than five years if the penalty that would
3860 otherwise have been established but for this Subsection (4) would have been a first degree
3861 felony.

3862 (ii) Imposition or execution of the sentence may not be suspended, and the person is
3863 not eligible for probation.

3864 (c) If the classification that would otherwise have been established would have been
3865 less than a first degree felony but for this Subsection (4), a person convicted under this
3866 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
3867 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

3868 (d) (i) If the violation is of Subsection (4)(a)(ix):

3869 (A) the person may be sentenced to imprisonment for an indeterminate term as

3870 provided by law, and the court shall additionally sentence the person convicted for a term of
3871 one year to run consecutively and not concurrently; and

3872 (B) the court may additionally sentence the person convicted for an indeterminate term
3873 not to exceed five years to run consecutively and not concurrently; and

3874 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
3875 the mental state required for the commission of an offense, directly or indirectly solicits,
3876 requests, commands, coerces, encourages, or intentionally aids another person to commit a
3877 violation of Subsection (4)(a)(ix).

3878 (e) It is not a defense to a prosecution under this Subsection (4) that:

3879 (i) the actor mistakenly believed the individual to be 18 years of age or older at the
3880 time of the offense or was unaware of the individual's true age; or

3881 (ii) the actor mistakenly believed that the location where the act occurred was not as
3882 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
3883 described in Subsection (4)(a).

3884 (5) A violation of this chapter for which no penalty is specified is a class B
3885 misdemeanor.

3886 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
3887 guilty or no contest to a violation or attempted violation of this section or a plea which is held
3888 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
3889 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
3890 abeyance agreement.

3891 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
3892 conviction that is:

3893 (i) from a separate criminal episode than the current charge; and

3894 (ii) from a conviction that is separate from any other conviction used to enhance the
3895 current charge.

3896 (7) A person may be charged and sentenced for a violation of this section,
3897 notwithstanding a charge and sentence for a violation of any other section of this chapter.

3898 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
3899 of, a civil or administrative penalty or sanction authorized by law.

3900 (b) When a violation of this chapter violates a federal law or the law of another state,

3901 conviction or acquittal under federal law or the law of another state for the same act is a bar to
3902 prosecution in this state.

3903 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
3904 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
3905 substance or substances, is prima facie evidence that the person or persons did so with
3906 knowledge of the character of the substance or substances.

3907 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
3908 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
3909 administering controlled substances or from causing the substances to be administered by an
3910 assistant or orderly under the veterinarian's direction and supervision.

3911 (11) Civil or criminal liability may not be imposed under this section on:

3912 (a) a person registered under this chapter who manufactures, distributes, or possesses
3913 an imitation controlled substance for use as a placebo or investigational new drug by a
3914 registered practitioner in the ordinary course of professional practice or research; or

3915 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
3916 employment.

3917 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
3918 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
3919 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
3920 as defined in Section 58-37-2.

3921 (b) In a prosecution alleging violation of this section regarding peyote as defined in
3922 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
3923 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
3924 traditional Indian religion.

3925 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
3926 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
3927 trial.

3928 (ii) The notice shall include the specific claims of the affirmative defense.

3929 (iii) The court may waive the notice requirement in the interest of justice for good
3930 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

3931 (d) The defendant shall establish the affirmative defense under this Subsection (12) by

3932 a preponderance of the evidence. If the defense is established, it is a complete defense to the
3933 charges.

3934 (13) (a) It is an affirmative defense that the person produced, possessed, or
3935 administered a controlled substance listed in Section 58-37-4.2 if the person was:

3936 (i) engaged in medical research; and

3937 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

3938 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
3939 a controlled substance listed in Section 58-37-4.2.

3940 (14) It is an affirmative defense that the person possessed, in the person's body, a
3941 controlled substance listed in Section 58-37-4.2 if:

3942 (a) the person was the subject of medical research conducted by a holder of a valid
3943 license to possess controlled substances under Section 58-37-6; and

3944 (b) the substance was administered to the person by the medical researcher.

3945 (15) The application of any increase in penalty under this section to a violation of
3946 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
3947 Subsection (15) takes precedence over any conflicting provision of this section.

3948 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
3949 listed in Subsection (16)(b) that the person:

3950 (i) reasonably believes that the person or another person is experiencing an overdose
3951 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
3952 controlled substance or other substance;

3953 (ii) reports in good faith the overdose event to a medical provider, an emergency
3954 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
3955 emergency call system, or an emergency dispatch system, or the person is the subject of a
3956 report made under this Subsection (16);

3957 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
3958 actual location of the overdose event that facilitates responding to the person experiencing the
3959 overdose event;

3960 (iv) remains at the location of the person experiencing the overdose event until a
3961 responding law enforcement officer or emergency medical service provider arrives, or remains
3962 at the medical care facility where the person experiencing an overdose event is located until a

3963 responding law enforcement officer arrives;

3964 (v) cooperates with the responding medical provider, emergency medical service
3965 provider, and law enforcement officer, including providing information regarding the person
3966 experiencing the overdose event and any substances the person may have injected, inhaled, or
3967 otherwise introduced into the person's body; and

3968 (vi) is alleged to have committed the offense in the same course of events from which
3969 the reported overdose arose.

3970 (b) The offenses referred to in Subsection (16)(a) are:

3971 (i) the possession or use of less than 16 ounces of marijuana;

3972 (ii) the possession or use of a scheduled or listed controlled substance other than
3973 marijuana; and

3974 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
3975 Imitation Controlled Substances Act.

3976 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
3977 include seeking medical assistance under this section during the course of a law enforcement
3978 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

3979 (17) If any provision of this chapter, or the application of any provision to any person
3980 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
3981 invalid provision or application.

3982 (18) A legislative body of a political subdivision may not enact an ordinance that is
3983 less restrictive than any provision of this chapter.

3984 (19) If a minor who is under 18 years of age is found by a court to have violated this
3985 section, the court may order the minor to complete:

3986 (a) a screening as defined in Section [41-6a-501](#);

3987 (b) an assessment as defined in Section [41-6a-501](#) if the screening indicates an
3988 assessment to be appropriate; and

3989 (c) an educational series as defined in Section [41-6a-501](#) or substance use disorder
3990 treatment as indicated by an assessment.

3991 Section 40. Section **58-67-304** is amended to read:

3992 **58-67-304. License renewal requirements.**

3993 (1) As a condition precedent for license renewal, each licensee shall, during each

3994 two-year licensure cycle or other cycle defined by division rule:

3995 (a) complete qualified continuing professional education requirements in accordance
3996 with the number of hours and standards defined by division rule made in collaboration with the
3997 board;

3998 (b) appoint a contact person for access to medical records and an alternate contact
3999 person for access to medical records in accordance with Subsection 58-67-302(1)(j);

4000 (c) if the licensee practices medicine in a location with no other persons licensed under
4001 this chapter, provide some method of notice to the licensee's patients of the identity and
4002 location of the contact person and alternate contact person for the licensee; and

4003 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,
4004 successfully complete the educational methods and programs described in Subsection
4005 58-67-807(4).

4006 (2) If a renewal period is extended or shortened under Section 58-67-303, the
4007 continuing education hours required for license renewal under this section are increased or
4008 decreased proportionally.

4009 (3) An application to renew a license under this chapter shall:

4010 (a) require a physician to answer the following question: "Do you perform elective
4011 abortions in Utah in a location other than a hospital?"; and

4012 (b) immediately following the question, contain the following statement: "For purposes
4013 of the immediately preceding question, elective abortion means an abortion other than one of
4014 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
4015 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
4016 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
4017 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
4018 the woman is pregnant as a result of rape or incest."

4019 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
4020 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,
4021 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the
4022 division shall, within 30 days after the day on which it renews the physician's license under this
4023 chapter, inform the Department of Health in writing:

4024 (a) of the name and business address of the physician; and

4025 (b) that the physician responded positively to the question described in Subsection
4026 (3)(a).

4027 (5) The division shall accept and apply toward the hour requirement in Subsection
4028 (1)(a) any continuing education that a physician completes in accordance with Sections
4029 ~~26-61a-106[;]~~ and ~~26-61a-403[; and 26-61a-602]~~.

4030 Section 41. Section ~~58-68-304~~ is amended to read:

4031 **58-68-304. License renewal requirements.**

4032 (1) As a condition precedent for license renewal, each licensee shall, during each
4033 two-year licensure cycle or other cycle defined by division rule:

4034 (a) complete qualified continuing professional education requirements in accordance
4035 with the number of hours and standards defined by division rule in collaboration with the
4036 board;

4037 (b) appoint a contact person for access to medical records and an alternate contact
4038 person for access to medical records in accordance with Subsection ~~58-68-302(1)(j)~~;

4039 (c) if the licensee practices osteopathic medicine in a location with no other persons
4040 licensed under this chapter, provide some method of notice to the licensee's patients of the
4041 identity and location of the contact person and alternate contact person for access to medical
4042 records for the licensee in accordance with Subsection ~~58-68-302(1)(k)~~; and

4043 (d) if the licensee is an associate physician licensed under Section ~~58-68-302.5~~,
4044 successfully complete the educational methods and programs described in Subsection
4045 ~~58-68-807(4)~~.

4046 (2) If a renewal period is extended or shortened under Section ~~58-68-303~~, the
4047 continuing education hours required for license renewal under this section are increased or
4048 decreased proportionally.

4049 (3) An application to renew a license under this chapter shall:

4050 (a) require a physician to answer the following question: "Do you perform elective
4051 abortions in Utah in a location other than a hospital?"; and

4052 (b) immediately following the question, contain the following statement: "For purposes
4053 of the immediately preceding question, elective abortion means an abortion other than one of
4054 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
4055 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of

4056 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
4057 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
4058 the woman is pregnant as a result of rape or incest."

4059 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
4060 to the licensing of an abortion clinic, if a physician responds positively to the question
4061 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
4062 renews the physician's license under this chapter, inform the Department of Health in writing:

4063 (a) of the name and business address of the physician; and

4064 (b) that the physician responded positively to the question described in Subsection
4065 (3)(a).

4066 (5) The division shall accept and apply toward the hour requirement in Subsection
4067 (1)(a) any continuing education that a physician completes in accordance with Sections
4068 [26-61a-106](#)[;] and [26-61a-403](#)[, and ~~[26-61a-602](#)~~].

4069 Section 42. Section **76-10-101** is amended to read:

4070 **76-10-101. Definitions.**

4071 As used in this part:

4072 (1) "Cigar" means a product that contains nicotine, is intended to be burned under
4073 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
4074 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described
4075 in Subsection (2).

4076 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under
4077 ordinary conditions of use, and consists of:

4078 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

4079 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
4080 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
4081 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

4082 (3) (a) "Electronic cigarette" means an electronic cigarette product, as defined in
4083 Section [59-14-802](#).

4084 (b) "Electronic cigarette" does not mean a medical cannabis device, as that term is
4085 defined in Section [26-61a-102](#).

4086 (4) "Place of business" includes:

- 4087 (a) a shop;
- 4088 (b) a store;
- 4089 (c) a factory;
- 4090 (d) a public garage;
- 4091 (e) an office;
- 4092 (f) a theater;
- 4093 (g) a recreation hall;
- 4094 (h) a dance hall;
- 4095 (i) a poolroom;
- 4096 (j) a café;
- 4097 (k) a cafeteria;
- 4098 (l) a cabaret;
- 4099 (m) a restaurant;
- 4100 (n) a hotel;
- 4101 (o) a lodging house;
- 4102 (p) a streetcar;
- 4103 (q) a bus;
- 4104 (r) an interurban or railway passenger coach;
- 4105 (s) a waiting room; and
- 4106 (t) any other place of business.
- 4107 (5) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
- 4108 lighted smoking equipment.

4109 Section 43. Section **76-10-528** is amended to read:

4110 **76-10-528. Carrying a dangerous weapon while under influence of alcohol or**
4111 **drugs unlawful.**

4112 (1) It is a class B misdemeanor for any person to carry a dangerous weapon while
4113 under the influence of:

4114 (a) alcohol as determined by the person's blood or breath alcohol concentration in
4115 accordance with Subsections [41-6a-502\(1\)\(a\)](#) through (c); or

4116 (b) a controlled substance as defined in Section [58-37-2](#).

4117 (2) This section does not apply to:

4118 (a) a person carrying a dangerous weapon that is either securely encased, as defined in
4119 this part, or not within such close proximity and in such a manner that it can be retrieved and
4120 used as readily as if carried on the person;

4121 (b) any person who uses or threatens to use force in compliance with Section [76-2-402](#);
4122 [or]

4123 (c) any person carrying a dangerous weapon in the person's residence or the residence
4124 of another with the consent of the individual who is lawfully in possession[-]; or

4125 (d) a person under the influence of cannabis or a cannabis product, as those terms are
4126 defined in Section [26-61a-102](#), if the person's use of the cannabis or cannabis product complies
4127 with Title 26, Chapter 61a, Utah Medical Cannabis Act.

4128 (3) It is not a defense to prosecution under this section that the person:

4129 (a) is licensed in the pursuit of wildlife of any kind; or

4130 (b) has a valid permit to carry a concealed firearm.

4131 Section 44. Section **77-40-103 (Superseded 05/01/20)** is amended to read:

4132 **77-40-103 (Superseded 05/01/20). Expungement procedure overview.**

4133 The process for the expungement of records under this chapter regarding the arrest,
4134 investigation, detention, and conviction of a petitioner is as follows:

4135 (1) The petitioner shall apply to the bureau for a certificate of eligibility for
4136 expungement and pay the application fee established by the department.

4137 (2) Once the eligibility process is complete, the bureau shall notify the petitioner.

4138 (3) If the petitioner is qualified to receive a certificate of eligibility for expungement,
4139 the petitioner shall pay the issuance fee established by the department.

4140 (4) The petitioner shall file the certificate of eligibility with a petition for expungement
4141 in the court in which the proceedings occurred. If there were no court proceedings, or the court
4142 no longer exists, the petition may be filed in the district court where the arrest occurred. If a
4143 certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original
4144 certificate until the proceedings are concluded. If the original certificate is filed with the
4145 petition, the clerk or the court shall scan it and return it to the petitioner or the petitioner's
4146 attorney, who shall keep it until the proceedings are concluded.

4147 (5) Notwithstanding Subsections (3) and (4), if the petitioner is not qualified to receive
4148 a certificate of eligibility for expungement, the petitioner may file a petition without a

4149 certificate to obtain expungement for a record of conviction related to cannabis possession if
4150 the petition demonstrates that:

4151 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
4152 conviction, a qualifying condition, as that term is defined in Section [26-61a-102](#); and

4153 (b) the possession of cannabis in question was in a form and an amount to medically
4154 treat the condition described in Subsection (5)(a).

4155 [~~5~~] (6) The petitioner shall deliver a copy of the petition and certificate to the
4156 prosecutorial office that handled the court proceedings. If there were no court proceedings, the
4157 copy of the petition and certificate shall be delivered to the county attorney's office in the
4158 jurisdiction where the arrest occurred.

4159 [~~6~~] (7) If an objection to the petition is filed by the prosecutor or victim, a hearing
4160 shall be set by the court and the prosecutor and victim notified of the date.

4161 [~~7~~] (8) If the court requests a response from Adult Probation and Parole and a
4162 response is received, the petitioner may file a written reply to the response within 15 days of
4163 receipt of the response.

4164 [~~8~~] (9) An expungement may be granted without a hearing if no objection is received.

4165 [~~9~~] (10) Upon receipt of an order of expungement, the petitioner shall deliver copies
4166 to all government agencies in possession of records relating to the expunged matter.

4167 Section 45. Section **77-40-103 (Effective 05/01/20)** is amended to read:

4168 **77-40-103 (Effective 05/01/20). Petition for expungement procedure overview.**

4169 The process for a petition for the expungement of records under this chapter regarding
4170 the arrest, investigation, detention, and conviction of a petitioner is as follows:

4171 (1) The petitioner shall apply to the bureau for a certificate of eligibility for
4172 expungement and pay the application fee established by the department.

4173 (2) Once the eligibility process is complete, the bureau shall notify the petitioner.

4174 (3) If the petitioner is qualified to receive a certificate of eligibility for expungement,
4175 the petitioner shall pay the issuance fee established by the department.

4176 (4) (a) The petitioner shall file the certificate of eligibility with a petition for
4177 expungement in the court in which the proceedings occurred.

4178 (b) If there were no court proceedings, or the court no longer exists, the petitioner may
4179 file the petition in the district court where the arrest occurred.

4180 (c) If a petitioner files a certificate of eligibility electronically, the petitioner or the
4181 petitioner's attorney shall keep the original certificate until the proceedings are concluded.

4182 (d) If the petitioner files the original certificate of eligibility with the petition, the clerk
4183 or the court shall scan and return the original certificate to the petitioner or the petitioner's
4184 attorney, who shall keep the original certificate until the proceedings are concluded.

4185 (5) Notwithstanding Subsections (3) and (4), if the petitioner is not qualified to receive
4186 a certificate of eligibility for expungement, the petitioner may file a petition without a
4187 certificate to obtain expungement for a record of conviction related to cannabis possession if
4188 the petition demonstrates that:

4189 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
4190 conviction, a qualifying condition, as that term is defined in Section [26-61a-102](#); and

4191 (b) the possession of cannabis in question was in a form and an amount to medicinally
4192 treat the condition described in Subsection (5)(a).

4193 ~~[(5)]~~ (6) (a) The petitioner shall deliver a copy of the petition and certificate of
4194 eligibility to the prosecutorial office that handled the court proceedings.

4195 (b) If there were no court proceedings, the petitioner shall deliver the copy of the
4196 petition and certificate to the county attorney's office in the jurisdiction where the arrest
4197 occurred.

4198 ~~[(6)]~~ (7) If the prosecutor or the victim files an objection to the petition, the court shall
4199 set a hearing and notify the prosecutor and the victim of the date set for the hearing.

4200 ~~[(7)]~~ (8) If the court requests a response from Adult Probation and Parole and a
4201 response is received, the petitioner may file a written reply to the response within 15 days of
4202 receipt of the response.

4203 ~~[(8)]~~ (9) A court may grant an expungement without a hearing if no objection is
4204 received.

4205 ~~[(9)]~~ (10) Upon receipt of an order of expungement, the petitioner shall deliver copies
4206 to all government agencies in possession of records relating to the expunged matter.

4207 Section 46. Section **77-40-107 (Superseded 05/01/20)** is amended to read:

4208 **77-40-107 (Superseded 05/01/20). Petition for expungement -- Prosecutorial**
4209 **responsibility -- Hearing -- Standard of proof -- Exception.**

4210 (1) The petitioner shall file a petition for expungement and, except as provided in

4211 Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section
4212 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the
4213 certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original
4214 certificate until the proceedings are concluded. If the original certificate is filed with the
4215 petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's
4216 attorney, who shall keep it until the proceedings are concluded.

4217 (2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting
4218 attorney shall provide notice of the expungement request by first-class mail to the victim at the
4219 most recent address of record on file.

4220 (b) The notice shall:

4221 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
4222 to the petition;

4223 (ii) state that the victim has a right to object to the expungement; and

4224 (iii) provide instructions for registering an objection with the court.

4225 (3) The prosecuting attorney and the victim, if applicable, may respond to the petition
4226 by filing a recommendation or objection with the court within 35 days after receipt of the
4227 petition.

4228 (4) (a) The court may request a written response to the petition from the Division of
4229 Adult Probation and Parole within the Department of Corrections.

4230 (b) If requested, the response prepared by the Division of Adult Probation and Parole
4231 shall include:

4232 (i) the reasons probation was terminated; and

4233 (ii) certification that the petitioner has completed all requirements of sentencing and
4234 probation or parole.

4235 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
4236 the petitioner and the prosecuting attorney.

4237 (5) The petitioner may respond in writing to any objections filed by the prosecutor or
4238 the victim and the response prepared by the Division of Adult Probation and Parole within 14
4239 days after receipt.

4240 (6) (a) If the court receives an objection concerning the petition from any party, the
4241 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the

4242 date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the
4243 hearing.

4244 (b) The petitioner, the prosecuting attorney, the victim, and any other person who has
4245 relevant information about the petitioner may testify at the hearing.

4246 (c) The court shall review the petition, the certificate of eligibility, and any written
4247 responses submitted regarding the petition.

4248 (7) If no objection is received within 60 days from the date the petition for
4249 expungement is filed with the court, the expungement may be granted without a hearing.

4250 (8) The court shall issue an order of expungement if the court finds by clear and
4251 convincing evidence that:

4252 (a) the petition and, except as provided under Subsection 77-40-103(5), certificate of
4253 eligibility are sufficient;

4254 (b) the statutory requirements have been met;

4255 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
4256 without condition, the prosecutor provided written consent and has not filed and does not
4257 intend to refile related charges;

4258 (d) if the petitioner seeks expungement of drug possession offenses allowed under
4259 Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is
4260 successfully managing any substance addiction; ~~and~~

4261 (e) if the petitioner seeks expungement without a certificate of eligibility for
4262 expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis
4263 possession:

4264 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
4265 conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

4266 (ii) the possession of cannabis in question was in a form and an amount to medically
4267 treat the condition described in Subsection (8)(e)(i); and

4268 ~~(f)~~ (f) it is not contrary to the interests of the public to grant the expungement.

4269 (9) (a) If the court denies a petition described in Subsection (8)(c) because the
4270 prosecutor intends to refile charges, the person seeking expungement may again apply for a
4271 certificate of eligibility if charges are not refiled within 180 days of the day on which the court
4272 denies the petition.

4273 (b) A prosecutor who opposes an expungement of a case dismissed without prejudice
4274 or without condition shall have a good faith basis for the intention to refile the case.

4275 (c) A court shall consider the number of times that good faith basis of intention to
4276 refile by the prosecutor is presented to the court in making the court's determination to grant
4277 the petition for expungement described in Subsection (8)(c).

4278 (10) A court may not expunge a conviction of an offense for which a certificate of
4279 eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.
4280 Section 47. Section 77-40-107 (Effective 05/01/20) is amended to read:

4281 **77-40-107 (Effective 05/01/20). Petition for expungement -- Prosecutorial**
4282 **responsibility -- Hearing -- Standard of proof -- Exception.**

4283 (1) (a) The petitioner shall file a petition for expungement and, except as provided in
4284 Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section
4285 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency.

4286 (b) If the petitioner files the certificate of eligibility electronically, the petitioner or the
4287 petitioner's attorney shall keep the original certificate until the proceedings are concluded.

4288 (c) If the petitioner files the original certificate of eligibility with the petition, the clerk
4289 of the court shall scan and return the original certificate to the petitioner or the petitioner's
4290 attorney, who shall keep the original certificate until the proceedings are concluded.

4291 (2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting
4292 attorney shall provide notice of the expungement request by first-class mail to the victim at the
4293 most recent address of record on file.

4294 (b) The notice shall:

4295 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
4296 to the petition;

4297 (ii) state that the victim has a right to object to the expungement; and

4298 (iii) provide instructions for registering an objection with the court.

4299 (3) The prosecuting attorney and the victim, if applicable, may respond to the petition
4300 by filing a recommendation or objection with the court within 35 days after receipt of the
4301 petition.

4302 (4) (a) The court may request a written response to the petition from the Division of
4303 Adult Probation and Parole within the Department of Corrections.

4304 (b) If requested, the response prepared by the Division of Adult Probation and Parole
4305 shall include:

4306 (i) the reasons probation was terminated; and

4307 (ii) certification that the petitioner has completed all requirements of sentencing and
4308 probation or parole.

4309 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
4310 the petitioner and the prosecuting attorney.

4311 (5) The petitioner may respond in writing to any objections filed by the prosecutor or
4312 the victim and the response prepared by the Division of Adult Probation and Parole within 14
4313 days after receipt.

4314 (6) (a) (i) If the court receives an objection concerning the petition from any party, the
4315 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
4316 date set for the hearing.

4317 (ii) The prosecuting attorney shall notify the victim of the date set for the hearing.

4318 (b) The petitioner, the prosecuting attorney, the victim, and any other individual who
4319 has relevant information about the petitioner may testify at the hearing.

4320 (c) The court shall review the petition, the certificate of eligibility, and any written
4321 responses submitted regarding the petition.

4322 (7) If no objection is received within 60 days from the date the petition for
4323 expungement is filed with the court, the expungement may be granted without a hearing.

4324 (8) The court shall issue an order of expungement if the court finds by clear and
4325 convincing evidence that:

4326 (a) the petition and, except as provided in Subsection 77-40-103(5), certificate of
4327 eligibility are sufficient;

4328 (b) the statutory requirements have been met;

4329 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
4330 without condition, the prosecutor provided written consent and has not filed and does not
4331 intend to refile related charges;

4332 (d) if the petitioner seeks expungement of drug possession offenses allowed under
4333 Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is
4334 successfully managing any substance addiction; [~~and~~]

4335 (e) if the petitioner seeks expungement without a certificate of eligibility for
4336 expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis
4337 possession:

4338 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
4339 conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and
4340 (ii) the possession of cannabis in question was in a form and an amount to medicinally
4341 treat the condition described in Subsection (8)(e)(i); and

4342 ~~(e)~~ (f) it is not contrary to the interests of the public to grant the expungement.

4343 (9) (a) If the court denies a petition described in Subsection (8)(c) because the
4344 prosecutor intends to refile charges, the individual seeking expungement may again apply for a
4345 certificate of eligibility if charges are not refiled within 180 days of the day on which the court
4346 denies the petition.

4347 (b) A prosecutor who opposes an expungement of a case dismissed without prejudice
4348 or without condition shall have a good faith basis for the intention to refile the case.

4349 (c) A court shall consider the number of times that good faith basis of intention to
4350 refile by the prosecutor is presented to the court in making the court's determination to grant
4351 the petition for expungement described in Subsection (8)(c).

4352 (10) A court may not expunge a conviction of an offense for which a certificate of
4353 eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.
4354 Section 48. Section 78A-2-231 is amended to read:

4355 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

4356 (1) As used in this section:

4357 (a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

4358 (b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

4359 ~~(b)~~ (c) "Dosing ~~[parameters]~~ guidelines" means the same as that term is defined in
4360 Section 26-61a-102.

4361 ~~(c)~~ (d) "Medical cannabis" means the same as that term is defined in Section
4362 26-61a-102.

4363 ~~(d)~~ (e) "Medical cannabis card" means the same as that term is defined in Section
4364 26-61a-102.

4365 ~~(e)~~ (f) "Medical cannabis device" means the same as that term is defined in Section

4366 26-61a-102.

4367 [(f)] (g) "Qualified medical provider" means the same as that term is defined in Section
4368 26-61a-102.

4369 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner
4370 makes a finding, determination, or otherwise considers an individual's possession or use of
4371 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or
4372 court commissioner may not consider or treat the individual's possession or use any differently
4373 than the lawful possession or use of any prescribed controlled substance if:

4374 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production
4375 Establishments;

4376 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

4377 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah
4378 Medical Cannabis Act; and

4379 (ii) the individual reasonably complies with the directions of use and dosing
4380 [parameters] guidelines determined by the individual's qualified medical provider or through a
4381 consultation described in Subsection 26-61a-502(4) or (5).

4382 (3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in
4383 abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of
4384 Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain
4385 from the use or possession of medical cannabis, a cannabis product, or a medical cannabis
4386 device, either directly or through a general prohibition on violating federal law, without an
4387 exception related to medical cannabis use, if the individual's use or possession complies with:

4388 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

4389 (b) Subsection 58-37-3.7(2) or (3).

4390 Section 49. Section 78A-6-115 is amended to read:

4391 **78A-6-115. Hearings -- Record -- County attorney or district attorney**
4392 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**
4393 **evidence -- Medical cannabis.**

4394 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result
4395 in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall
4396 also be made unless dispensed with by the court.

4397 (b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,
4398 Government Records Access and Management Act, a record of a proceeding made under
4399 Subsection (1)(a) shall be released by the court to any person upon a finding on the record for
4400 good cause.

4401 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the
4402 court shall:

4403 (A) provide notice to all subjects of the record that a request for release of the record
4404 has been made; and

4405 (B) allow sufficient time for the subjects of the record to respond before making a
4406 finding on the petition.

4407 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the
4408 court's jurisdiction over the subjects of the proceeding ended more than 12 months before the
4409 request.

4410 (iv) For purposes of this Subsection (1)(b):

4411 (A) "record of a proceeding" does not include documentary materials of any type
4412 submitted to the court as part of the proceeding, including items submitted under Subsection
4413 (4)(a); and

4414 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal
4415 guardian, the Division of Child and Family Services, and any other party to the proceeding.

4416 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a
4417 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
4418 case.

4419 (b) Subject to the attorney general's prosecutorial discretion in civil enforcement
4420 actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and
4421 Family Services, and this chapter, relating to:

4422 (i) protection or custody of an abused, neglected, or dependent child; and

4423 (ii) petitions for termination of parental rights.

4424 (c) The attorney general shall represent the Division of Child and Family Services in
4425 actions involving a minor who is not adjudicated as abused or neglected, but who is receiving
4426 in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be
4427 construed to affect the responsibility of the county attorney or district attorney to represent the

4428 state in those matters, in accordance with Subsection (2)(a).

4429 (3) The board may adopt special rules of procedure to govern proceedings involving
4430 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings
4431 involving offenses under Section 78A-6-606 are governed by that section regarding suspension
4432 of driving privileges.

4433 (4) (a) For the purposes of determining proper disposition of the minor in dispositional
4434 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and
4435 in hearings upon petitions for termination of parental rights, written reports and other material
4436 relating to the minor's mental, physical, and social history and condition may be received in
4437 evidence and may be considered by the court along with other evidence. The court may require
4438 that the person who wrote the report or prepared the material appear as a witness if the person
4439 is reasonably available.

4440 (b) For the purpose of determining proper disposition of a minor alleged to be or
4441 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division
4442 under Section 78A-6-315 may be received in evidence and may be considered by the court
4443 along with other evidence. The court may require any person who participated in preparing the
4444 dispositional report to appear as a witness, if the person is reasonably available.

4445 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the
4446 commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under
4447 Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or
4448 their counsel any information which the party:

4449 (i) plans to report to the court at the proceeding; or

4450 (ii) could reasonably expect would be requested of the party by the court at the
4451 proceeding.

4452 (b) The disclosure required under Subsection (5)(a) shall be made:

4453 (i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than
4454 five days before the proceeding;

4455 (ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in
4456 accordance with Utah Rules of Civil Procedure; and

4457 (iii) for all other proceedings, no less than five days before the proceeding.

4458 (c) If a party to a proceeding obtains information after the deadline in Subsection

4459 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the
4460 party certifies to the court that the information was obtained after the deadline.

4461 (d) Subsection (5)(a) does not apply to:

4462 (i) pretrial hearings; and

4463 (ii) the frequent, periodic review hearings held in a dependency drug court case to
4464 assess and promote the parent's progress in substance use disorder treatment.

4465 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
4466 may, in its discretion, consider evidence of statements made by a child under eight years of age
4467 to a person in a trust relationship.

4468 (7) (a) As used in this Subsection (7):

4469 (i) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

4470 (ii) "Directions of use" means the same as that term is defined in Section [26-61a-102](#).

4471 ~~[(ii)]~~ (iii) "Dosing parameters" means the same as that term is defined in Section
4472 [26-61a-102](#).

4473 ~~[(iii)]~~ (iv) "Medical cannabis" means the same as that term is defined in Section
4474 [26-61a-102](#).

4475 ~~[(iv)]~~ (v) "Medical cannabis cardholder" means the same as that term is defined in
4476 Section [26-61a-102](#).

4477 ~~[(v)]~~ (vi) "Qualified medical provider" means the same as that term is defined in
4478 Section [26-61a-102](#).

4479 (b) In any child welfare proceeding in which the court makes a finding, determination,
4480 or otherwise considers an individual's possession or use of medical cannabis, a cannabis
4481 product, or a medical cannabis device, the court may not consider or treat the individual's
4482 possession or use any differently than the lawful possession or use of any prescribed controlled
4483 substance if:

4484 (i) the individual's use or possession complies with~~[(i)]~~ Title 4, Chapter 41a, Cannabis
4485 Production Establishments;

4486 (ii) the individual's possession or use complies with Subsection [58-37-3.7\(2\)](#) or (3); or

4487 (iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah
4488 Medical Cannabis Act; and

4489 (B) the individual reasonably complies with the directions of use and dosing

4490 [parameters] guidelines determined by the individual's qualified medical provider or through a
4491 consultation described in Subsection 26-61a-502(4) or (5).

4492 (c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse
4493 or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child,
4494 if:

4495 (i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or
4496 guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act,
4497 and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably
4498 deviates from the directions of use and dosing [parameters] guidelines determined by the
4499 parent's or guardian's qualified medical provider or through a consultation described in
4500 Subsection 26-61a-502(4) or (5); or

4501 (B) before January 1, 2021, the parent's or guardian's possession or use complies with
4502 Subsection 58-37-3.7(2) or (3); and

4503 (ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise
4504 had cannabis introduced to the child's body; or

4505 (B) there is no evidence showing a nexus between the parent's or guardian's use of
4506 medical cannabis or a cannabis product and behavior that would separately constitute abuse or
4507 neglect of the child.

4508 Section 50. **Effective date.**

4509 If approved by two-thirds of all the members elected to each house, this bill takes effect
4510 upon approval by the governor, or the day following the constitutional time limit of Utah
4511 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
4512 the date of veto override.