

# SB0121S01 compared with SB0121

~~text~~ shows text that was in SB0121 but was deleted in SB0121S01.

text shows text that was not in SB0121 but was inserted into SB0121S01.

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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: \_\_\_\_\_

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### 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;

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- ▶ allows ~~{for}~~ the Utah Department of Agriculture and Food (UDAF) to ~~{operate an independent cannabis testing laboratory}~~; 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;
- ▶ allows a cannabis cultivation facility to operate using up to two locations;
- ▶ allows for the use of stacking plants within allotted square footage limitations;
- ▶ allows for a cannabis production establishment to hold educational events under certain circumstances and in accordance with UDAF rules;
- ▶ allows an individual without a state cannabis-related license to transport medical cannabis devices in certain circumstances;
- ▶ amends provisions regarding ~~{the packaging for raw cannabis flower;~~
- ▶ ~~amends provisions regarding }~~ flavoring of cannabis products;
- ▶ allows the Cannabinoid Product Board to review a broader category of scientific research;
- ▶ clarifies legal dosage limits;
- ▶ amends provisions regarding the packaging for raw cannabis flower;
- ▶ amends the directions of use and dosing guidelines that may be associated with a medical cannabis recommendation;
- ▶ amends the medicinal dosage form for unprocessed cannabis flower;
- ▶ amends provisions regarding access to the electronic verification system by law enforcement ~~{,}~~ and certain medical staff ~~{, and certain financial institutions that the Division of Finance validates}~~;
- ▶ amends provisions regarding the obtaining and renewing of medical cannabis cards;
- ▶ reduces the degree required for the professional who diagnoses or confirms post-traumatic stress disorder as a qualifying condition;
- ▶ requires the Compassionate Use Board to review recommendations for the use of medical cannabis devices by patients under a certain age to vaporize medical cannabis;

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- ▶ provides for an expedited petition process from the ~~{compassionate-use board}~~ Compassionate Use Board to the Department of Health (DoH);
- ▶ exempts the Compassionate Use Board from certain compensation restrictions;
- ▶ amends the patient limits on qualified medical providers and the specializations which allow qualified medical providers to recommend medical cannabis to a larger patient population;
- ▶ amends provisions regarding medical professionals advertising regarding medical cannabis;
- ▶ provides protections for state or political subdivisions employees using medical cannabis;
- ▶ provides that private employers are not required to accommodate the use of medical cannabis;
- ▶ ~~{directs the Department of Health}~~ amends provisions regarding designated caregivers for certain minors and patients in certain health care facilities;
- ▶ directs DoH to establish a registration process that would allow out-of-state patients visiting the state to purchase medical cannabis within the state under certain conditions;
- ~~{~~ → ~~amends provisions regarding designated caregivers for certain minors and patients in certain health care facilities;~~
- ‡ ▶ amends certain criminal penalties, including for certain nonresident patients, to be infractions on a first offense;
- ▶ increases the ability of DoH to revoke a medical cannabis pharmacy license;
- ▶ amends requirements for pharmacist counseling or consultation based on the directions of use and dosing guidelines that may accompany a medical cannabis recommendation;
- ▶ allows a medical cannabis pharmacy to purchase medical cannabis devices from a seller that does not have a state cannabis-related license;
- ▶ allow UDAF to conduct random sampling of medical cannabis in medical cannabis pharmacies;
- ▶ amends provisions regarding medical cannabis pharmacy advertising, including allowing a medical cannabis pharmacy to hold educational events under certain

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### circumstances and in accordance with DoH rules;

- ▶ amends provisions regarding the transportation of medical cannabis and medical cannabis devices;
- ▶ allows for the state central patient portal to facilitate electronic medical cannabis orders for an individual to obtain in person at a medical cannabis pharmacy;
- ▶ allows a pharmacy medical provider to transport medical cannabis in certain circumstances;
- ▶ provides that meetings of the ~~{compassionate use board}~~ Compassionate Use Board are closed meetings;
- ▶ amends the definition of marijuana;
- ▶ creates a rebuttable presumption for cannabidiol use in certain circumstances;
- ▶ ~~{adds a cannabis-based drug to the Controlled Substances Act;~~
- ▶ }exempts cannabis metabolite from a driving-related crime in certain circumstances;
- ▶ adds a cannabis-based drug to the Controlled Substances Act;
- ▶ amends the level of negligence required for certain marijuana-related vehicular injuries to constitute a felony;
- ▶ distinguishes medical cannabis devices from electronic cigarettes;
- ▶ exempts a lawful medical cannabis user from a weapons restriction;
- ▶ provides for expungement of cannabis-related convictions in certain circumstances;
- and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

### **Utah Code Sections Affected:**

AMENDS:

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

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

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

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

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

**4-41a-203, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1**

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

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

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

**4-41a-602, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1**

**4-41a-603, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1**

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

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

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

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

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

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

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

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

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

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

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

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

**26-61a-303, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1**

**26-61a-501, as renumbered and amended by Laws of Utah 2018, Third Special Session,  
Chapter 1**

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

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

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

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

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**26-61a-601**, as repealed and reenacted by Laws of Utah 2019, First Special Session, Chapter 5

**26-61a-603**, as repealed and reenacted by Laws of Utah 2019, First Special Session, Chapter 5

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

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

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

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

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

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

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

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

**58-67-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

**58-68-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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

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

~~**77-40-105**~~**77-40-103** (Superseded 05/01/20), as last amended by Laws of Utah ~~2018~~2014, Chapter ~~266~~263

~~**77-40-105**~~**77-40-103** (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448

**77-40-107** (Superseded 05/01/20), as last amended by Laws of Utah 2018, Chapter 266

**77-40-107** (Effective 05/01/20), as last amended by Laws of Utah 2019, Chapter 448

**78A-2-231**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5

**78A-6-115**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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

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

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

As used in this chapter:

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

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product that:

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

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

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

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

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

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

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

(7) "Medicinal dosage form" means:

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a liquid suspension;

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

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

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

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

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

(8) "Person" means:

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

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

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

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

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

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

- (a) except as provided in this chapter; or
- (b) unless the United States Food and Drug Administration approves the product.

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

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

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

- (i) the ~~{person}~~ individual purchased the product outside the state; and
- (ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled

Substances Act.

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

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

As used in this chapter:

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

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

- (a) possesses cannabis;
- (b) (i) grows or intends to grow cannabis; ~~[and]~~ or
- (ii) acquires or intends to acquire cannabis from a holder of an industrial hemp

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

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

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



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- (a) is an employee of a cannabis cultivation facility; and
- (b) holds a valid cannabis production establishment agent registration card.
- (4) "Cannabis processing facility" means a person that:
  - (a) acquires or intends to acquire cannabis from a cannabis production establishment ~~[or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act]~~;
  - (b) possesses cannabis with the intent to manufacture a cannabis product;
  - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
  - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.
- (5) "Cannabis processing facility agent" means an individual who:
  - (a) is an employee of a cannabis processing facility; and
  - (b) holds a valid cannabis production establishment agent registration card.
- (6) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- (7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.
- (8) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- (9) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
  - (a) authorizes an individual to act as a cannabis production establishment agent; and
  - (b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.
- (10) "Community location" means a public or private elementary or secondary school, ~~[a licensed child-care facility or preschool,]~~ a church, a public library, a public playground, or a public park.
- (11) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(23)]~~ [(24)] "Medicinal dosage form" means the same as that term is defined in Section

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26-61a-102.

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

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

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

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

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

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

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

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

(1) Each cannabis production establishment and each medical cannabis pharmacy shall maintain an inventory control system that meets the requirements of this section.

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

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

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

(c) includes a video recording system that:

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

(ii) is tamper proof; and

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

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

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

(a) the department;

(b) the Department of Health; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) may not access any identifying patient information.

Section ~~{4}~~5. Section 4-41a-201 is amended to read:

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

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

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

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

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

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

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

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

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

(C) timely and objectively evaluate applications;

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

(E) select applicants to receive a license.

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

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

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establishment;

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

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

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

(iii) an operating plan that:

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

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

(C) the department approves;

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

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

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

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

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

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

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

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

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

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

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

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

~~[(a)]~~ (i) the applicant shall pay the department:

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

~~(b)]~~ and or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

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

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

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

(c) shall give preference to applicants that demonstrate an ability to increase efficiency and decrease costs to patients.

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

(a) if the cannabis production establishment does not begin cannabis production



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operations within one year after the day on which the department issues the initial license;

(b) after the ~~[cannabis production establishment makes]~~ third of the same violation of this chapter ~~[three times]~~ in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

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

(i) a felony; or

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

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application~~[-]~~ within 14 calendar days after the licensee receives notice of the investigation or adverse action; or

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter.

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

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

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

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

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

(b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a

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license to an applicant is not subject to:

- (i) Title 63G, Chapter 6a, Part 16, Protests; or
- (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) Notwithstanding this section, the department:

(a) may operate an independent cannabis testing laboratory;

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

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

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

~~(A)i) the department issues at least two licenses to independent cannabis testing~~

laboratories; and

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

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

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

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

Section ~~5~~6. Section **4-41a-203** is amended to read:

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

The department shall renew a license issued under Section 4-41a-201 every year without opening a process described in Subsection ~~4-41a-203~~4-41a-201(2)(a) or convert a 120-day limited license described in Subsection 4-41a-201(3)(b) into a full-year license if, at the time of renewal:

(1) the licensee meets the requirements of Section 4-41a-201;

(2) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(3) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

Section ~~6~~7. Section **4-41a-204** is amended to read:

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### 4-41a-204. Operating plan.

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

(a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;

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

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

(ii) any highly skilled or experienced prospective employee;

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

(d) a security plan;

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

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

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

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

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

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

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

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

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

(i) for a facility that cultivates cannabis only indoors[~~-(A)~~], use more than 100,000

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~~total { horizontal } square feet [ for ] of cultivation space [; or (B) hang, suspend, stack { }; regardless of whether the square footage is used through hanging, suspending, stacking, } or otherwise { } position { } positioning } plants above other plants to cultivate more plants through use of vertical space ];~~

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

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

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

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

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

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

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

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

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

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

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

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

~~[(f) Notwithstanding an applicant's proposed operating plan, a cannabis production~~

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establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.]

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

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

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

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

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

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

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

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

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

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

- (a) contains information about the establishment and employees; and
- (b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

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

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establishment that:

(a) includes only:

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

(ii) a green cross;

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

(c) complies with local ordinances regulating signage.

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

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

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

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

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

or

(iv) a presenter other than the following:

(A) a cannabis production establishment agent;

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

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

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

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

(F) a state employee.

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

Section ~~{7}~~9. Section 4-41a-404 is amended to read:

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4-41a-404. ~~{Cannabis, cannabis product, or medical}~~ Medical cannabis ~~{device}~~ transportation.

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

(i) a registered cannabis production establishment agent; or

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

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

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

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

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

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

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

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

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

(ii) between a cannabis processing facility and ~~[(A) another cannabis processing~~

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facility; ~~(B) an independent cannabis testing laboratory; or (C)~~] a medical cannabis pharmacy.

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

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

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

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

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

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

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

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

(6) ~~{Notwithstanding this section,}~~ An individual other than an individual described in Subsection (1) may transport a medical cannabis device {to a} within the state if the transport does not also contain medical cannabis { pharmacy in the circumstance described in Subsection 26-61a-502(10)}.

Section ~~{8}~~ 10. Section ~~4-41a-602~~ is amended to read:

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

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

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

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

(ii) clearly displays the amount of total composite tetrahydrocannabinol and



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cannabidiol in the labeled container;

(iii) has a unique identification number that:

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

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

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

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

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

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

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

(ii) does not appeal to children;

(iii) does not mimic a candy container;

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

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

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

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

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

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

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

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

(a) a standard labeling format that:

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

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

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

Section ~~{9}~~11. Section **4-41a-603** is amended to read:

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

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

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

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

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

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

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

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

Section ~~{10}~~12. Section **26-61-202** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) any other guideline the board determines appropriate.

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

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

(b) the Health and Human Services Interim Committee.

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

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

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Section ~~{11}~~13. Section **26-61a-102** is amended to read:

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

As used in this chapter:

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

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

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

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

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

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

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

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

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

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

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

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

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

(a) an individual:

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

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

(b) (i) a facility that an individual designates as a designated caregiver in accordance

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with Subsection 26-61a-202(1)(b); or

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

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

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

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

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

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

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

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

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

(b) may not exceed:

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

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

~~[(17);~~ (18) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

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

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

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

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

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

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

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

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

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

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

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

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

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

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

(b) is connected to the electronic verification system.

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

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

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

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

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

(i) facilitates cannabis combustion; or

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

~~[(25)]~~[(26)] "Medical cannabis guardian card" means an electronic document that a

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cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

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

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

(b) is connected to the electronic verification system.

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

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

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

(B) a medical cannabis device; or

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

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

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

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

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

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

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

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

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

(i) for processed medical cannabis or a medical cannabis product, the following with a

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specific and consistent cannabinoid content:

- (A) a tablet;
- (B) a capsule;
- (C) a concentrated liquid or viscous oil;
- (D) a liquid suspension;
- (E) a topical preparation;
- (F) a transdermal preparation;
- (G) a sublingual preparation;
- (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or

rectangular cuboid shape; or

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

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

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

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

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

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

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

(i) the medical cannabis cardholder has recently removed from the [~~blister pack~~]

container described in Subsection ~~[(32)]~~ (33)(a)(ii) for use; and

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

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

(i) any unprocessed cannabis flower outside of the [~~blister pack~~] container described in



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Subsection ~~(32)~~(33)(a)(ii), except as provided in Subsection ~~[(32)]~~(33)(b); ~~[or]~~

(ii) any unprocessed cannabis flower in a container described in Subsection ~~(32)~~(33)(a)(ii) after the legal use termination date; or

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

~~(33)~~ (34) "Nonresident patient" means an individual who:

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

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

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

~~(33)~~ ~~(34)~~(35) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

~~(34)~~ ~~(35)~~(36) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

~~(35)~~ ~~(36)~~(37) "Provisional patient card" means a card that:

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

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

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

(b) is connected to the electronic verification system.

~~(36)~~ ~~(37)~~(38) "Qualified medical provider" means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

~~(37)~~ ~~(38)~~(39) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

~~(38)~~ ~~(39)~~(40) "Qualifying condition" means a condition described in Section 26-61a-104.

~~(40)~~(41) "Recommend" or "recommendation" means, for a qualified medical provider, the act of suggesting the use of medical cannabis treatment, which:

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

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

[~~(39)~~] (~~(41)~~42) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(40)~~] (~~(42)~~43) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

[~~(41)~~] (~~(43)~~44) "State electronic verification system" means the system described in Section 26-61a-103.

[~~(42)~~] (~~(44)~~45) "Valid form of photo identification" means a valid United States federal- or state-issued photo identification, including:

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

Section ~~(12)~~14. Section **26-61a-103** is amended to read:

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

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

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

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

(c) select a third-party provider who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) connects with:

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

(A) the time and date of each purchase;

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

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

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

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

(e) provides access to:

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

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

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

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

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

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

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

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Assistant Act;

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

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

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

(ii) after obtaining a warrant; ~~and~~

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

~~[(h)] (i); and~~

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

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

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

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

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

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

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

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection

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(3)(b)(i); and

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

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

- (a) conducting medical and other department approved research;
- (b) providing the report required by Section 26-61a-703; and
- (c) other official department purposes.

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

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

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

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

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

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

~~— (B) establish qualifications for the validation described in Subsection (6)(a)(i);~~

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

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

~~— (iv) provide a list of validated financial institutions to the department and the Department of Agriculture and Food;~~

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

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

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

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

† [(5)] ~~(7)(6)~~ (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

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

[(6)] ~~(8)(7)~~ (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

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

[(7)] ~~(9)(8)~~ (a) Except as provided in Subsection [(7)] ~~(9)(8)~~(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection [(7)] ~~(9)(8)~~ is:

(i) a third degree felony; and

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

(c) The department shall determine a civil violation of this Subsection [(7)] ~~(9)(8)~~ in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection [(7)] ~~(9)(8)~~ shall be deposited into the General Fund.

(e) This Subsection [(7)] ~~(9)(8)~~ does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

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

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

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

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Section ~~{13}~~15. Section **26-61a-104** is amended to read:

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

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

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

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

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

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

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

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:



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- (A) a licensed board-eligible or board-certified psychiatrist;
- (B) a licensed psychologist with a [~~doctorate~~] master's-level degree;
- (C) a licensed clinical social worker with a [~~doctorate~~] master's-level degree; or
- (D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing speciality and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);
  - (k) autism;
  - (l) a terminal illness when the patient's remaining life expectancy is less than six months;
  - (m) a condition resulting in the individual receiving hospice care;
  - (n) a rare condition or disease that:
    - (i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and
    - (ii) is not adequately managed despite treatment attempts using:
      - (A) conventional medications other than opioids or opiates; or
      - (B) physical interventions;
  - (o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:
    - (i) conventional medications other than opioids or opiates; or
    - (ii) physical interventions; and
  - (p) a condition that the [~~compassionate use board~~] Compassionate Use Board approves under Section 26-61a-105, on an individual, case-by-case basis.

Section ~~{14}~~16. Section **26-61a-105** is amended to read:

### **26-61a-105. Compassionate ~~{use board}~~Use Board.**

- (1) (a) The department shall establish a [~~compassionate use board~~] Compassionate Use Board consisting of:
  - (i) seven qualified medical providers that the executive director appoints and the Senate confirms:
    - (A) who are knowledgeable about the medicinal use of cannabis;
    - (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,

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or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

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

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

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

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

- (i) three shall serve an initial term of two years; and
- (ii) the remaining members shall serve an initial term of four years.
- (b) After an initial term described in Subsection (2)(a) expires:
  - (i) each term is four years; and
  - (ii) each board member is eligible for reappointment.

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

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

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

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and ~~{:}~~

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

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

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

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

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the individual's qualified medical provider is actively treating the individual for an intractable condition that:

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

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

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

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

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

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

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

~~(b)~~ (c) unless no petitions are pending:

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

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

~~(c)~~ (d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition; [and]

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

~~(d)~~ (f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

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

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

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compassionate use.

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

(a) time is of the essence;

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

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

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

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

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

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

(A) issue the relevant medical cannabis card; and

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

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

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

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

(B) the board shall reconsider the ~~board's~~ Compassionate Use Board's refusal to

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recommend approval under this section.

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

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

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

Section ~~{15}~~ 17. Section **26-61a-106** is amended to read:

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

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

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

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

- (i) provides to the department the individual's name and address;
- (ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);
- (iii) provides to the department evidence that the individual:
  - (A) has the authority to write a prescription;
  - (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and
  - (C) possesses the authority, in accordance with the individual's scope of practice, to

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prescribe a Schedule II controlled substance;

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

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

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

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

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

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

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

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

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

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

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

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

(i) complete continuing education:

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

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

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

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

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

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

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

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

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

(i) the provisions of this chapter;

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

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

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

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

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

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

(i) the appropriate American medical board has certified the qualified medical provider

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in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

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

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

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

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

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

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

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

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

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

(i) a green cross;



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

(iii) a scientific study regarding medical cannabis use.

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

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

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

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

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

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

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

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

(i) applies for renewal;

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

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

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

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

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

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

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

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

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

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

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

Section ~~{16}~~18. Section 26-61a-111 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Section ~~{17}~~19. Section **26-61a-113** is amended to read:

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

(1) Nothing in this chapter prohibits an individual:

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

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

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

Section ~~{18}~~20. Section **26-61a-201** is amended to read:

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

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

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

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

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

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

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

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

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

(ii) the individual is a Utah resident;

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

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cannabis in accordance with Subsection (4);

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

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

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

(A) is at least 18 years old;

(B) is a Utah resident;

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

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

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

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

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

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

(A) the minor has a qualifying condition;

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

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

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

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

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

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

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

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

(iii) with information including:

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

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

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

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

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

(c) (i) If a qualified medical provider determines that, because of age, illness, or

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disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

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

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

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

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

(A) ingest or inhale medical cannabis;

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

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

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

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

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

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

(A) the state electronic verification system; and

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

(iii) consider the recommendation in light of the patient's qualifying condition and

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history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

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

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

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

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

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

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

(B) for a renewal, six months.

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

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

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

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

(ii) the cardholder received the medical cannabis card through the recommendation of the ~~[compassionate use board]~~ Compassionate Use Board under Section 26-61a-105.

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

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

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

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

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

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in



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comparison to the original application process.

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

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

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

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

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

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

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

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

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

(i) may possess:

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

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

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

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(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form [that contains no more than 20 grams of tetrahydrocannabinol, or]; and

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

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

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

(a) risks associated with medical cannabis treatment;

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

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

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

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

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

(i) to a nonresident patient; and

(ii) for ~~one~~ no more than two visitation ~~period not~~ periods per calendar year of up to ~~exceed 45~~ 21 calendar days per ~~calendar year~~ visitation period.

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~(19)~~21. Section **26-61a-202** is amended to read:

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

### **Revocation.**

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

(b) (i) ~~(A)~~ Beginning on the earlier of January 1, 2021, or the date on which the

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electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 who is a patient in one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):

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

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

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

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

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

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

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

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

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

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

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

(e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, ~~is not subject to prosecution for the possession of:~~ (i) no more than 113

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grams of marijuana]:

~~(i) no more than 113 grams of marijuana;~~ may possess up to the legal dosage limit of:

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

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

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

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

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

(3) (a) The department shall:

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

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

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

(C) complies with this section; and

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

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

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

(a) is at least 21 years old;

(b) is a Utah resident;

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

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

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

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

(a) submit an application for a medical cannabis caregiver card to the department

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through an electronic application connected to the state electronic verification system; and

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

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

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

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

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

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

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

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

(i) renews the cardholder's card; and

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

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

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

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

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

(a) violates this chapter; or

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

(i) a felony; or

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

Section ~~20~~22. Section **26-61a-204** is amended to read:

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### 26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

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

~~— (i) carry:~~

(i) shall carry:

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

~~— (ii) carry; (B) with the medical cannabis [~~in a medicinal dosage form or cannabis product in a medicinal dosage form~~], a label that identifies that the medical cannabis [~~or cannabis product~~];~~

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

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

~~— (iii) possess not more than~~

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

(A) 113 grams of unprocessed cannabis in medicinal dosage form; or

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

~~— (b) A] and~~

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

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

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

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses ~~between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol~~ medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal

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dosage limit is:

(i) for a first offense:

(A) guilty of an infraction; and

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

(ii) for a second or subsequent offense:

~~(i)~~ (A) guilty of a class B misdemeanor; and

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

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

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

(i) for a first offense:

(A) guilty of an infraction; and

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

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

~~(f)~~ (f) A medical cannabis cardholder or a nonresident patient who possesses [more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol] medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

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

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

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



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

(i) for a first offense:

(A) guilty of an infraction; and

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

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

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

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

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

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

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

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

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

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

Section ~~21~~23. Section **26-61a-301** is amended to read:

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

(1) A person may not operate as a medical cannabis pharmacy without a license that

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the department issues under this part.

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

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

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

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

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

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

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

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

(iv) an operating plan that:

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

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

(C) the department approves;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

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legislator.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant;

~~and~~

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5);

~~and~~

(c) shall give preference to applicants that demonstrate an ability to increase efficiency and decrease costs to patients.

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

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

(b) ~~after~~ the ~~medical cannabis pharmacy makes~~ third of the same violation of this chapter ~~three times~~ in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

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

(i) a felony; or

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

(d) ~~if~~ the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application ~~within 14 calendar days after the licensee receives notice of the investigation or adverse action~~; or

(e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located

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requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

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

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

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

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

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

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

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

Section ~~{22}~~24. Section **26-61a-303** is amended to read:

### **26-61a-303. Renewal.**

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301; ~~[and]~~

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504[-]; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63F-1-701.

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(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

Section ~~23~~25. Section **26-61a-501** is amended to read:

### **26-61a-501. Operating requirements -- General.**

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and  
(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old; and

(b) except as provided in Subsection (5), possesses a valid:

(i) medical cannabis pharmacy agent registration card; ~~or~~

(ii) pharmacy medical provider registration card; or

~~(iii)~~ (iii) medical cannabis card.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.

(5) Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(6) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

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(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

(8) A medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) [~~dosing parameters~~] directions of use and dosing guidelines or an indication that the qualified medical provider did not recommend specific directions of use or dosing [~~parameters~~] guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) [~~The~~] Except as provided in Subsection (10)(b)(ii), a medical cannabis pharmacy may not sell medical cannabis [~~or a cannabis product~~] unless the medical cannabis [~~or cannabis product~~] has a label securely affixed to the container indicating the following minimum information:

[(i)] (A) the name, address, and telephone number of the medical cannabis pharmacy;

[(ii)] (B) the unique identification number that the medical cannabis pharmacy assigns;

[(iii)] (C) the date of the sale;

[(iv)] (D) the name of the patient;

[(v)] (E) the name of the qualified medical provider who recommended the medical

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cannabis treatment;

~~[(vi)]~~ (F) directions for use and cautionary statements, if any;

~~[(vii)]~~ (G) the amount dispensed and the cannabinoid content;

~~[(viii)]~~ (H) the ~~[beyond]~~ suggested use date; ~~[and]~~

(I) for unprocessed cannabis flower, the legal use termination date; and

~~[(ix)]~~ (J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (10)(b)(i).

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal~~[-face-to-face]~~ counseling with the pharmacy medical provider ~~[who is a pharmacist]~~; and

(b) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;



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(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section ~~{24}~~26. Section **26-61a-502** is amended to read:

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

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

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

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

(iii) a medical cannabis device; or

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

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

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

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

(ii) a corresponding valid form of photo identification.

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

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the ~~{compassionate use board}~~ Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy ~~[may not dispense: (a)]~~:

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(a) may dispense to a medical cannabis cardholder, in any one 28-day period, more than the lesser] up to the legal dosage limit of:

~~(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters } guidelines} that the relevant qualified medical provider {or the pharmacy medical provider, in accordance with Subsection (4) or (5), } recommends; or {~~

~~— } (ii) (A) { } 113 grams by weight of ]~~

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and [that]

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; [or] and

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

~~— (b) } ]~~

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

[(b)] (ii) to an individual whose qualified medical provider did not recommend [dosing parameters] directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(3) An individual with a medical cannabis card may not {

~~— (a) } purchase: {~~

~~— [(a)] (i) more cannabis or cannabis } (a) more]:~~

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis [or] in a medicinal dosage form; and

(ii) a cannabis [products than the amounts designated in Subsection (2) in any one 28-day period; or] product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

[(b)] (ii) if the relevant qualified medical provider did not recommend [dosing parameters] directions of use and dosing guidelines, until the individual consults with the

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pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products~~[-]; and~~

~~(b)(c)~~ may not use a route of administration that the relevant qualified medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide ~~[dosing parameters]~~ directions of use and dosing guidelines:

(a) the qualified medical provider shall document in the recommendation:

- (i) an evaluation of the qualifying condition underlying the recommendation;
- (ii) prior treatment attempts with cannabis and cannabis products; and
- (iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show ~~[dosing parameters]~~ directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) ~~[dosing parameters]~~ directions of use and dosing guidelines; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a)

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shall document the [~~dosing parameters~~] directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) A medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis products described in Subsection (2); and

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

(A) decline the sale; and

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

(b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

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

(i) complies with Subsection 4-41a-602(2) or, if applicable, 26-61a-102(31)(a)(ii);

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

(iii) opaque; and

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

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

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

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

(9) The department may impose a uniform fee on each medical cannabis cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection

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

(10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section ~~{25}~~27. Section **26-61a-504** is amended to read:

### **26-61a-504. Inspections.**

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department or the Department of Agriculture and Food may inspect the records [~~and~~], facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4, Chapter 41a, Cannabis Production Establishments.

(3) An inspection under this section may include:

- (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;
- (b) questioning of any relevant individual; [~~or~~]
- (c) inspection of equipment, an instrument, a tool, or machinery, including a container or label[-];

(d) random sampling of medical cannabis by the Department of Agriculture and Food to make the determinations described in Subsection 4-41a-701(2) in accordance with rules described in Section 4-41a-701; or

(e) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.

(4) In making an inspection under this section, the department or the Department of Agriculture and Food may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department [~~or the department's~~], the Department of Agriculture and Food, or the authorized agents of the department or the Department of

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Agriculture and Food immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

(6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection (3)(e) until the department:

(a) determines that sufficient compliance justifies the return of the seized items; or

(b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

Section ~~26-28~~28. Section **26-61a-505** is amended to read:

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

(1) Except as provided in [~~Subsections (2) and (3)~~] this section, a medical cannabis pharmacy may not advertise in any medium.

(2) A medical cannabis pharmacy may advertise an employment opportunity at the medical cannabis pharmacy.

~~(2)~~ (3) Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

(a) includes only:

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

(ii) a green cross;

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

(c) complies with local ordinances regulating signage.

~~(3)~~ (4) (a) A medical cannabis pharmacy may maintain a website that includes information about:

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

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

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~~(c)~~ (iii) personnel affiliated with the medical cannabis pharmacy;

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

~~(e)~~ (v) educational material related to the medical use of cannabis, as defined by the department.

(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection ~~(3)4~~(a).

~~(4)5~~ (a) A medical cannabis pharmacy may hold an educational event for the public or medical providers in accordance with this Subsection ~~(4)5~~ and the rules described in Subsection ~~(4)5~~(c).

(b) A medical cannabis pharmacy may not include in an educational event described in Subsection ~~(4)5~~(a):

(i) any topic that ~~the department does not approve in advance in accordance with the rules described in Subsection (4)(c)~~ conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;

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

(iii) any marketing for a specific product from the medical cannabis pharmacy; or

~~(iii)iv~~ (iv) a presenter other than the following:

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

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

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

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

(E) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection ~~(4)5~~(a), including ~~the~~

~~(i) } a minimum age of 21 years old for attendees ~~the~~~~

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~~(ii) a requirement for department pre-approval of the event agenda; and~~

~~(iii) a requirement for department pre-approval of the individual presenting at the event.~~

Section ~~{27}~~29. Section **26-61a-506** is amended to read:

### **26-61a-506. Medical cannabis transportation.**

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

(a) a registered medical cannabis pharmacy agent;

(b) a registered medical cannabis courier agent; [~~or~~]

(c) a registered pharmacy medical provider; or

~~[(c)]~~ (d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

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

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

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

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device~~] medical cannabis to ensure that the medical cannabis[; ~~cannabis product, or medical cannabis device~~] remains safe for human consumption.

(b) The transportation described in Subsection (1)(a) is limited to transportation between a medical cannabis pharmacy and:



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- (i) another medical cannabis pharmacy; or
- (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

(4) (a) It is unlawful for [~~a registered medical cannabis pharmacy agent or a registered medical cannabis courier agent~~] an individual described in Subsection (1) to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an [~~agent~~] individual who violates Subsection (4)(a) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

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

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

- (i) this chapter does not apply; and
- (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

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

Section ~~{28}~~30. Section **26-61a-601** is amended to read:

### **26-61a-601. State central patient portal -- Department duties.**

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

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(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201~~[(10)]~~(11);

(c) if the cardholder's qualified medical provider recommended the use of medical cannabis without providing directions of use and dosing [~~parameters~~] guidelines and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection ~~[26-61a-501]~~ 26-61a-502(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section ~~{29}~~31. Section **26-61a-603** is amended to read:

**26-61a-603. Payment provider for electronic medical cannabis transactions.**

(1) A cannabis production establishment [~~seeking to use a payment provider~~], a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy

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seeking to use a payment provider shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

- (a) the name and contact information of the payment provider;
- (b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and
- (c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Section ~~30~~32. Section **26-61a-605** is amended to read:

### **26-61a-605. Medical cannabis shipment transportation.**

(1) The department shall ensure that each home delivery medical cannabis pharmacy is

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capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a medical cannabis shipment unless the individual is:

(a) a registered pharmacy medical provider;

~~[(a)]~~ (b) a registered medical cannabis pharmacy agent; or

~~[(b)]~~ (c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall possess a transportation manifest that:

(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

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(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

- (i) this chapter does not apply; and
- (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section ~~31~~33. Section **41-6a-517** is amended to read:

**41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.**

(1) As used in this section:

- (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- (b) "Practitioner" means the same as that term is defined in Section 58-37-2.
- (c) "Prescribe" means the same as that term is defined in Section 58-37-2.
- (d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has the following in the person's body:

(a) for a controlled substance other than cannabis, any measurable controlled substance or metabolite of a controlled substance [in the person's body]; or

(b) a pharmacologically active metabolite of cannabis.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

- (a) involuntarily ingested by the accused;
- (b) prescribed by a practitioner for use by the accused;

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(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date

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of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

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(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.



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(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

Section ~~{32}~~34. Section **52-4-205** is amended to read:

**52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.**

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

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(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be

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disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

[and]

(c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law[-]; and

(d) a meeting of the ~~compassionate use board~~ **Compassionate Use Board** established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;

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or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section ~~33~~35. Section **58-37-2** is amended to read:

### **58-37-2. Definitions.**

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;

or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing

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unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g) (i) "Controlled substance analog" means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and

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II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

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(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

- (A) Chapter 37, Utah Controlled Substances Act;
- (B) Chapter 37a, Utah Drug Paraphernalia Act;
- (C) Chapter 37b, Imitation Controlled Substances Act;
- (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- (E) Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

(A) amphetamine or any of its optical isomers;

(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

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(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide; or

(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(r) (i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

(ii) "Drug" does not include dietary supplements.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses



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any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances

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of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not~~[-the]~~, including:

(A) seeds ~~[of it, the]~~;

(B) resin extracted from any part of the plant~~[-and]~~, including the resin extracted from the mature stalks;

(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, ~~[its] seeds, or resin[-The term]~~; and

(D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active.

(ii) "Marijuana" does not include:

(A) the mature stalks of the plant~~[-]~~;

(B) fiber produced from the stalks~~[-]~~;

(C) oil or cake made from the seeds of the plant~~[-]~~;

(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, [except the resin extracted from them,] fiber, oil or cake[-or];

(E) the sterilized seed of the plant which is incapable of germination[-Any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active are also included.]; or

(F) any compound, mixture, or preparation approved by the Federal Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-27-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513.

(bb) "Money" means officially issued coin and currency of the United States or any

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foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of

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any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

Section ~~34~~36. Section **58-37-3.7** is amended to read:

### **58-37-3.7. Medical cannabis decriminalization.**

(1) As used in this section:

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

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

(c) "Legal dosage limit" means the same as that term is defined in Section 26-61a-102.

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

~~[(d)]~~ (e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102. ~~[(f)]~~

~~[(e)]~~ ~~[(f)]~~ ~~(d)~~ "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102. ~~[(g)]~~

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

~~[(f)]~~ (g) "Nonresident patient" means the same as that term is defined in Section 26-61a-102.

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

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

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(B) the spouse of an individual described in Subsection (2)(a)(i); or

(iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol ~~was in a medicinal dosage form in one of the following amounts: {~~  
~~— (i) no more than 56 grams by weight of unprocessed cannabis; or {~~  
~~— (ii) an amount of cannabis products that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.}~~ is one of the following in an amount that does not exceed the legal dosage limit:

(A) unprocessed cannabis in a medicinal dosage form; or

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

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(3) ~~[An individual]~~ A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia ~~{}~~ under this chapter if: ~~[(a) at the time of the arrest or citation, the individual: (i) was not a resident of Utah or has been a resident of Utah for less than 45 days; (ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and (iii) had been diagnosed with a qualifying condition as described in Section 26-61a-104; and (b) {} if] the marijuana or tetrahydrocannabinol is in a medicinal dosage form in one of the following amounts: ]~~

~~[(i) {} (a)] no more than 113 grams by weight of unprocessed cannabis; or ]~~

~~[(ii) {} (b)] an amount of cannabis products that contains, in total, no more than 20 grams of total composite tetrahydrocannabinol. ]~~

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(i) unprocessed cannabis in a medicinal dosage form; or

(ii) a cannabis product in a medicinal dosage form; and

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(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4) (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the sample; and

(ii) the individual ~~asserts~~ provides evidence that the individual ~~only~~ possessed or used cannabidiol or a cannabidiol product.

(b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed ~~any form of~~ marijuana or tetrahydrocannabinol that is not ~~legal~~ authorized under:

(i) Section 4-41-402; or

(ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section ~~35~~ 37. Section 58-37-3.9 is amended to read:

**58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.**

(1) As used in this section:

(a) "Cannabis" means marijuana.

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

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

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

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

(f) " Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the

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individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is [~~subject to charges under this chapter~~], for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b)[~~;~~];

(A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

(B) for a second or subsequent offense, subject to charges under this chapter.

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:



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(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

Section ~~36~~38. Section 58-37-4 is amended to read:

### **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.**

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl-alpha-methylfentanyl

(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

(F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(K) Benzylpiperazine;

(L) Benzethidine;

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- (M) Betacetylmethadol;
- (N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
- (O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
- (P) Betameprodine;
- (Q) Betamethadol;
- (R) Betaprodine;
- (S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);
- (T) Clonitazene;
- (U) Cyclopropyl fentanyl  
(N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);
- (V) Dextromoramide;
- (W) Diampromide;
- (X) Diethylthiambutene;
- (Y) Difenoxin;
- (Z) Dimenoxadol;
- (AA) Dimepheptanol;
- (BB) Dimethylthiambutene;
- (CC) Dioxaphetyl butyrate;
- (DD) Dipipanone;
- (EE) Ethylmethylthiambutene;
- (FF) Etizolam  
(1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);
- (GG) Etonitazene;
- (HH) Etoxidine;
- (II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]  
furan-2-carboxamide);
- (JJ) Furethidine;
- (KK) Hydroxypethidine;
- (LL) Ketobemidone;

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- (MM) Levomoramide;
- (NN) Levophenacymorphan;
- (OO) Methoxyacetyl fentanyl
- (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);
- (PP) Morpheridine;
- (QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (RR) Noracymethadol;
- (SS) Norlevorphanol;
- (TT) Normethadone;
- (UU) Norpipanone;
- (VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide);
- (WW) Para-fluoroisobutyryl fentanyl
- (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
- (XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (YY) Phenadoxone;
- (ZZ) Phenampromide;
- (AAA) Phenomorphan;
- (BBB) Phenoperidine;
- (CCC) Pir tramide;
- (DDD) Proheptazine;
- (EEE) Properidine;
- (FFF) Propiram;
- (GGG) Racemoramide;
- (HHH) Tetrahydrofuran fentanyl
- (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);
- (III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (JJJ) Tilidine;
- (KKK) Trimeperidine;
- (LLL) 3-methylfentanyl, including the optical and geometric isomers
- (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

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(MMM) 3-methylthiofentanyl

(N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and

(OOO) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Acetorphine;
- (B) Acetyldihydrocodeine;
- (C) Benzylmorphine;
- (D) Codeine methylbromide;
- (E) Codeine-N-Oxide;
- (F) Cyprenorphine;
- (G) Desomorphine;
- (H) Dihydromorphine;
- (I) Drotebanol;
- (J) Etorphine (except hydrochloride salt);
- (K) Heroin;
- (L) Hydromorphanol;
- (M) Methyldesorphine;
- (N) Methylhydromorphine;
- (O) Morphine methylbromide;
- (P) Morphine methylsulfonate;
- (Q) Morphine-N-Oxide;
- (R) Myrophine;
- (S) Nicocodeine;
- (T) Nicomorphine;
- (U) Normorphine;
- (V) Pholcodine; and
- (W) Thebacon.

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(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

(A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;  $\alpha$ -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole;  $\alpha$ -ET; and AET;

(B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy- $\alpha$ -methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy- $\alpha$ -methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy- $\alpha$ -methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy- $\alpha$ -methylphenethylamine; "DOM"; and "STP";

(I) 3,4-methylenedioxy amphetamine;

(J) 3,4-methylenedioxymethamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-( $\beta$ -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

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(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names:

7-Ethyl-6,6 $\beta$ ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names:

3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N-ethyl-3-piperidyl benzilate;

(X) N-methyl-3-piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:  $\Delta$ 1 cis or trans tetrahydrocannabinol, and their optical isomers  $\Delta$ 6 cis or trans tetrahydrocannabinol, and their optical isomers  $\Delta$ 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names:

N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,

N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names:

1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

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(DD) Thiophene analog of phencyclidine, some trade or other names:

1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylamine;

(D) Methcathinone, some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) ( $\pm$ )cis-4-methylaminorex (( $\pm$ )cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

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(B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

- (I) Raw opium;
- (II) Opium extracts;
- (III) Opium fluid;
- (IV) Powdered opium;
- (V) Granulated opium;
- (VI) Tincture of opium;
- (VII) Codeine;
- (VIII) Ethylmorphine;
- (IX) Etorphine hydrochloride;
- (X) Hydrocodone;
- (XI) Hydromorphone;
- (XII) Metopon;
- (XIII) Morphine;
- (XIV) Oxycodone;
- (XV) Oxymorphone; and
- (XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;



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(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrophan and levopropoxyphene:

(A) Alfentanil;

(B) Alphaprodine;

(C) Anileridine;

(D) Bezitramide;

(E) Bulk dextropropoxyphene (nondosage forms);

(F) Carfentanil;

(G) Dihydrocodeine;

(H) Diphenoxylate;

(I) Fentanyl;

(J) Isomethadone;

(K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(L) Levomethorphan;

(M) Levorphanol;

(N) Metazocine;

(O) Methadone;

(P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic

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acid;

- (R) Pethidine (meperidine);
- (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (V) Phenazocine;
- (W) Piminodine;
- (X) Racemethorphan;
- (Y) Racemorphan;
- (Z) Remifentanil; and
- (AA) Sufentanil.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- (C) Phenmetrazine and its salts; and
- (D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Amobarbital;
- (B) Glutethimide;
- (C) Pentobarbital;
- (D) Phencyclidine;
- (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and

1-piperidinocyclohexanecarbonitrile (PCC); and

- (F) Secobarbital.

(v) (A) Unless specifically excepted or unless listed in another schedule, any material,

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compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone:

(±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients

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which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:  $\pm$  -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following

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narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

- (A) Boldenone;
- (B) Chlorotestosterone (4-chlortestosterone);
- (C) Clostebol;
- (D) Dehydrochlormethyltestosterone;

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- (E) Dihydrotestosterone (4-dihydrotestosterone);
- (F) Drostanolone;
- (G) Ethylestrenol;
- (H) Fluoxymesterone;
- (I) Formebolone (formebolone);
- (J) Mesterolone;
- (K) Methandienone;
- (L) Methandranone;
- (M) Methandriol;
- (N) Methandrostenolone;
- (O) Methenolone;
- (P) Methyltestosterone;
- (Q) Mibolerone;
- (R) Nandrolone;
- (S) Norethandrolone;
- (T) Oxandrolone;
- (U) Oxymesterone;
- (V) Oxymetholone;
- (W) Stanolone;
- (X) Stanozolol;
- (Y) Testolactone;
- (Z) Testosterone; and
- (AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ix) Nabiximols.

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(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Alprazolam;
- (B) Barbitol;
- (C) Bromazepam;
- (D) Butorphanol;
- (E) Camazepam;
- (F) Carisoprodol;
- (G) Chloral betaine;
- (H) Chloral hydrate;
- (I) Chlordiazepoxide;
- (J) Clobazam;
- (K) Clonazepam;
- (L) Clorazepate;
- (M) Clotiazepam;
- (N) Cloxazolam;
- (O) Delorazepam;
- (P) Diazepam;
- (Q) Dichloralphenazone;
- (R) Estazolam;
- (S) Ethchlorvynol;
- (T) Ethinamate;
- (U) Ethyl loflazepate;
- (V) Fludiazepam;
- (W) Flunitrazepam;

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- (X) Flurazepam;
- (Y) Halazepam;
- (Z) Haloxazolam;
- (AA) Ketazolam;
- (BB) Loprazolam;
- (CC) Lorazepam;
- (DD) Lormetazepam;
- (EE) Mebutamate;
- (FF) Medazepam;
- (GG) Meprobamate;
- (HH) Methohexital;
- (II) Methylphenobarbital (mephobarbital);
- (JJ) Midazolam;
- (KK) Nimetazepam;
- (LL) Nitrazepam;
- (MM) Nordiazepam;
- (NN) Oxazepam;
- (OO) Oxazolam;
- (PP) Paraldehyde;
- (QQ) Pentazocine;
- (RR) Petrichloral;
- (SS) Phenobarbital;
- (TT) Pinazepam;
- (UU) Prazepam;
- (VV) Quazepam;
- (WW) Temazepam;
- (XX) Tetrazepam;
- (YY) Tramadol;
- (ZZ) Triazolam;
- (AAA) Zaleplon; and
- (BBB) Zolpidem.



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(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (A) Cathine ((+)-norpseudoephedrine);
- (B) Diethylpropion;
- (C) Fencamfamine;
- (D) Fenproporex;
- (E) Mazindol;
- (F) Mefenorex;
- (G) Modafinil;
- (H) Pemoline, including organometallic complexes and chelates thereof;
- (I) Phentermine;
- (J) Pipradrol;
- (K) Sibutramine; and
- (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91-513.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid,

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which includes one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;
- (B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
- (C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
- (D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
- (E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;
- (F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and
- (G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(ii) A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91-513.

Section ~~37~~39. Section **58-37-8** is amended to read:

### **58-37-8. Prohibited acts -- Penalties.**

- (1) Prohibited acts A -- Penalties and reporting:
  - (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:
    - (i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;
    - (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;
    - (iii) possess a controlled or counterfeit substance with intent to distribute; or
    - (iv) engage in a continuing criminal enterprise where:

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(A) the person participates, directs, or engages in conduct that results in a violation of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and

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which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

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(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another[-]; or

(B) if the controlled substance is marijuana, operates a motor vehicle as defined in Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second

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degree felony;

(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection (2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling

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so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree

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felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a



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conviction that is:

- (i) from a separate criminal episode than the current charge; and
- (ii) from a conviction that is separate from any other conviction used to enhance the

current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported

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by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency

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medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years of age is found by a court to have violated this

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section, the court may order the minor to complete:

- (a) a screening as defined in Section 41-6a-501;
- (b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
- (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 40. Section 58-67-304 is amended to read:

### **58-67-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of

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substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106~~;~~ and 26-61a-403~~;~~ and ~~26-61a-602~~.

Section 41. Section 58-68-304 is amended to read:

### **58-68-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the

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continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106~~;~~ and 26-61a-403~~;~~ and ~~26-61a-602~~.

Section ~~{38}~~42. Section **76-10-101** is amended to read:

### **76-10-101. Definitions.**

As used in this part:

(1) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette as described in Subsection (2).

(2) "Cigarette" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of:

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(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

(3) (a) "Electronic cigarette" means an electronic cigarette product, as defined in Section 59-14-802.

(b) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26-61a-102.

(4) "Place of business" includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a café;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(5) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

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Section ~~{39}~~43. Section 76-10-528 is amended to read:

**76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.**

(1) It is a class B misdemeanor for any person to carry a dangerous weapon while under the influence of:

(a) alcohol as determined by the person's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

(b) a controlled substance as defined in Section 58-37-2.

(2) This section does not apply to:

(a) a person carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person;

(b) any person who uses or threatens to use force in compliance with Section 76-2-402;  
[or]

(c) any person carrying a dangerous weapon in the person's residence or the residence of another with the consent of the individual who is lawfully in possession[-]; or

(d) a person under the influence of cannabis or a cannabis product, as those terms are defined in Section 26-61a-102, if the person's use of the cannabis or cannabis product complies with Title 26, Chapter 61a, Utah Medical Cannabis Act.

(3) It is not a defense to prosecution under this section that the person:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

Section ~~{40}~~44. Section ~~{77-40-105}~~77-40-103 (Superseded 05/01/20) is amended to read:

~~{77-40-105}~~77-40-103 (Superseded 05/01/20). ~~{Eligibility}~~Expungement procedure overview.

The process for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction ~~{-- Requirements.}~~of a petitioner is as follows:

(1) ~~{A person convicted of an offense may}~~The petitioner shall apply to the bureau for a certificate of eligibility ~~{to expunge the record of conviction as provided in this section.~~

~~— (2) A petitioner is not eligible}~~for expungement and pay the application fee established



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by the department.

(2) Once the eligibility process is complete, the bureau shall notify the petitioner.

(3) If the petitioner is qualified to receive a certificate of eligibility ~~{from the bureau if:~~

~~— (a) the conviction for which expungement is sought is:~~

~~— (i) a capital felony;~~

~~— (ii) a first degree felony;~~

~~— (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);~~

~~— (iv) felony automobile homicide;~~

~~— (v) a felony violation of Subsection 41-6a-501(2);~~

~~— (vi) a registerable sex offense as defined in Subsection 77-41-102(17); or~~

~~— (vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);~~

~~— (b) a criminal proceeding is pending against the petitioner; or~~

~~— (c) } for expungement, the petitioner shall pay the issuance fee established by the~~

department.

(4) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred. If there were no court proceedings, or the court no longer exists, the petition may be filed in the district court where the arrest occurred. If a certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk or the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(5) Notwithstanding Subsections (3) and (4), if the petitioner ~~{intentionally or knowingly provides false or misleading information on the application for}~~ is not qualified to receive a certificate of eligibility~~};~~

~~— (3) A} for expungement, the petitioner {seeking} may file a petition without a certificate to obtain expungement for a record of conviction {is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:~~

~~— (a) all fines and interest ordered by the court } related to {the conviction for which expungement is sought have been paid in full;~~

~~— (b) all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6, has been paid in full; and~~

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~~\_\_\_\_\_ (c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:~~

~~\_\_\_\_\_ (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);~~

~~\_\_\_\_\_ (ii) seven years in the case of a felony;~~

~~\_\_\_\_\_ (iii) five years in the case of any class A misdemeanor or a felony drug possession offense;~~

~~\_\_\_\_\_ (iv) four years in the case of a class B misdemeanor; or~~

~~\_\_\_\_\_ (v) three years in the case of any other misdemeanor or infraction;~~

~~\_\_\_\_\_ (4) The bureau may not count pending or previous infractions, traffic offenses, or minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or minor regulatory offenses, when determining expungement eligibility;~~

~~\_\_\_\_\_ (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (8):~~

~~\_\_\_\_\_ (a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;~~

~~\_\_\_\_\_ (b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;~~

~~\_\_\_\_\_ (c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or~~

~~\_\_\_\_\_ (d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode;~~

~~\_\_\_\_\_ (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:~~

~~\_\_\_\_\_ (a) three or more felony convictions for drug possession offenses, each of which is~~

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~~contained in a separate criminal episode; or~~

~~—— (b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.~~

~~—— (7) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (5) if any non drug possession offense in that episode:~~

~~—— (a) is a felony or class A misdemeanor; or~~

~~—— (b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.~~

~~—— (8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.~~

~~—— (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.~~

~~—— (10) Notwithstanding Subsections (3), (5), (6), (7), and (8), a petitioner seeking to obtain expungement for a record of conviction related to cannabis possession is eligible to receive a certificate of eligibility from the bureau if the petitioner can demonstrate that} cannabis possession if the petition demonstrates that:~~

~~(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and~~

~~(b) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (~~(10)~~(a).~~

~~—— Section 41}5)(a).~~

~~[(5)] (6) The petitioner shall deliver a copy of the petition and certificate to the prosecutorial office that handled the court proceedings. If there were no court proceedings, the copy of the petition and certificate shall be delivered to the county attorney's office in the jurisdiction where the arrest occurred.~~

~~[(6)] (7) If an objection to the petition is filed by the prosecutor or victim, a hearing shall be set by the court and the prosecutor and victim notified of the date.~~

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~~[(7)] (8) If the court requests a response from Adult Probation and Parole and a response is received, the petitioner may file a written reply to the response within 15 days of receipt of the response.~~

~~[(8)] (9) An expungement may be granted without a hearing if no objection is received.~~

~~[(9)] (10) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.~~

Section 45. Section ~~{77-40-105}~~77-40-103 (Effective 05/01/20) is amended to read:

~~{77-40-105}~~77-40-103 (Effective 05/01/20). ~~{Requirements to apply for a certificate of eligibility to expunge conviction:~~

~~—— (1) An individual convicted of an offense may}~~ Petition for expungement procedure overview.

The process for a petition for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

(1) The petitioner shall apply to the bureau for a certificate of eligibility ~~{to expunge the record of conviction as provided in this section:~~

~~—— (2) An individual is not eligible}~~ for expungement and pay the application fee established by the department.

(2) Once the eligibility process is complete, the bureau shall notify the petitioner.

(3) If the petitioner is qualified to receive a certificate of eligibility ~~{from the bureau if:~~

~~—— (a) the conviction for which expungement is sought is:~~

~~—— (i) a capital felony;~~

~~—— (ii) a first degree felony;~~

~~—— (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);~~

~~—— (iv) felony automobile homicide;~~

~~—— (v) a felony violation of Subsection 41-6a-501(2);~~

~~—— (vi) a registerable sex offense as defined in Subsection 77-41-102(17); or~~

~~—— (vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);~~

~~—— (b) a criminal proceeding is pending against the petitioner; or~~

~~—— (c) }~~ for expungement, the petitioner ~~{intentionally or knowingly provides false or misleading information on the application for}~~ shall pay the issuance fee established by the department.

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(4) (a) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred.

(b) If there were no court proceedings, or the court no longer exists, the petitioner may file the petition in the district court where the arrest occurred.

(c) If a petitioner files a certificate of eligibility

~~\_\_\_\_\_ (3) A petitioner seeking~~ electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.

(d) If the petitioner files the original certificate of eligibility with the petition, the clerk or the court shall scan and return the original certificate to the petitioner or the petitioner's attorney, who shall keep the original certificate until the proceedings are concluded.

(5) Notwithstanding Subsections (3) and (4), if the petitioner is not qualified to receive a certificate of eligibility for expungement, the petitioner may file a petition without a certificate to obtain expungement for a record of conviction ~~is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:~~

~~\_\_\_\_\_ (a) the petitioner has paid in full all fines and interest ordered by the court~~ related to ~~{the conviction for which expungement is sought;~~

~~\_\_\_\_\_ (b) the petitioner has paid in full all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6; and~~

~~\_\_\_\_\_ (c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:~~

~~\_\_\_\_\_ (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);~~

~~\_\_\_\_\_ (ii) seven years in the case of a felony;~~

~~\_\_\_\_\_ (iii) five years in the case of any class A misdemeanor or a felony drug possession offense;~~

~~\_\_\_\_\_ (iv) four years in the case of a class B misdemeanor; or~~

~~\_\_\_\_\_ (v) three years in the case of any other misdemeanor or infraction.~~

~~\_\_\_\_\_ (4) The bureau may not count pending or previous infractions, traffic offenses, or minor regulatory offenses, or fines or fees arising from the infractions, traffic offenses, or minor regulatory offenses, when determining expungement eligibility.~~

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~~— (5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (8):~~

~~— (a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;~~

~~— (b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;~~

~~— (c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or~~

~~— (d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.~~

~~— (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:~~

~~— (a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or~~

~~— (b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.~~

~~— (7) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (5) if any non drug possession offense in that episode:~~

~~— (a) is a felony or class A misdemeanor; or~~

~~— (b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.~~

~~— (8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.~~

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~~(9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.~~

~~(10) Notwithstanding Subsections (3), (5), (6), (7), and (8), a petitioner seeking to obtain expungement for a record of conviction related to cannabis possession is eligible to receive a certificate of eligibility from the bureau if the petitioner can demonstrate that:~~  
~~‡cannabis possession if the petition demonstrates that:~~

~~(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and~~

~~(b) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection ~~(10)(a)~~.~~

~~Section 42}5)(a).~~

~~[(5)] (6) (a) The petitioner shall deliver a copy of the petition and certificate of eligibility to the prosecutorial office that handled the court proceedings.~~

~~(b) If there were no court proceedings, the petitioner shall deliver the copy of the petition and certificate to the county attorney's office in the jurisdiction where the arrest occurred.~~

~~[(6)] (7) If the prosecutor or the victim files an objection to the petition, the court shall set a hearing and notify the prosecutor and the victim of the date set for the hearing.~~

~~[(7)] (8) If the court requests a response from Adult Probation and Parole and a response is received, the petitioner may file a written reply to the response within 15 days of receipt of the response.~~

~~[(8)] (9) A court may grant an expungement without a hearing if no objection is received.~~

~~[(9)] (10) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.~~

~~Section 46. Section 77-40-107 (Superseded 05/01/20) is amended to read:~~

~~**77-40-107 (Superseded 05/01/20). Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.**~~

~~(1) The petitioner shall file a petition for expungement and, except as provided in Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section~~

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77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the



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hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:

(a) the petition and, except as provided under Subsection 77-40-103(5), certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; [and]

(e) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (8)(e)(i); and

[~~(e)~~] (f) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the person seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice

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or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

Section 47. Section 77-40-107 (Effective 05/01/20) is amended to read:

**77-40-107 (Effective 05/01/20). Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.**

(1) (a) The petitioner shall file a petition for expungement and, except as provided in Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency.

(b) If the petitioner files the certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.

(c) If the petitioner files the original certificate of eligibility with the petition, the clerk of the court shall scan and return the original certificate to the petitioner or the petitioner's attorney, who shall keep the original certificate until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole

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shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) (i) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(ii) The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other individual who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:

(a) the petition and, except as provided in Subsection 77-40-103(5), certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction; [and]

(e) if the petitioner seeks expungement without a certificate of eligibility for

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expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (8)(e)(i); and

~~(e)~~ (f) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the individual seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

Section 48. Section 78A-2-231 is amended to read:

**78A-2-231. Consideration of lawful use or possession of medical cannabis.**

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

~~(b)~~ (c) "Dosing [parameters] guidelines" means the same as that term is defined in Section 26-61a-102.

~~(c)~~ (d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

~~(d)~~ (e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

~~(e)~~ (f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

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[(f)] (g) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing [parameters] guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 49. Section 78A-6-115 is amended to read:

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Medical cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,

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Government Records Access and Management Act, a record of a proceeding made under Subsection (1)(a) shall be released by the court to any person upon a finding on the record for good cause.

(ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iii) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the request.

(iv) For purposes of this Subsection (1)(b):

(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

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(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any person who participated in preparing the dispositional report to appear as a witness, if the person is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the proceeding;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the proceeding.

(c) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the

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party certifies to the court that the information was obtained after the deadline.

(d) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in its discretion, consider evidence of statements made by a child under eight years of age to a person in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(ii) "Directions of use" means the same as that term is defined in Section 26-61a-102.

~~[(ii)]~~ (iii) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.

~~[(iii)]~~ (iv) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

~~[(iv)]~~ (v) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

~~[(v)]~~ (vi) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(i) the individual's use or possession complies with~~[(i)]~~ Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the directions of use and dosing ~~[parameters]~~ guidelines determined by the individual's qualified medical provider or through a



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consultation described in Subsection 26-61a-502(4) or (5).

(c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child, if:

(i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing [parameters] guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(B) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3); and

(ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child's body; or

(B) there is no evidence showing a nexus between the parent's or guardian's use of medical cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

### Section 50. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.