

1 **CONSUMER PROTECTION FOR CANNABIS PATIENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Luz Escamilla**

5 House Sponsor: Raymond P. Ward

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions relating to patient access to medical cannabis
10 recommendations from medical providers.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ amends a labeling requirement for consistency;
- 15 ▶ allows a licensed podiatrist to recommend medical cannabis within the course and
16 scope of a practice of podiatry;
- 17 ▶ requires the state electronic verification system to allow a medical cannabis
18 pharmacy to record a medical cannabis recommendation from a limited medical
19 provider;
- 20 ▶ allows certain medical providers to operate as limited medical providers to
21 recommend cannabis to a limited number of the provider's patients without
22 registering with the Department of Health (department) as a qualified medical
23 provider;
- 24 ▶ amends provisions to accommodate the allowance for limited medical providers;
- 25 ▶ allows a licensed podiatrist to become a qualified medical provider;
- 26 ▶ requires the department to issue an electronic conditional medical cannabis card to
27 allow certain medical cannabis card applicants access to medical cannabis;



- 28 ▶ requires medical cannabis pharmacies to record information in an order from a
- 29 limited medical provider in the state electronic verification system;
- 30 ▶ imposes certain verification requirements on a medical cannabis pharmacy before
- 31 entering certain orders from a limited medical provider or processing a transaction
- 32 for certain conditional medical cannabis cardholders;
- 33 ▶ requires a medical cannabis component in required continuing education for
- 34 controlled substance prescribers;
- 35 ▶ extends a deadline that imposes a limitation on an individual's use or possession of
- 36 medical cannabis from outside the state; and
- 37 ▶ makes technical and conforming changes.

38 Money Appropriated in this Bill:

39 None

40 Other Special Clauses:

41 This bill provides a special effective date.

42 This bill provides revisor instructions.

43 Utah Code Sections Affected:

44 AMENDS:

45 **4-41a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

46 by Coordination Clause, Laws of Utah 2020, Chapter 148

47 **4-41a-602**, as last amended by Laws of Utah 2020, Chapter 12

48 **26-61a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

49 by Coordination Clause, Laws of Utah 2020, Chapter 148

50 **26-61a-103**, as last amended by Laws of Utah 2020, Chapter 12

51 **26-61a-106**, as last amended by Laws of Utah 2020, Chapter 12

52 **26-61a-107**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

53 by Coordination Clause, Laws of Utah 2020, Chapter 148

54 **26-61a-201**, as last amended by Laws of Utah 2020, Chapters 12 and 148

55 **26-61a-202**, as last amended by Laws of Utah 2020, Chapter 12

56 **26-61a-401**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

57 **26-61a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

58 **26-61a-501**, as last amended by Laws of Utah 2020, Chapter 12

59 [26-61a-502](#), as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
60 by Coordination Clause, Laws of Utah 2020, Chapter 148

61 [26-61a-503](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5

62 [26-61a-601](#), as last amended by Laws of Utah 2020, Chapter 12

63 [58-5a-102](#), as last amended by Laws of Utah 2020, Chapter 25

64 [58-31b-502](#), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

65 [58-37-3.7](#), as last amended by Laws of Utah 2020, Chapter 12

66 [58-37-6.5](#), as last amended by Laws of Utah 2018, Chapter 318

67 [58-67-502](#), as last amended by Laws of Utah 2020, Chapter 25

68 [58-68-502](#), as last amended by Laws of Utah 2020, Chapter 25

69 [58-70a-503](#), as last amended by Laws of Utah 2020, Chapter 25

70 [62A-4a-404](#), as last amended by Laws of Utah 2020, Chapter 193

71 [78A-2-231](#), as last amended by Laws of Utah 2020, Chapter 12

72 [78A-6-115](#), as last amended by Laws of Utah 2020, Chapters 12, 132, 250, and 354

73 **Utah Code Sections Affected by Revisor Instructions:**

74 [26-61a-201](#), as last amended by Laws of Utah 2020, Chapters 12 and 148

75 [58-37-3.7](#), as last amended by Laws of Utah 2020, Chapter 12



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

78 Section 1. Section [4-41a-102](#) is amended to read:

79 **4-41a-102. Definitions.**

80 As used in this chapter:

81 (1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and
82 tetrahydrocannabinolic acid.

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

84 (3) "Cannabis cultivation facility" means a person that:

85 (a) possesses cannabis;

86 (b) grows or intends to grow cannabis; and

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

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

- 90 (a) is an employee of a cannabis cultivation facility; and
- 91 (b) holds a valid cannabis production establishment agent registration card.
- 92 (5) "Cannabis processing facility" means a person that:
 - 93 (a) acquires or intends to acquire cannabis from a cannabis production establishment;
 - 94 (b) possesses cannabis with the intent to manufacture a cannabis product;
 - 95 (c) manufactures or intends to manufacture a cannabis product from unprocessed
 - 96 cannabis or a cannabis extract; and
 - 97 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
 - 98 medical cannabis research licensee.
- 99 (6) "Cannabis processing facility agent" means an individual who:
 - 100 (a) is an employee of a cannabis processing facility; and
 - 101 (b) holds a valid cannabis production establishment agent registration card.
- 102 (7) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).
- 103 (8) "Cannabis production establishment" means a cannabis cultivation facility, a
- 104 cannabis processing facility, or an independent cannabis testing laboratory.
- 105 (9) "Cannabis production establishment agent" means a cannabis cultivation facility
- 106 agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.
- 107 (10) "Cannabis production establishment agent registration card" means a registration
- 108 card that the department issues that:
 - 109 (a) authorizes an individual to act as a cannabis production establishment agent; and
 - 110 (b) designates the type of cannabis production establishment for which an individual is
 - 111 authorized to act as an agent.
- 112 (11) "Community location" means a public or private elementary or secondary school,
- 113 a church, a public library, a public playground, or a public park.
- 114 (12) "Cultivation space" means, quantified in square feet, the horizontal area in which
- 115 a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the
- 116 cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other
- 117 plants in multiple levels.
- 118 (13) "Department" means the Department of Agriculture and Food.
- 119 (14) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling,
- 120 uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law,

121 sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

122 (15) (a) "Independent cannabis testing laboratory" means a person that:

123 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or

124 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to
125 conduct a chemical or other analysis of the cannabis or cannabis product.

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

128 (16) "Independent cannabis testing laboratory agent" means an individual who:

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

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

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

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

133 (19) "Medical cannabis card" means the same as that term is defined in Section
134 26-61a-102.

135 (20) "Medical cannabis pharmacy" means the same as that term is defined in Section
136 26-61a-102.

137 (21) "Medical cannabis pharmacy agent" means the same as that term is defined in
138 Section 26-61a-102.

139 (22) "Medical cannabis research license" means a license that the department issues to
140 a research university for the purpose of obtaining and possessing medical cannabis for
141 academic research.

142 (23) "Medical cannabis research licensee" means a research university that the
143 department licenses to obtain and possess medical cannabis for academic research, in
144 accordance with Section 4-41a-901.

145 (24) "Medical cannabis treatment" means the same as that term is defined in Section
146 26-61a-102.

147 (25) "Medicinal dosage form" means the same as that term is defined in Section
148 26-61a-102.

149 (26) "Qualified medical provider" means the same as that term is defined in Section
150 26-61a-102.

151 (27) "Qualified Production Enterprise Fund" means the fund created in Section

152 4-41a-104.

153 (28) "Recommending medical provider" means the same as that term is defined in

154 Section 26-61a-102.

155 [~~28~~] (29) "Research university" means the same as that term is defined in Section

156 53B-7-702 and a private, nonprofit college or university in the state that:

157 (a) is accredited by the Northwest Commission on Colleges and Universities;

158 (b) grants doctoral degrees; and

159 (c) has a laboratory containing or a program researching a schedule I controlled

160 substance described in Section 58-37-4.

161 [~~29~~] (30) "State electronic verification system" means the system described in Section

162 26-61a-103.

163 [~~30~~] (31) "Tetrahydrocannabinol" means a substance derived from cannabis or a

164 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

165 [~~31~~] (32) "Total composite tetrahydrocannabinol" means all detectable forms of

166 tetrahydrocannabinol.

167 Section 2. Section 4-41a-602 is amended to read:

168 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

169 (1) For any cannabis product that a cannabis processing facility processes or produces

170 and for any raw cannabis that the facility packages, the facility shall:

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

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

173 cannabis;

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

175 cannabidiol in the labeled container;

176 (iii) has a unique identification number that:

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

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

179 processing facility used to manufacture the cannabis product;

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

181 used to create the cannabis product;

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

183 appeals to children; and
184 (vi) discloses each active or potentially active ingredient, in order of prominence, and
185 possible allergen; and
186 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a
187 container that:
188 (i) is tamper evident and tamper resistant;
189 (ii) does not appeal to children;
190 (iii) does not mimic a candy container;
191 (iv) is opaque;
192 (v) complies with child-resistant effectiveness standards that the United States
193 Consumer Product Safety Commission establishes; and
194 (vi) includes a warning label that states:
195 (A) for a container labeled before July 1, 2021, "WARNING: Cannabis has
196 intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its
197 influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use
198 only as directed by a qualified medical provider."; or
199 (B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has
200 intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its
201 influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use
202 only as directed by a recommending medical provider."
203 (2) For any cannabis or cannabis product that the cannabis processing facility processes
204 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
205 cuboid shape, the facility shall:
206 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or
207 other image of the content of the container; and
208 (b) include on the label described in Subsection (1)(a) a warning about the risks of
209 over-consumption.
210 (3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
211 Administrative Rulemaking Act to establish:
212 (a) a standard labeling format that:
213 (i) complies with the requirements of this section; and

- 214 (ii) ensures inclusion of a pharmacy label; and
- 215 (b) additional requirements on packaging for cannabis and cannabis products to ensure
- 216 safety and product quality.

217 Section 3. Section **26-61a-102** is amended to read:

218 **26-61a-102. Definitions.**

219 As used in this chapter:

- 220 (1) "Cannabis" means marijuana.
- 221 (2) "Cannabis cultivation facility" means the same as that term is defined in Section
- 222 [4-41a-102](#).
- 223 (3) "Cannabis processing facility" means the same as that term is defined in Section
- 224 [4-41a-102](#).
- 225 (4) "Cannabis product" means a product that:
- 226 (a) is intended for human use; and
- 227 (b) contains cannabis or tetrahydrocannabinol.
- 228 (5) "Cannabis production establishment" means the same as that term is defined in
- 229 Section [4-41a-102](#).
- 230 (6) "Cannabis production establishment agent" means the same as that term is defined
- 231 in Section [4-41a-102](#).
- 232 (7) "Cannabis production establishment agent registration card" means the same as that
- 233 term is defined in Section [4-41a-102](#).
- 234 (8) "Community location" means a public or private elementary or secondary school, a
- 235 church, a public library, a public playground, or a public park.
- 236 (9) "Conditional medical cannabis card" means an electronic medical cannabis card
- 237 that the department issues in accordance with Subsection [26-61a-201\(1\)\(b\)](#) to allow an
- 238 applicant for a medical cannabis card to access medical cannabis during the department's
- 239 review of the application.
- 240 [~~9~~] (10) "Department" means the Department of Health.
- 241 [~~10~~] (11) "Designated caregiver" means:
- 242 (a) an individual:
- 243 (i) whom an individual with a medical cannabis patient card or a medical cannabis
- 244 guardian card designates as the patient's caregiver; and

- 245 (ii) who registers with the department under Section [26-61a-202](#); or
- 246 (b) (i) a facility that an individual designates as a designated caregiver in accordance
247 with Subsection [26-61a-202](#)(1)(b); or
- 248 (ii) an assigned employee of the facility described in Subsection [26-61a-202](#)(1)(b)(ii).
- 249 ~~[(11)]~~ (12) "Directions of use" means recommended routes of administration for a
250 medical cannabis treatment and suggested usage guidelines.
- 251 ~~[(12)]~~ (13) "Dosing guidelines" means a quantity range and frequency of administration
252 for a recommended treatment of medical cannabis.
- 253 ~~[(13)]~~ (14) "Financial institution" means a bank, trust company, savings institution, or
254 credit union, chartered and supervised under state or federal law.
- 255 ~~[(14)]~~ (15) "Home delivery medical cannabis pharmacy" means a medical cannabis
256 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
257 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
258 that the state central patient portal facilitates.
- 259 ~~[(15)]~~ (16) "Inventory control system" means the system described in Section
260 [4-41a-103](#).
- 261 ~~[(16)]~~ (17) "Legal dosage limit" means an amount that:
- 262 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
263 relevant ~~[qualified]~~ recommending medical provider or the pharmacy medical provider, in
264 accordance with Subsection [26-61a-201](#)(4) or (5), recommends; and
- 265 (b) may not exceed:
- 266 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and
- 267 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
268 greater than 20 grams of active tetrahydrocannabinol.
- 269 ~~[(17)]~~ (18) "Legal use termination date" means a date on the label of a container of
270 unprocessed cannabis flower:
- 271 (a) that is 60 days after the date of purchase of the cannabis; and
- 272 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the
273 primary residence of the relevant medical cannabis patient cardholder.
- 274 (19) "Limited medical provider" means an individual who:
- 275 (a) meets the recommending qualifications; and

276 (b) has no more than 15 patients with a valid medical cannabis patient card or
277 provisional patient card as a result of the individual's recommendation, in accordance with
278 Subsection 26-61a-106(1)(b).

279 [~~18~~] (20) "Marijuana" means the same as that term is defined in Section 58-37-2.

280 [~~19~~] (21) "Medical cannabis" means cannabis in a medicinal dosage form or a
281 cannabis product in a medicinal dosage form.

282 [~~20~~] (22) "Medical cannabis card" means a medical cannabis patient card, a medical
283 cannabis guardian card, [~~or~~] a medical cannabis caregiver card, or a conditional medical
284 cannabis card.

285 [~~21~~] (23) "Medical cannabis cardholder" means:

286 (a) a holder of a medical cannabis card; or

287 (b) a facility or assigned employee, described in Subsection [~~11~~] (11)(b), only:

288 (i) within the scope of the facility's or assigned employee's performance of the role of a
289 medical cannabis patient cardholder's caregiver designation under Subsection
290 26-61a-202(1)(b); and

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

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

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

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

296 [~~22~~] (24) "Medical cannabis caregiver card" means an electronic document that a
297 cardholder may print or store on an electronic device or a physical card or document that:

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

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

301 (25) "Medical cannabis courier agent" means an individual who:

302 (a) is an employee of a medical cannabis courier; and

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

304 [~~23~~] (26) "Medical cannabis courier" means a courier that:

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

306 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical

307 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.
308 [~~(24)~~] (27) (a) "Medical cannabis device" means a device that an individual uses to
309 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
310 dosage form.

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

312 (i) facilitates cannabis combustion; or

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

314 [~~(25)~~] (28) "Medical cannabis guardian card" means an electronic document that a
315 cardholder may print or store on an electronic device or a physical card or document that:

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

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

319 [~~(26)~~] (29) "Medical cannabis patient card" means an electronic document that a
320 cardholder may print or store on an electronic device or a physical card or document that:

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

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

323 [~~(27)~~] (30) "Medical cannabis pharmacy" means a person that:

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

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

327 (B) a medical cannabis device; or

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

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

332 [~~(28)~~] (31) "Medical cannabis pharmacy agent" means an individual who:

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

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

335 [~~(29)~~] (32) "Medical cannabis pharmacy agent registration card" means a registration
336 card issued by the department that authorizes an individual to act as a medical cannabis
337 pharmacy agent.

338 ~~[(30)]~~ (33) "Medical cannabis shipment" means a shipment of medical cannabis or a
339 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
340 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
341 electronic medical cannabis order that the state central patient portal facilitates.

342 ~~[(31)]~~ (34) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
343 cannabis product in a medicinal dosage form, or a medical cannabis device.

344 ~~[(32)]~~ (35) (a) "Medicinal dosage form" means:

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

347 (A) a tablet;

348 (B) a capsule;

349 (C) a concentrated liquid or viscous oil;

350 (D) a liquid suspension;

351 (E) a topical preparation;

352 (F) a transdermal preparation;

353 (G) a sublingual preparation;

354 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
355 rectangular cuboid shape; or

356 (I) a resin or wax;

357 (ii) for unprocessed cannabis flower, a container described in Section [4-41a-602](#) that:

358 (A) contains cannabis flowers in a quantity that varies by no more than 10% from the
359 stated weight at the time of packaging;

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

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

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

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

368 (i) the medical cannabis cardholder has recently removed from the container described

369 in Subsection ~~[(32)]~~ (35)(a)(ii) for use; and

370 (ii) does not exceed the quantity described in Subsection ~~[(32)]~~ (35)(a)(ii).

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

372 (i) any unprocessed cannabis flower outside of the container described in Subsection
373 ~~[(32)]~~ (35)(a)(ii), except as provided in Subsection ~~[(32)]~~ (35)(b);

374 (ii) any unprocessed cannabis flower in a container described in Subsection ~~[(32)]~~
375 (35)(a)(ii) after the legal use termination date; or

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

378 ~~[(33)]~~ (36) "Nonresident patient" means an individual who:

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

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

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

384 ~~[(34)]~~ (37) "Payment provider" means an entity that contracts with a cannabis
385 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
386 the establishment or pharmacy and other businesses or individuals.

387 ~~[(35)]~~ (38) "Pharmacy medical provider" means the medical provider required to be on
388 site at a medical cannabis pharmacy under Section [26-61a-403](#).

389 ~~[(36)]~~ (39) "Provisional patient card" means a card that:

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

391 (i) a ~~[qualified]~~ recommending medical provider has recommended a medical cannabis
392 treatment; and

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

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

396 ~~[(37)]~~ (40) "Qualified medical provider" means an individual ~~[who is qualified]~~:

397 (a) who meets the recommending qualifications; and

398 (b) whom the department registers to recommend treatment with cannabis in a
399 medicinal dosage form under Section [26-61a-106](#).

400 ~~[(38)]~~ (41) "Qualified Patient Enterprise Fund" means the enterprise fund created in
401 Section [26-61a-109](#).

402 ~~[(39)]~~ (42) "Qualifying condition" means a condition described in Section [26-61a-104](#).

403 ~~[(40)]~~ (43) "Recommend" or "recommendation" means, for a ~~[qualified]~~
404 recommending medical provider, the act of suggesting the use of medical cannabis treatment,
405 which:

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

407 (b) may include, at the ~~[qualified]~~ recommending medical provider's discretion,
408 directions of use, with or without dosing guidelines.

409 (44) "Recommending medical provider" means a qualified medical provider or a
410 limited medical provider.

411 (45) "Recommending qualifications" means that an individual:

412 (a) (i) has the authority to write a prescription;

413 (ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
414 Controlled Substances Act; and

415 (iii) possesses the authority, in accordance with the individual's scope of practice, to
416 prescribe a Schedule II controlled substance; and

417 (b) who is licensed as:

418 (i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

419 (ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice
420 Act;

421 (iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
422 Chapter 68, Utah Osteopathic Medical Practice Act; or

423 (iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act

424 whose:

425 (A) declaration of services agreement, as that term is defined in Section [58-70a-102](#),
426 includes the recommending of medical cannabis; and

427 (B) supervising physician is a qualified medical provider.

428 ~~[(41)]~~ (46) "State central patient portal" means the website the department creates, in
429 accordance with Section [26-61a-601](#), to facilitate patient safety, education, and an electronic
430 medical cannabis order.

431 [~~(42)~~] (47) "State central patient portal medical provider" means a physician or
432 pharmacist that the department employs in relation to the state central patient portal to consult
433 with medical cannabis cardholders in accordance with Section 26-61a-602.

434 [~~(43)~~] (48) "State electronic verification system" means the system described in Section
435 26-61a-103.

436 [~~(44)~~] (49) "Valid form of photo identification" means a valid United States federal- or
437 state-issued photo identification, including:

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

442 Section 4. Section 26-61a-103 is amended to read:

443 **26-61a-103. Electronic verification system.**

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

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

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

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

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

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

457 (2) The Department of Agriculture and Food, the department, the Department of Public
458 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
459 2020, the state electronic verification system described in Subsection (1):

460 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
461 medical cannabis guardian card, provided that the card may not become active until:

462 (i) the relevant qualified medical provider completes the associated medical cannabis
463 recommendation; or

464 (ii) for medical cannabis card related to a limited medical provider's recommendation,
465 the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

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

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

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

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

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

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

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

479 (A) using telehealth services, for the qualified medical provider who originally
480 recommended a medical cannabis treatment during a face-to-face visit with the patient; or

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

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

485 (d) beginning on the earlier of September 1, 2021, or the date on which the electronic
486 verification system is functionally capable of facility medical cannabis pharmacy recording,
487 allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in
488 accordance with Subsection 26-61a-501(11)(a), to record:

489 (i) a patient's recommendation from a limited medical provider, including any
490 directions of use, dosing guidelines, or caregiver indications from the limited medical provider;
491 and

492 (ii) a limited medical provider's renewal of the provider's previous recommendation;

493 ~~[(d)]~~ (e) connects with:

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

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

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

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

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

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

510 ~~[(e)]~~ (f) provides access to:

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

513 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
514 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
515 41a, Cannabis Production Establishments; and

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

519 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

520 ~~[(A)]~~ (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

521 ~~[(B)]~~ (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b,
522 Nurse Practice Act;

523 ~~[(C)]~~ (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act,

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

525 ~~[(f)]~~ (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
526 Assistant Act;

527 ~~[(f)]~~ (g) provides access to and interaction with the state central patient portal;

528 ~~[(g)]~~ (h) provides access to state or local law enforcement:

529 (i) during a law enforcement encounter, without a warrant, using the individual's driver
530 license or state ID, only for the purpose of determining if the individual subject to the law
531 enforcement encounter has a valid medical cannabis card; or

532 (ii) after obtaining a warrant; and

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

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

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

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

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

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

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

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

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

555 (4) (a) As used in this Subsection (4), "prescribing provider" means:

556 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

557 ~~[(i)]~~ (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b,

558 Nurse Practice Act;

559 ~~[(ii)]~~ (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act,

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

561 ~~[(iii)]~~ (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

562 Assistant Act.

563 (b) Beginning on the earlier of January 1, 2021, or the date on which the electronic

564 verification system is functionally capable of allowing provider access under this Subsection

565 (4), a prescribing provider may access information in the electronic verification system

566 regarding a patient the prescribing provider treats.

567 (5) The department may release limited data that the system collects for the purpose of:

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

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

570 (c) other official department purposes.

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

572 Administrative Rulemaking Act, to establish:

573 (a) the limitations on access to the data in the state electronic verification system as

574 described in this section; and

575 (b) standards and procedures to ensure accurate identification of an individual

576 requesting information or receiving information in this section.

577 (7) (a) Any person who knowingly and intentionally releases any information in the

578 state electronic verification system in violation of this section is guilty of a third degree felony.

579 (b) Any person who negligently or recklessly releases any information in the state

580 electronic verification system in violation of this section is guilty of a class C misdemeanor.

581 (8) (a) Any person who obtains or attempts to obtain information from the state

582 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

583 (b) Any person who obtains or attempts to obtain information from the state electronic

584 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third

585 degree felony.

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

590 (b) Each separate violation of this Subsection (9) is:

591 (i) a third degree felony; and

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

593 (c) The department shall determine a civil violation of this Subsection (9) in

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

595 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
596 General Fund.

597 (e) This Subsection (9) does not prohibit a person who obtains information from the
598 state electronic verification system under Subsection (2)(a), (c), or (f) from:

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

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

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

604 Section 5. Section **26-61a-106** is amended to read:

605 **26-61a-106. Qualified medical provider registration -- Continuing education --**

606 **Treatment recommendation -- Limited medical provider.**

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

610 (ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist
611 licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a
612 medical cannabis treatment except within the course and scope of a practice of podiatry, as that
613 term is defined in Section 58-5a-102.

614 (b) [An] Beginning on the earlier of September 1, 2021, or the date on which the
615 department gives notice of that the electronic verification system is functionally capable as
616 described in Subsection 26-61a-103(2)(d), an individual who meets the recommending

617 qualifications [~~in Subsections 26-61a-106(2)(a)(iii) and (iv)~~] may recommend a medical
618 cannabis treatment as a limited medical provider without registering under Subsection (1)(a)
619 [~~until January 1, 2021.~~] if:

620 (i) the individual recommends the use of medical cannabis to the patient through an
621 order described in Subsection (1)(c) after:

622 (A) a face-to-face visit for an initial recommendation or the renewal of a
623 recommendation for a patient for whom the limited medical provider did not make the patient's
624 original recommendation; or

625 (B) a visit using telehealth services for a renewal of a recommendation for a patient for
626 whom the limited medical provider made the patient's original recommendation; and

627 (ii) the individual's recommendation or renewal would not cause the total number of
628 the individual's patients who have a valid medical cannabis patient card or provisional patient
629 card resulting from the individual's recommendation to exceed 15.

630 (c) The individual described in Subsection (1)(b) shall communicate the individual's
631 recommendation through an order for the medical cannabis pharmacy to record the individual's
632 recommendation or renewal in the state electronic verification system under the individual's
633 recommendation that:

634 (i) (A) that the individual or the individual's employee sends electronically to a medical
635 cannabis pharmacy; or

636 (B) that the individual gives to the patient in writing for the patient to deliver to a
637 medical cannabis pharmacy; and

638 (ii) may include:

639 (A) directions of use or dosing guidelines; and

640 (B) an indication of a need for a caregiver in accordance with Subsection

641 26-61a-201(3)(c).

642 (d) If the limited medical provider gives the patient a written recommendation to
643 deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical
644 provider shall ensure that the document includes all of the information that is included on a
645 prescription the provider would issue for a controlled substance, including:

646 (i) the date of issuance;

647 (ii) the provider's name, address and contact information, controlled substance license

648 information, and signature; and

649 (iii) the patient's name, address and contact information, age, and diagnosed qualifying
650 condition.

651 (e) In considering making a recommendation as a limited medical provider, an
652 individual may consult information that the department makes available on the department's
653 website for recommending providers.

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

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

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

660 (iii) provides to the department evidence that the individual~~[-]~~ meets the
661 recommending qualifications; and

662 ~~[(A) has the authority to write a prescription;]~~

663 ~~[(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah~~
664 ~~Controlled Substances Act; and]~~

665 ~~[(C) possesses the authority, in accordance with the individual's scope of practice, to~~
666 ~~prescribe a Schedule II controlled substance;]~~

667 ~~[(iv) provides to the department evidence that the individual is:]~~

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

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

672 ~~[(C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician~~
673 ~~Assistant Act, whose declaration of services agreement, as that term is defined in Section~~
674 ~~58-70a-102, includes the recommending of medical cannabis, and whose supervising physician~~
675 ~~is a qualified medical provider; and]~~

676 ~~[(v)]~~ (iv) pays the department a fee in an amount that:

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

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

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

681 (i) a pharmacy medical provider; or

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

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

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

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

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

690 (i) complete continuing education:

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

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

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

699 (A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing
700 Act, the Podiatric Physician Board;

701 [~~(A)~~] (B) for an advanced practice registered nurse licensed under Title 58, Chapter
702 31b, Nurse Practice Act, the Board of Nursing;

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

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

708 [~~(D)~~] (E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
709 Assistant Act, the Physician Assistant Licensing Board.

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

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

713 (i) the provisions of this chapter;

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

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

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

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

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

725 (b) A qualified medical provider may recommend a medical cannabis treatment to up to
726 600 of the qualified medical provider's patients at any given time, as determined by the number
727 of medical cannabis cards under the qualified medical provider's name in the state electronic
728 verification system, if:

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

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

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

740 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the

741 individual recommends medical cannabis treatment in accordance with this chapter.

742 (b) For purposes of Subsection (6)(a), the communication of the following, through a
743 website, by [~~an individual described in Subsection (6)(c)~~] a qualified medical provider, does
744 not constitute advertising:

745 (i) a green cross;

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

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

748 [~~(c) The following are subject to Subsection (6)(b):~~]

749 [~~(i) before the department begins registering qualified medical providers:~~]

750 [~~(A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);~~]

751 [~~(B) a physician described in Subsection (2)(a)(iv)(B); or~~]

752 [~~(C) a physician assistant described in Subsection (2)(a)(iv)(C); and~~]

753 [~~(ii) after the department begins registering qualified medical providers, a qualified
754 medical provider:]~~

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

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

759 (i) applies for renewal;

760 (ii) is eligible for a qualified medical provider registration card under this section,
761 including maintaining an unrestricted license [~~as described in Subsection (2)(a)(iii)~~] under the
762 recommending qualifications;

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

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

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

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

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

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

772 (9) A ~~[qualified]~~ recommending medical provider may not receive any compensation
773 or benefit for the qualified medical provider's medical cannabis treatment recommendation
774 from:

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

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

779 (c) a ~~[qualified]~~ recommending medical provider or pharmacy medical provider.

780 Section 6. Section **26-61a-107** is amended to read:

781 **26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No**
782 **private right of action.**

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

787 (a) civil or criminal liability; or

788 (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58,
789 Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58,
790 Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician
791 Assistant Act.

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

793 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act,
794 an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act,
795 a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
796 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
797 Title 58, Chapter 70a, Utah Physician Assistant Act:

798 (i) (A) whom the department has registered as a qualified medical provider; ~~[and]~~ or

799 (B) who makes a recommendation as a limited medical provider; and

800 ~~[(B)]~~ (ii) who recommends treatment with cannabis in a medicinal dosage form or a
801 cannabis product in a medicinal dosage form to a patient in accordance with this chapter; ~~[or]~~

802 and

803 ~~[(ii) before January 1, 2021, who:]~~
804 ~~[(A) has the authority to write a prescription; and]~~
805 ~~[(B) recommends a medical cannabis treatment to a patient who has a qualifying~~
806 ~~condition; and]~~
807 (b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:
808 (i) whom the department has registered as a pharmacy medical provider; and
809 (ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a
810 medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis
811 cardholder in accordance with this chapter.
812 (3) Nothing in this section or chapter reduces or in any way negates the duty of an
813 individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a
814 patient:
815 (a) who may have a qualifying condition; and
816 (b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has
817 recommended or might consider recommending a treatment with cannabis or a cannabis
818 product; or
819 (ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the
820 dosing or dispensing of cannabis or a cannabis product.
821 (4) (a) As used in this Subsection (4), "healthcare facility" means the same as that term
822 is defined in Section [26-21-2](#).
823 (b) A healthcare facility may adopt restrictions on the possession, use, and storage of
824 medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder
825 who resides at or is actively receiving treatment or care at the healthcare facility.
826 (c) An employee or agent of a healthcare facility described in this Subsection (4) is not
827 subject to civil or criminal liability for carrying out employment duties, including:
828 (i) providing or supervising care to a medical cannabis cardholder; or
829 (ii) in accordance with a caregiver designation under Section ~~[26-61a-201]~~ [26-61a-202](#)
830 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting,
831 or possessing medical cannabis for the relevant patient and in accordance with the designation.
832 (d) Nothing in this section requires a healthcare facility to adopt a restriction under
833 Subsection (4)(b).

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

835 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card --**
836 **Conditional medical cannabis card -- Application -- Fees -- Studies.**

837 (1) ~~(a) [On or before March 1, 2020, the]~~ The department shall, within 15 days after the
838 day on which an individual who satisfies the eligibility criteria in this section or Section
839 **26-61a-202** submits an application in accordance with this section or Section **26-61a-202**:

840 ~~[(a)]~~ (i) issue a medical cannabis patient card to an individual described in Subsection
841 (2)(a);

842 ~~[(b)]~~ (ii) issue a medical cannabis guardian card to an individual described in
843 Subsection (2)(b);

844 ~~[(c)]~~ (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

845 ~~[(d)]~~ (iv) issue a medical cannabis caregiver card to an individual described in
846 Subsection **26-61a-202**(4).

847 (b) (i) Beginning on the earlier of September 1, 2021, or the date on which the
848 electronic verification system is functionally capable of facilitating a conditional medical
849 cannabis card under this Subsection (1)(b), upon the entry of a recommending medical
850 provider's medical cannabis recommendation for a patient in the state electronic verification
851 system, either by the provider or the provider's employee or by a medical cannabis pharmacy
852 medical provider or medical cannabis pharmacy in accordance with Subsection
853 **26-61a-501**(11)(a), the department shall issue to the patient an electronic conditional medical
854 cannabis card, in accordance with this Subsection (1)(b).

855 (ii) A conditional medical cannabis card is valid for the lesser of:

856 (A) 60 days; or

857 (B) the day on which the department completes the department's review and issues a
858 medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card
859 application, or revokes the conditional medical cannabis card under Subsection (8).

860 (iii) The department may issue a conditional medical cannabis card to an individual
861 applying for a medical cannabis patient card for which approval of the Compassionate Use
862 Board is not required.

863 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
864 obligations under law applicable to a holder of the medical cannabis card for which the

865 individual applies and for which the department issues the conditional medical cannabis card.

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

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

868 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate

869 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends

870 department approval of the petition;

871 (ii) the individual is a Utah resident;

872 (iii) the individual's [~~qualified~~] recommending medical provider recommends treatment

873 with medical cannabis in accordance with Subsection (4);

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

876 (v) the individual pays to the department a fee in an amount that, subject to Subsection

877 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

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

879 (A) is at least 18 years old;

880 (B) is a Utah resident;

881 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical

882 provider recommends a medical cannabis treatment, the individual petitions the Compassionate

883 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends

884 department approval of the petition;

885 (D) the individual signs an acknowledgment stating that the individual received the
886 information described in Subsection [~~(8)~~] (9);

887 (E) pays to the department a fee in an amount that, subject to Subsection

888 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the

889 criminal background check described in Section 26-61a-203; and

890 (F) the individual has not been convicted of a misdemeanor or felony drug distribution

891 offense under either state or federal law, unless the individual completed any imposed sentence

892 six months or more before the day on which the individual applies for a medical cannabis

893 guardian card.

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

895 the department registers for a medical cannabis guardian card.

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

897 (A) the minor has a qualifying condition;

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

900 (C) the minor's parent or legal guardian petitions the Compassionate Use Board under
901 Section 26-61a-105, and the Compassionate Use Board recommends department approval of
902 the petition; and

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

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

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

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

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

920 (ii) with the recommending [qualified] medical provider; and

921 (iii) with information including:

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

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

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

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

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

931 (c) (i) If a ~~qualified~~ recommending medical provider determines that, because of age,
932 illness, or disability, a medical cannabis patient cardholder requires assistance in administering
933 the medical cannabis treatment that the ~~qualified~~ recommending medical provider
934 recommends, the ~~qualified~~ recommending medical provider may indicate the cardholder's
935 need in the state electronic verification system, either directly or, for a limited medical
936 provider, through the order described in Subsections 26-61a-106(1)(c) and (d).

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

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

941 (B) any adult who is 18 years old or older and who is physically present with the
942 cardholder at the time the cardholder needs to use the recommended medical cannabis
943 treatment may handle the medical cannabis treatment and any associated medical cannabis
944 device as needed to assist the cardholder in administering the recommended medical cannabis
945 treatment; and

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

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

951 (A) ingest or inhale medical cannabis;

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

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

957 (4) To recommend a medical cannabis treatment to a patient or to renew a

958 recommendation, a ~~qualified~~ recommending medical provider shall:

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

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

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

965 (A) for a qualified medical provider, the state electronic verification system; and

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

967 (iii) consider the recommendation in light of the patient's qualifying condition and
968 history of medical cannabis and controlled substance use during an initial face-to-face visit
969 with the patient; and

970 (b) state in the ~~qualified~~ recommending medical provider's recommendation that the
971 patient:

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

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

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

977 (i) an amount of time that the ~~qualified~~ recommending medical provider determines;

978 or

979 (ii) (A) six months for the first issuance, ~~[90 days; (B)]~~ and, except as provided in
980 Subsection (5)(a)(ii)~~[(C)](B)~~, for a renewal~~[, six months]~~; or

981 ~~[(C)] (B)~~ for a renewal, one year if, after at least one year following the issuance of the
982 original medical cannabis card, the ~~qualified~~ recommending medical provider determines that
983 the patient has been stabilized on the medical cannabis treatment and a one-year renewal period
984 is justified.

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

987 (ii) The recommending ~~qualified~~ medical provider may revoke a recommendation
988 that the provider made in relation to a terminal illness described in Section 26-61a-104 if the

989 medical cannabis cardholder no longer has the terminal illness.

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

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

994 (ii) the cardholder received the medical cannabis card through the recommendation of
995 the Compassionate Use Board under Section 26-61a-105.

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

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

998 (ii) through phone or video conference with the ~~qualified~~ recommending medical
999 provider who made the recommendation underlying the card, at the qualifying medical
1000 provider's discretion.

1001 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1002 pay to the department a renewal fee in an amount that:

1003 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1004 63J-1-504; and

1005 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1006 comparison to the original application process.

1007 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1008 patient card renews automatically at the time the minor's parent or legal guardian renews the
1009 parent or legal guardian's associated medical cannabis guardian card.

1010 (e) The department may revoke a medical cannabis guardian card if the cardholder
1011 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
1012 under either state or federal law.

1013 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1014 cannabis card with the patient's name.

1015 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1016 purchase, in accordance with this chapter and the recommendation underlying the card,
1017 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1018 medical cannabis device.

1019 (ii) A cardholder under this section may possess or transport, in accordance with this

1020 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1021 cannabis product in a medicinal dosage form, or a medical cannabis device.

1022 (iii) To address the qualifying condition underlying the medical cannabis treatment
1023 recommendation:

1024 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1025 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1026 or a medical cannabis device; and

1027 (B) a medical cannabis guardian cardholder may assist the associated provisional
1028 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1029 product in a medicinal dosage form, or a medical cannabis device.

1030 (c) If a licensed medical cannabis pharmacy is not operating within the state after
1031 January 1, 2021, a cardholder under this section:

1032 (i) may possess:

1033 (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

1034 (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

1035 (C) marijuana drug paraphernalia; and

1036 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

1037 (8) The department may revoke a medical cannabis card that the department issues
1038 under this section if the cardholder:

1039 (a) violates this chapter; or

1040 (b) is convicted under state or federal law of:

1041 (i) a felony; or

1042 (ii) after the effective date of this bill, a misdemeanor for drug distribution.

1043 ~~(8)~~ (9) The department shall establish by rule, in accordance with Title 63G, Chapter
1044 3, Utah Administrative Rulemaking Act, a process to provide information regarding the
1045 following to an individual receiving a medical cannabis card:

1046 (a) risks associated with medical cannabis treatment;

1047 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1048 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1049 Subsection 26-61a-104(1); and

1050 (c) other relevant warnings and safety information that the department determines.

1051 ~~[(9)]~~ (10) The department may establish procedures by rule, in accordance with Title
1052 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and
1053 issuance provisions of this section.

1054 ~~[(10)]~~ (11) (a) On or before January 1, 2021, the department shall establish by rule, in
1055 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1056 an individual from another state to register with the Department of Health in order to purchase
1057 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
1058 individual is visiting the state.

1059 (b) The department may only provide the registration process described in Subsection
1060 ~~[(10)]~~ (11)(a):

1061 (i) to a nonresident patient; and

1062 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
1063 per visitation period.

1064 ~~[(11)]~~ (12) (a) A person may submit to the department a request to conduct a research
1065 study using medical cannabis cardholder data that the state electronic verification system
1066 contains.

1067 (b) The department shall review a request described in Subsection ~~[(11)]~~ (12)(a) to
1068 determine whether an institutional review board, as that term is defined in Section [26-61-102](#),
1069 could approve the research study.

1070 (c) At the time an individual applies for a medical cannabis card, the department shall
1071 notify the individual:

1072 (i) of how the individual's information will be used as a cardholder;

1073 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1074 consent under Subsection ~~[(11)]~~ (12)(d), the individual consents to the use of the individual's
1075 information for external research; and

1076 (iii) that the individual may withdraw consent for the use of the individual's
1077 information for external research at any time, including at the time of application.

1078 (d) An applicant may, through the medical cannabis card application, and a medical
1079 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
1080 cardholder's consent to participate in external research at any time.

1081 (e) The department may release, for the purposes of a study described in this

1082 Subsection [(H)] (12), information about a cardholder under this section who consents to
1083 participate under Subsection [(H)] (12)(c).

1084 (f) If an individual withdraws consent under Subsection [(H)] (12)(d), the withdrawal
1085 of consent:

1086 (i) applies to external research that is initiated after the withdrawal of consent; and

1087 (ii) does not apply to research that was initiated before the withdrawal of consent.

1088 (g) The department may establish standards for a medical research study's validity, by
1089 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1090 Section 8. Section 26-61a-202 is amended to read:

1091 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**
1092 **Revocation.**

1093 (1) (a) (i) A cardholder described in Section 26-61a-201 may designate, through the
1094 state central patient portal, up to two individuals, or an individual and a facility in accordance
1095 with Subsection (1)(b), to serve as a designated caregiver for the cardholder [~~if a qualified~~
1096 ~~medical provider notates in~~].

1097 (ii) The designation described in Subsection (1)(a)(i) takes effect if the state electronic
1098 verification system reflects a recommending medical provider's indication that the provider
1099 determines that, due to physical difficulty or undue hardship, including concerns of distance to
1100 a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis
1101 treatment that the [~~qualified~~] recommending medical provider recommends.

1102 (b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1103 verification system is functionally capable of servicing the designation, a cardholder described
1104 in Section 26-61a-201 who is a patient in one of the following types of facilities may designate
1105 the facility as one of the caregivers described in Subsection (1)(a):

1106 (A) an assisted living facility, as that term is defined in Section 26-21-2;

1107 (B) a nursing care facility, as that term is defined in Section 26-21-2; or

1108 (C) a general acute hospital, as that term is defined in Section 26-21-2.

1109 (ii) A facility may assign one or more employees to assist patients with medical
1110 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1111 (iii) The department shall make rules to regulate the practice of facilities and facility
1112 employees serving as designated caregivers under this Subsection (1)(b).

1113 (c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in
1114 consultation with the minor and the minor's qualified medical provider, may designate, through
1115 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1116 minor, if the department determines that the parent or legal guardian is not eligible for a
1117 medical cannabis guardian card under Section 26-61a-201.

1118 (2) An individual that the department registers as a designated caregiver under this
1119 section and a facility described in Subsection (1)(b):

1120 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
1121 card;

1122 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1123 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1124 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1125 cardholder;

1126 (c) may not charge a fee to an individual to act as the individual's designated caregiver
1127 or for a service that the designated caregiver provides in relation to the role as a designated
1128 caregiver;

1129 (d) may accept reimbursement from the designating medical cannabis cardholder for
1130 direct costs the designated caregiver incurs for assisting with the designating cardholder's
1131 medicinal use of cannabis; and

1132 (e) if a licensed medical cannabis pharmacy is not operating within the state after
1133 January 1, 2021:

1134 (i) may possess up to the legal dosage limit of:

1135 (A) unprocessed medical cannabis in a medicinal dosage form; and

1136 (B) a cannabis product in a medicinal dosage form; [~~and~~]

1137 (ii) may possess marijuana drug paraphernalia; and

1138 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

1139 (3) (a) The department shall:

1140 (i) within 15 days after the day on which an individual submits an application in
1141 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1142 (A) is designated as a caregiver under Subsection (1);

1143 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

- 1144 (C) complies with this section; and
- 1145 (ii) notify the Department of Public Safety of each individual that the department
- 1146 registers as a designated caregiver.
- 1147 (b) The department shall ensure that a medical cannabis caregiver card contains the
- 1148 information described in Subsection (5)(b).
- 1149 (4) An individual is eligible for a medical cannabis caregiver card if the individual:
- 1150 (a) is at least 21 years old;
- 1151 (b) is a Utah resident;
- 1152 (c) pays to the department a fee in an amount that, subject to Subsection
- 1153 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
- 1154 criminal background check described in Section 26-61a-203;
- 1155 (d) signs an acknowledgment stating that the applicant received the information
- 1156 described in Subsection 26-61a-201~~(8)~~(9); and
- 1157 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
- 1158 a felony under either state or federal law, unless the individual completes any imposed sentence
- 1159 two or more years before the day on which the individual submits the application.
- 1160 (5) An eligible applicant for a medical cannabis caregiver card shall:
- 1161 (a) submit an application for a medical cannabis caregiver card to the department
- 1162 through an electronic application connected to the state electronic verification system; and
- 1163 (b) submit the following information in the application described in Subsection (5)(a):
- 1164 (i) the applicant's name, gender, age, and address;
- 1165 (ii) the name, gender, age, and address of the cardholder described in Section
- 1166 26-61a-201 who designated the applicant; and
- 1167 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
- 1168 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
- 1169 cannabis guardian cardholder.
- 1170 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
- 1171 department issues under this section is valid for the lesser of:
- 1172 (a) an amount of time that the cardholder described in Section 26-61a-201 who
- 1173 designated the caregiver determines; or
- 1174 (b) the amount of time remaining before the card of the cardholder described in Section

1175 26-61a-201 expires.

1176 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1177 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1178 cardholder described in Section 26-61a-201 who designated the caregiver:

1179 (i) renews the cardholder's card; and

1180 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1181 (b) The department shall provide a method in the card renewal process to allow a
1182 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1183 (i) signify that the cardholder renews the caregiver's designation;

1184 (ii) remove a caregiver's designation; or

1185 (iii) designate a new caregiver.

1186 (8) The department may revoke a medical cannabis caregiver card if the designated
1187 caregiver:

1188 (a) violates this chapter; or

1189 (b) is convicted under state or federal law of:

1190 (i) a felony; or

1191 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1192 Section 9. Section 26-61a-401 is amended to read:

1193 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

1194 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical
1195 cannabis pharmacy unless the department registers the individual as a medical cannabis
1196 pharmacy agent.

1197 (2) [~~Except as provided in Section 26-61a-403, a qualified~~] A recommending medical
1198 provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest
1199 of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the
1200 management or control of a medical cannabis pharmacy.

1201 (3) (a) The department shall, within 15 days after the day on which the department
1202 receives a complete application from a medical cannabis pharmacy on behalf of a prospective
1203 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent
1204 registration card to the prospective agent if the medical cannabis pharmacy:

1205 (i) provides to the department:

- 1206 (A) the prospective agent's name and address;
- 1207 (B) the name and location of the licensed medical cannabis pharmacy where the
- 1208 prospective agent seeks to act as the medical cannabis pharmacy agent; and
- 1209 (C) the submission required under Subsection (3)(b); and
- 1210 (ii) pays a fee to the department in an amount that, subject to Subsection
- 1211 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).
- 1212 (b) Except for an applicant reapplying for a medical cannabis pharmacy agent
- 1213 registration card within less than one year after the expiration of the applicant's previous
- 1214 medical cannabis pharmacy agent registration card, each prospective agent described in
- 1215 Subsection (3)(a) shall:
 - 1216 (i) submit to the department:
 - 1217 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
 - 1218 (B) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the
 - 1219 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
 - 1220 Generation Identification System's Rap Back Service; and
 - 1221 (ii) consent to a fingerprint background check by:
 - 1222 (A) the Bureau of Criminal Identification; and
 - 1223 (B) the Federal Bureau of Investigation.
 - 1224 (c) The Bureau of Criminal Identification shall:
 - 1225 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against
 - 1226 the applicable state, regional, and national criminal records databases, including the Federal
 - 1227 Bureau of Investigation Next Generation Identification System;
 - 1228 (ii) report the results of the background check to the department;
 - 1229 (iii) maintain a separate file of fingerprints that prospective agents submit under
 - 1230 Subsection (3)(b) for search by future submissions to the local and regional criminal records
 - 1231 databases, including latent prints;
 - 1232 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
 - 1233 Generation Identification System's Rap Back Service for search by future submissions to
 - 1234 national criminal records databases, including the Next Generation Identification System and
 - 1235 latent prints; and
 - 1236 (v) establish a privacy risk mitigation strategy to ensure that the department only

1237 receives notifications for an individual with whom the department maintains an authorizing
1238 relationship.

1239 (d) The department shall:

1240 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an
1241 amount that the department sets in accordance with Section 63J-1-504 for the services that the
1242 Bureau of Criminal Identification or another authorized agency provides under this section; and

1243 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal
1244 Identification.

1245 (4) The department shall designate, on an individual's medical cannabis pharmacy
1246 agent registration card the name of the medical cannabis pharmacy where the individual is
1247 registered as an agent.

1248 (5) A medical cannabis pharmacy agent shall comply with a certification standard that
1249 the department develops in collaboration with the Division of Occupational and Professional
1250 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
1251 designates by rule, in collaboration with the Division of Occupational and Professional
1252 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
1253 Administrative Rulemaking Act.

1254 (6) The department shall ensure that the certification standard described in Subsection
1255 (5) includes training in:

1256 (a) Utah medical cannabis law; and

1257 (b) medical cannabis pharmacy best practices.

1258 (7) The department may revoke the medical cannabis pharmacy agent registration card
1259 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual
1260 who:

1261 (a) violates the requirements of this chapter; or

1262 (b) is convicted under state or federal law of:

1263 (i) a felony; or

1264 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1265 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the
1266 day on which the department issues or renews the card.

1267 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the

1268 agent:

1269 (i) is eligible for a medical cannabis pharmacy agent registration card under this
1270 section;

1271 (ii) certifies to the department in a renewal application that the information in
1272 Subsection (3)(a) is accurate or updates the information; and

1273 (iii) pays to the department a renewal fee in an amount that:

1274 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1275 Section 63J-1-504; and

1276 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1277 comparison to the original application process.

1278 Section 10. Section 26-61a-403 is amended to read:

1279 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

1280 (1) (a) A medical cannabis pharmacy:

1281 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
1282 Practice Act, as a pharmacy medical provider;

1283 (ii) may employ a physician who has the authority to write a prescription and is
1284 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1285 Osteopathic Medical Practice Act, as a pharmacy medical provider;

1286 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
1287 works onsite during all business hours; and

1288 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
1289 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
1290 cannabis pharmacy.

1291 (b) An individual may not serve as a pharmacy medical provider unless the department
1292 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

1293 (2) (a) The department shall, within 15 days after the day on which the department
1294 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
1295 medical provider, register and issue a pharmacy medical provider registration card to the
1296 prospective pharmacy medical provider if the medical cannabis pharmacy:

1297 (i) provides to the department:

1298 (A) the prospective pharmacy medical provider's name and address;

- 1299 (B) the name and location of the licensed medical cannabis pharmacy where the
1300 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;
- 1301 (C) a report detailing the completion of the continuing education requirement described
1302 in Subsection (3); and
- 1303 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
1304 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
1305 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
1306 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
- 1307 (ii) pays a fee to the department in an amount that, subject to Subsection
1308 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).
- 1309 (b) The department may not register a [~~qualified~~] recommending medical provider or a
1310 state central patient portal medical provider as a pharmacy medical provider.
- 1311 (3) (a) A pharmacy medical provider shall complete the continuing education described
1312 in this Subsection (3) in the following amounts:
- 1313 (i) as a condition precedent to registration, four hours; and
1314 (ii) as a condition precedent to renewal of the registration, four hours every two years.
- 1315 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:
- 1316 (i) complete continuing education:
- 1317 (A) regarding the topics described in Subsection (3)(d); and
1318 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1319 continuing education provider that the department recognizes as offering continuing education
1320 appropriate for the medical cannabis pharmacy practice; and
- 1321 (ii) make a continuing education report to the department in accordance with a process
1322 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1323 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1324 Professional Licensing and:
- 1325 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
1326 Pharmacy Practice Act, the Board of Pharmacy;
- 1327 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
1328 Practice Act, the Physicians Licensing Board; and
- 1329 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah

1330 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

1331 (c) The department may, in consultation with the Division of Occupational and
1332 Professional Licensing, develop the continuing education described in this Subsection (3).

1333 (d) The continuing education described in this Subsection (3) may discuss:

1334 (i) the provisions of this chapter;

1335 (ii) general information about medical cannabis under federal and state law;

1336 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1337 including risks and benefits;

1338 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1339 patient in pain management, risk management, potential addiction, and palliative care; or

1340 (v) best practices for recommending the form and dosage of a medical cannabis
1341 product based on the qualifying condition underlying a medical cannabis recommendation.

1342 (4) (a) A pharmacy medical provider registration card expires two years after the day
1343 on which the department issues or renews the card.

1344 (b) A pharmacy medical provider may renew the provider's registration card if the
1345 provider:

1346 (i) is eligible for a pharmacy medical provider registration card under this section;

1347 (ii) certifies to the department in a renewal application that the information in

1348 Subsection (2)(a) is accurate or updates the information;

1349 (iii) submits a report detailing the completion of the continuing education requirement
1350 described in Subsection (3); and

1351 (iv) pays to the department a renewal fee in an amount that:

1352 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
1353 Section 63J-1-504; and

1354 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
1355 comparison to the original application process.

1356 Section 11. Section 26-61a-501 is amended to read:

1357 **26-61a-501. Operating requirements -- General.**

1358 (1) (a) A medical cannabis pharmacy shall operate:

1359 (i) at the physical address provided to the department under Section 26-61a-301; and

1360 (ii) in accordance with the operating plan provided to the department under Section

1361 26-61a-301 and, if applicable, 26-61a-304.

1362 (b) A medical cannabis pharmacy shall notify the department before a change in the
1363 medical cannabis pharmacy's physical address or operating plan.

1364 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

1365 (a) is at least 18 years old; and

1366 (b) except as provided in Subsection (5), possesses a valid:

1367 (i) medical cannabis pharmacy agent registration card;

1368 (ii) pharmacy medical provider registration card; or

1369 (iii) medical cannabis card.

1370 (3) A medical cannabis pharmacy may not employ an individual who is younger than
1371 21 years old.

1372 (4) A medical cannabis pharmacy may not employ an individual who has been
1373 convicted of a felony under state or federal law.

1374 (5) Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an
1375 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
1376 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
1377 the individual at all times while the individual is at the medical cannabis pharmacy and
1378 maintains a record of the individual's access.

1379 (6) A medical cannabis pharmacy shall operate in a facility that has:

1380 (a) a single, secure public entrance;

1381 (b) a security system with a backup power source that:

1382 (i) detects and records entry into the medical cannabis pharmacy; and

1383 (ii) provides notice of an unauthorized entry to law enforcement when the medical
1384 cannabis pharmacy is closed; and

1385 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
1386 cannabis product.

1387 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
1388 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
1389 26-61a-502(2).

1390 (8) A medical cannabis pharmacy may not allow any individual to consume cannabis
1391 on the property or premises of the medical cannabis pharmacy.

1392 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
1393 first indicating on the cannabis or cannabis product label the name of the medical cannabis
1394 pharmacy.

1395 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
1396 following information regarding each recommendation underlying a transaction:

1397 (i) the [~~qualified~~] recommending medical provider's name, address, and telephone
1398 number;

1399 (ii) the patient's name and address;

1400 (iii) the date of issuance;

1401 (iv) directions of use and dosing guidelines or an indication that the [~~qualified~~]
1402 recommending medical provider did not recommend specific directions of use or dosing
1403 guidelines; and

1404 (v) if the patient did not complete the transaction, the name of the medical cannabis
1405 cardholder who completed the transaction.

1406 (b) (i) Except as provided in Subsection (10)(b)(ii), a medical cannabis pharmacy may
1407 not sell medical cannabis unless the medical cannabis has a label securely affixed to the
1408 container indicating the following minimum information:

1409 (A) the name, address, and telephone number of the medical cannabis pharmacy;

1410 (B) the unique identification number that the medical cannabis pharmacy assigns;

1411 (C) the date of the sale;

1412 (D) the name of the patient;

1413 (E) the name of the [~~qualified~~] recommending medical provider who recommended the
1414 medical cannabis treatment;

1415 (F) directions for use and cautionary statements, if any;

1416 (G) the amount dispensed and the cannabinoid content;

1417 (H) the suggested use date;

1418 (I) for unprocessed cannabis flower, the legal use termination date; and

1419 (J) any other requirements that the department determines, in consultation with the
1420 Division of Occupational and Professional Licensing and the Board of Pharmacy.

1421 (ii) A medical cannabis pharmacy may sell medical cannabis to another medical
1422 cannabis pharmacy without a label described in Subsection (10)(b)(i).

- 1423 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:
- 1424 (a) upon receipt of an order from a limited medical provider in accordance with
- 1425 Subsections 26-61a-106(1)(b) and (c):
- 1426 (i) for a written order, contact the limited medical provider or the limited medical
- 1427 provider's office to verify the validity of the recommendation; and
- 1428 (ii) for a written order that the pharmacy medical provider or medical cannabis
- 1429 pharmacy agent verifies under Subsection (11)(a)(i) or an electronic order, enter the limited
- 1430 medical provider's recommendation or renewal, including any associated directions of use,
- 1431 dosing guidelines, or caregiver indication, in the state electronic verification system;
- 1432 (b) in processing an order for a holder of a conditional medical cannabis card described
- 1433 in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the
- 1434 pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending
- 1435 medical provider or the recommending medical provider's office to verify the validity of the
- 1436 recommendation before processing the cardholder's order;
- 1437 [~~(a)~~] (c) unless the medical cannabis cardholder has had a consultation under
- 1438 Subsection 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of
- 1439 a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling
- 1440 with the pharmacy medical provider; and
- 1441 [~~(b)~~] (d) provide a telephone number or website by which the cardholder may contact a
- 1442 pharmacy medical provider for counseling.
- 1443 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
- 1444 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
- 1445 medical cannabis device, or medical cannabis product in a locked box or other secure
- 1446 receptacle within the medical cannabis pharmacy.
- 1447 (b) A medical cannabis pharmacy with a disposal program described in Subsection
- 1448 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
- 1449 can access deposited medical cannabis or medical cannabis products.
- 1450 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
- 1451 medical cannabis products by:
- 1452 (i) rendering the deposited medical cannabis or medical cannabis products unusable
- 1453 and unrecognizable before transporting deposited medical cannabis or medical cannabis

1454 products from the medical cannabis pharmacy; and

1455 (ii) disposing of the deposited medical cannabis or medical cannabis products in
1456 accordance with:

1457 (A) federal and state law, rules, and regulations related to hazardous waste;

1458 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

1459 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

1460 (D) other regulations that the department makes in accordance with Title 63G, Chapter
1461 3, Utah Administrative Rulemaking Act.

1462 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1463 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
1464 by a medical cannabis pharmacy.

1465 Section 12. Section **26-61a-502** is amended to read:

1466 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
1467 **Reporting -- Form of cannabis or cannabis product.**

1468 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
1469 chapter:

1470 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
1471 from a cannabis processing facility that is licensed under Section [4-41a-201](#);

1472 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
1473 acquired from a cannabis processing facility that is licensed under Section [4-41a-201](#);

1474 (iii) a medical cannabis device; or

1475 (iv) educational material related to the medical use of cannabis.

1476 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
1477 an individual with:

1478 (i) (A) a medical cannabis card;

1479 (B) a department registration described in [~~Subsection [26-61a-202](#)(10)~~] Section
1480 [26-61a-201](#); or

1481 (C) until December 31, 2020, a letter from a medical provider in accordance with
1482 Subsection (10); and

1483 (ii) a corresponding valid form of photo identification.

1484 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a

1485 cannabis-based drug that the United States Food and Drug Administration has approved.

1486 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
1487 medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a
1488 minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the
1489 approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

1490 (2) A medical cannabis pharmacy:

1491 (a) may dispense to a medical cannabis cardholder or to an individual described in
1492 Subsection (10)(b), in any one 28-day period, up to the legal dosage limit of:

1493 (i) unprocessed cannabis that:

1494 (A) is in a medicinal dosage form; and

1495 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
1496 cannabidiol in the cannabis; and

1497 (ii) a cannabis product that is in a medicinal dosage form; and

1498 (b) may not dispense:

1499 (i) more medical cannabis than described in Subsection (2)(a); or

1500 (ii) to an individual whose ~~[qualified] recommending~~ medical provider~~[-, or for an~~
1501 ~~individual described in Subsection (10)(a), the medical professional described in Subsection~~
1502 ~~(10)(a)(i);]~~ did not recommend directions of use and dosing guidelines, until the individual
1503 consults with the pharmacy medical provider in accordance with Subsection (4), any medical
1504 cannabis.

1505 (3) An individual with a medical cannabis card ~~[or an individual described in~~
1506 ~~Subsection (10)(a)]:~~

1507 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:

1508 (i) unprocessed cannabis in a medicinal dosage form; and

1509 (ii) a cannabis product in a medicinal dosage form;

1510 (b) may not purchase:

1511 (i) more medical cannabis than described in Subsection (3)(a); or

1512 (ii) if the relevant ~~[qualified] recommending~~ medical provider did not recommend
1513 directions of use and dosing guidelines, until the individual consults with the pharmacy
1514 medical provider in accordance with Subsection (4), any medical cannabis; and

1515 (c) may not use a route of administration that the relevant ~~[qualified] recommending~~

1516 medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5),
1517 has not recommended.

1518 (4) If a ~~qualified~~ recommending medical provider recommends treatment with
1519 medical cannabis but does not provide directions of use and dosing guidelines:

1520 (a) the qualified medical provider or the medical cannabis pharmacy recording a
1521 recommendation under the order of a limited medical provider, shall document in the
1522 recommendation:

1523 (i) an evaluation of the qualifying condition underlying the recommendation;

1524 (ii) prior treatment attempts with medical cannabis; and

1525 (iii) the patient's current medication list; and

1526 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the
1527 pharmacy medical provider shall:

1528 (i) review pertinent medical records, including the ~~qualified~~ recommending medical
1529 provider documentation described in Subsection (4)(a); and

1530 (ii) unless the pertinent medical records show directions of use and dosing guidelines
1531 from a state central patient portal medical provider in accordance with Subsection (5), after
1532 completing the review described in Subsection (4)(b)(i) and consulting with the recommending
1533 ~~qualified~~ medical provider as needed, determine the best course of treatment through
1534 consultation with the cardholder regarding:

1535 (A) the patient's qualifying condition underlying the recommendation from the
1536 ~~qualified~~ recommending medical provider;

1537 (B) indications for available treatments;

1538 (C) directions of use and dosing guidelines; and

1539 (D) potential adverse reactions.

1540 (5) (a) A state central patient portal medical provider may provide the consultation and
1541 make the determination described in Subsection (4)(b) for a medical cannabis patient
1542 cardholder regarding an electronic order that the state central patient portal facilitates.

1543 (b) The state central patient portal medical provider described in Subsection (5)(a)
1544 shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)
1545 in the pertinent medical records.

1546 (6) A medical cannabis pharmacy shall:

1547 (a) (i) access the state electronic verification system before dispensing cannabis or a
1548 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
1549 where applicable, the associated patient has met the maximum amount of medical cannabis
1550 described in Subsection (2); and

1551 (ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the
1552 maximum amount described in Subsection (2):

1553 (A) decline the sale; and

1554 (B) notify the ~~qualified~~ recommending medical provider who made the underlying
1555 recommendation;

1556 (b) submit a record to the state electronic verification system each time the medical
1557 cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

1558 (c) package any medical cannabis that is in a container that:

1559 (i) complies with Subsection ~~4-41a-602~~(2) or, if applicable, ~~[26-61a-102(32)(a)(ii)]~~
1560 provisions related to a container for unprocessed cannabis flower in the definition of
1561 "medicinal dosage form" in Section ~~26-61a-102~~;

1562 (ii) is tamper-resistant and tamper-evident; and

1563 (iii) opaque; and

1564 (d) for a product that is a cube that is designed for ingestion through chewing or
1565 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
1566 of over-consumption.

1567 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
1568 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
1569 intentionally designed or constructed to resemble a cigarette.

1570 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
1571 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
1572 individual's respiratory system.

1573 (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical
1574 cannabis pharmacy is allowed to sell under Subsection (1).

1575 (9) The department may impose a uniform fee on each medical cannabis transaction in
1576 a medical cannabis pharmacy in an amount that, subject to Subsection ~~26-61a-109~~(5), the
1577 department sets in accordance with Section ~~63J-1-504~~.

1578 ~~[(10)(a) Except as provided in Subsection (10)(b), until December 31, 2020, an~~
1579 ~~individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from~~
1580 ~~a licensed medical cannabis pharmacy if:]~~

1581 ~~[(i) the individual presents to the medical cannabis pharmacy a letter from the medical~~
1582 ~~professional described in Subsection ~~58-37-3.7~~(2)(a)(i)(B) that indicates the medical~~
1583 ~~professional's medical cannabis recommendation for the individual;]~~

1584 ~~[(ii) the medical cannabis pharmacy receives independent confirmation from the~~
1585 ~~medical professional described in Subsection (10)(a)(i) or an employee of the medical~~
1586 ~~professional that the letter is valid;]~~

1587 ~~[(iii) the medical cannabis pharmacy:]~~

1588 ~~[(A) scans or photocopies the individual's letter and the individual's valid form of~~
1589 ~~photo identification;]~~

1590 ~~[(B) creates a record of the transaction, including the documents described in~~
1591 ~~Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis~~
1592 ~~the individual purchased; and]~~

1593 ~~[(C) provides information to the individual about obtaining a medical cannabis card;~~
1594 ~~and]~~

1595 ~~[(iv) unless the medical professional recommends specific directions of using and~~
1596 ~~dosing guidelines in the letter, the pharmacy medical provider determines the best course of~~
1597 ~~treatment through consultation with the individual regarding;]~~

1598 ~~[(A) the individual's qualifying condition underlying the recommendation from the~~
1599 ~~medical professional;]~~

1600 ~~[(B) indications for available treatments;]~~

1601 ~~[(C) directions of use and dosing guidelines; and]~~

1602 ~~[(D) potential adverse reactions;]~~

1603 ~~[(b) (i) An individual who purchases medical cannabis from a medical cannabis~~
1604 ~~pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different~~
1605 ~~medical cannabis pharmacy under Subsection (10)(a).]~~

1606 ~~[(ii) If the department notifies a medical cannabis pharmacy, in accordance with~~
1607 ~~Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a)~~
1608 ~~from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an~~

1609 item listed in Subsection (1)(a) to the individual under Subsection (10)(a).]

1610 ~~[(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the~~
1611 ~~individual is a medical cannabis cardholder.]~~

1612 ~~[(c) (i) Until December 31, 2020, on or before the first day of each month, each~~
1613 ~~medical cannabis pharmacy shall provide to the department, in a secure manner, information~~
1614 ~~identifying each individual who has purchased medical cannabis from the medical cannabis~~
1615 ~~pharmacy under Subsection (10)(a).]~~

1616 ~~[(ii) The department shall review information the department receives under~~
1617 ~~Subsection (10)(c)(i) to identify any individuals who:]~~

1618 ~~[(A) have purchased medical cannabis under Subsection (10)(a) from more than one~~
1619 ~~pharmacy; or]~~

1620 ~~[(B) hold a medical cannabis card.]~~

1621 ~~[(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the~~
1622 ~~department shall notify each medical cannabis pharmacy regarding:]~~

1623 ~~[(A) the identification of the individual; and]~~

1624 ~~[(B) the individual's ineligibility to purchase medical cannabis for a reason described in~~
1625 ~~Subsection (10)(b).]~~

1626 ~~[(H)]~~ (10) A medical cannabis pharmacy may purchase and store medical cannabis
1627 devices regardless of whether the seller has a cannabis-related license under this title or Title 4,
1628 Chapter 41a, Cannabis Production Establishments.

1629 Section 13. Section **26-61a-503** is amended to read:

1630 **26-61a-503. Partial filling.**

1631 (1) As used in this section, "partially fill" means to provide less than the full amount of
1632 cannabis or cannabis product that the ~~[qualified]~~ recommending medical provider recommends,
1633 if the ~~[qualified]~~ recommending medical provider recommended specific dosing parameters.

1634 (2) A pharmacy medical provider may partially fill a recommendation for a medical
1635 cannabis treatment at the request of the ~~[qualified]~~ recommending medical provider who issued
1636 the medical cannabis treatment recommendation or the medical cannabis cardholder.

1637 (3) The department shall make rules, in collaboration with the Division of
1638 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with
1639 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date,

1640 quantity supplied, and quantity remaining of a partially filled medical cannabis treatment
1641 recommendation.

1642 (4) A pharmacy medical provider who is a pharmacist may, upon the request of a
1643 medical cannabis cardholder, determine different dosing parameters, subject to the dosing
1644 limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical
1645 cannabis treatment recommendation if:

1646 (a) the pharmacy medical provider determined dosing parameters for the partial fill
1647 under Subsection 26-61a-502(4) or (5); and

1648 (b) the medical cannabis cardholder reports that:

1649 (i) the partial fill did not substantially affect the qualifying condition underlying the
1650 medical cannabis recommendation; or

1651 (ii) the patient experienced an adverse reaction to the partial fill or was otherwise
1652 unable to successfully use the partial fill.

1653 Section 14. Section 26-61a-601 is amended to read:

1654 **26-61a-601. State central patient portal -- Department duties.**

1655 (1) On or before July 1, 2020, the department shall establish or contract to establish, in
1656 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as
1657 described in this section.

1658 (2) The state central patient portal shall:

1659 (a) authenticate each user to ensure the user is a valid medical cannabis patient
1660 cardholder;

1661 (b) allow a medical cannabis patient cardholder to:

1662 (i) obtain and download the cardholder's medical cannabis card;

1663 (ii) review the cardholder's medical cannabis purchase history; and

1664 (iii) manage the cardholder's personal information, including withdrawing consent for
1665 the use of the cardholder's information for a study described in Subsection

1666 26-61a-201[~~(11)~~](12);

1667 (c) if the cardholder's ~~[qualified]~~ recommending medical provider recommended the
1668 use of medical cannabis without providing directions of use and dosing guidelines and the
1669 cardholder has not yet received the counseling or consultation required in Subsection
1670 26-61a-502(4):

- 1671 (i) alert the cardholder of the outstanding need for consultation; and
- 1672 (ii) provide the cardholder with access to the contact information for each state central
- 1673 patient portal medical provider and each pharmacy medical provider;
- 1674 (d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis
- 1675 order:
- 1676 (i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or
- 1677 (ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in
- 1678 person from the pharmacy;
- 1679 (e) prohibit a patient from completing an electronic medical cannabis order described
- 1680 in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection
- 1681 [26-61a-502\(2\)\(a\)](#) or (b);
- 1682 (f) provide educational information to medical cannabis patient cardholders regarding
- 1683 the state's medical cannabis laws and regulatory programs and other relevant information
- 1684 regarding medical cannabis; and
- 1685 (g) allow the patient to designate up to two caregivers who may receive a medical
- 1686 cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in
- 1687 accordance with this chapter.
- 1688 (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah
- 1689 Administrative Rulemaking Act, to implement the state central patient portal.
- 1690 Section 15. Section **58-5a-102** is amended to read:
- 1691 **58-5a-102. Definitions.**
- 1692 In addition to the definitions under Section [58-1-102](#), as used in this chapter:
- 1693 (1) "Board" means the Podiatric Physician Board created in Section [58-5a-201](#).
- 1694 (2) "Indirect supervision" means the same as that term is defined by the division by
- 1695 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 1696 (3) "Medical assistant" means an unlicensed individual working under the indirect
- 1697 supervision of a licensed podiatric physician and engaging in specific tasks assigned by the
- 1698 licensed podiatric physician in accordance with the standards and ethics of the podiatry
- 1699 profession.
- 1700 (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the
- 1701 human foot and ankle and their manifestations of systemic conditions by all appropriate and

1702 lawful means, subject to Section 58-5a-103.

1703 (5) "Unlawful conduct" includes:

1704 (a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

1705 (b) for an individual who is not licensed under this chapter:

1706 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,

1707 foot specialist, or D.P.M.; or

1708 (ii) implying or representing that the individual is qualified to practice podiatry.

1709 (6) (a) "Unprofessional conduct" includes, for an individual licensed under this

1710 chapter:

1711 ~~(a)~~ (i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

1712 ~~(b)~~ (ii) communicating to a third party, without the consent of the patient, information

1713 the individual acquires in treating the patient, except as necessary for professional consultation

1714 regarding treatment of the patient;

1715 ~~(c)~~ (iii) allowing the individual's name or license to be used by an individual who is

1716 not licensed to practice podiatry under this chapter;

1717 ~~(d)~~ (iv) except as described in Section 58-5a-306, employing, directly or indirectly,

1718 any unlicensed individual to practice podiatry;

1719 ~~(e)~~ (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs

1720 impairs the individual's ability to practice podiatry;

1721 ~~(f)~~ (vi) unlawfully prescribing, selling, or giving away any prescription drug,

1722 including controlled substances, as defined in Section 58-37-2;

1723 ~~(g)~~ (vii) gross incompetency in the practice of podiatry;

1724 ~~(h)~~ (viii) willfully and intentionally making a false statement or entry in hospital

1725 records, medical records, or reports;

1726 ~~(i)~~ (ix) willfully making a false statement in reports or claim forms to governmental

1727 agencies or insurance companies with the intent to secure payment not rightfully due;

1728 ~~(j)~~ (x) willfully using false or fraudulent advertising;

1729 ~~(k)~~ (xi) conduct the division defines as unprofessional conduct by rule made in

1730 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

1731 ~~(l)~~ (xii) falsely making an entry in, or altering, a medical record with the intent to

1732 conceal:

1733 [(†)] (A) a wrongful or negligent act or omission of an individual licensed under this
1734 chapter or an individual under the direction or control of an individual licensed under this
1735 chapter; or

1736 [(†)] (B) conduct described in Subsections (6)(a)(i) through [(†)] (xi) or Subsection
1737 [58-1-501\(1\)](#).

1738 (b) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
1739 [61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a](#)
1740 [limited medical provider, as those terms are defined in Section \[26-61a-102\]\(#\), recommending the](#)
1741 [use of medical cannabis within the scope of a practice of podiatry.](#)

1742 Section 16. Section **58-31b-502** is amended to read:

1743 **58-31b-502. Unprofessional conduct.**

1744 (1) "Unprofessional conduct" includes:

1745 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
1746 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
1747 because of the licensee's or person with a certification's position or practice as a nurse or
1748 practice as a medication aide certified;

1749 (b) failure to provide nursing service or service as a medication aide certified in a
1750 manner that demonstrates respect for the patient's human dignity and unique personal character
1751 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
1752 status, age, sex, or the nature of the patient's health problem;

1753 (c) engaging in sexual relations with a patient during any:

1754 (i) period when a generally recognized professional relationship exists between the
1755 person licensed or certified under this chapter and the patient; or

1756 (ii) extended period when a patient has reasonable cause to believe a professional
1757 relationship exists between the person licensed or certified under the provisions of this chapter
1758 and the patient;

1759 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
1760 information about a patient or exploiting the licensee's or the person with a certification's
1761 professional relationship between the licensee or holder of a certification under this chapter and
1762 the patient; or

1763 (ii) exploiting the patient by use of the licensee's or person with a certification's

1764 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

1765 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

1766 (f) unauthorized taking or personal use of nursing supplies from an employer;

1767 (g) unauthorized taking or personal use of a patient's personal property;

1768 (h) unlawful or inappropriate delegation of nursing care;

1769 (i) failure to exercise appropriate supervision of persons providing patient care services

1770 under supervision of the licensed nurse;

1771 (j) employing or aiding and abetting the employment of an unqualified or unlicensed

1772 person to practice as a nurse;

1773 (k) failure to file or record any medical report as required by law, impeding or

1774 obstructing the filing or recording of such a report, or inducing another to fail to file or record

1775 such a report;

1776 (l) breach of a statutory, common law, regulatory, or ethical requirement of

1777 confidentiality with respect to a person who is a patient, unless ordered by a court;

1778 (m) failure to pay a penalty imposed by the division;

1779 (n) prescribing a Schedule II controlled substance without complying with the

1780 requirements in Section 58-31b-803, if applicable;

1781 (o) violating Section 58-31b-801;

1782 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part

1783 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if

1784 applicable;

1785 (q) establishing or operating a pain clinic without a consultation and referral plan for

1786 Schedule II or III controlled substances; or

1787 (r) falsely making an entry in, or altering, a medical record with the intent to conceal:

1788 (i) a wrongful or negligent act or omission of an individual licensed under this chapter

1789 or an individual under the direction or control of an individual licensed under this chapter; or

1790 (ii) conduct described in Subsections (1)(a) through (q) or Subsection 58-1-501(1).

1791 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter

1792 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a

1793 limited medical provider, as ~~[that term is]~~ those terms are defined in Section 26-61a-102,

1794 recommending the use of medical cannabis.

1795 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
1796 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
1797 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

1798 Section 17. Section ~~58-37-3.7~~ is amended to read:

1799 **58-37-3.7. Medical cannabis decriminalization.**

1800 (1) As used in this section:

1801 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

1802 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

1803 (c) "Legal dosage limit" means the same as that term is defined in Section [26-61a-102](#).

1804 (d) "Medical cannabis card" means the same as that term is defined in Section
1805 [26-61a-102](#).

1806 (e) "Medical cannabis device" means the same as that term is defined in Section
1807 [26-61a-102](#).

1808 (f) "Medicinal dosage form" means the same as that term is defined in Section
1809 [26-61a-102](#).

1810 (g) "Nonresident patient" means the same as that term is defined in Section
1811 [26-61a-102](#).

1812 (h) "Qualifying condition" means the same as that term is defined in Section
1813 [26-61a-102](#).

1814 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
1815 [58-37-3.9](#).

1816 (2) Before ~~[January]~~ July 1, 2021, including during the period between January 1,
1817 2021, and the effective date of this bill, an individual is not guilty under this chapter for the use
1818 or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

1819 (a) at the time of the arrest or citation, the individual:

1820 ~~[(i) (A) had been diagnosed with a qualifying condition; and]~~

1821 ~~[(B) had a pre-existing provider-patient relationship with an advanced practice~~
1822 ~~registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed~~
1823 ~~under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,~~
1824 ~~Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under~~
1825 ~~Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness~~

1826 described in Subsection (2)(a)(i)(A) could benefit from the use in question;]
1827 [(ii) for possession, was:]
1828 [(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
1829 is a minor; or]
1830 [(B) the spouse of an individual described in Subsection (2)(a)(i); or]
1831 [(iii)-(A)] (i) for possession, was a medical cannabis cardholder; or
1832 [(B)] (ii) for use, was a medical cannabis patient cardholder or a minor with a
1833 [qualifying condition] provisional patient card under the supervision of a medical cannabis
1834 guardian cardholder; and
1835 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
1836 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
1837 dosage limit:
1838 (A) unprocessed cannabis in a medicinal dosage form; or
1839 (B) a cannabis product in a medicinal dosage form; and
1840 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
1841 medical cannabis device.
1842 (3) A nonresident patient is not guilty under this chapter for the use or possession of
1843 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:
1844 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
1845 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
1846 dosage limit:
1847 (i) unprocessed cannabis in a medicinal dosage form; or
1848 (ii) a cannabis product in a medicinal dosage form; and
1849 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
1850 medical cannabis device.
1851 (4) (a) There is a rebuttable presumption against an allegation of use or possession of
1852 marijuana or tetrahydrocannabinol if:
1853 (i) an individual fails a drug test based on the presence of [~~tetrahydrocannabinol~~]
1854 tetrahydrocannabinol in the sample; and
1855 (ii) the individual provides evidence that the individual possessed or used cannabidiol
1856 or a cannabidiol product.

1857 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that
1858 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized
1859 under:

1860 (i) Section 4-41-402; or

1861 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

1862 Section 18. Section 58-37-6.5 is amended to read:

1863 **58-37-6.5. Continuing education for controlled substance prescribers.**

1864 (1) For the purposes of this section:

1865 (a) "Controlled substance prescriber" means an individual, other than a veterinarian,
1866 who:

1867 (i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1868 Controlled Substances Act; and

1869 (ii) possesses the authority, in accordance with the individual's scope of practice, to
1870 prescribe schedule II controlled substances and schedule III controlled substances that are
1871 applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

1872 (b) "D.O." means an osteopathic physician and surgeon licensed under Title 58,
1873 Chapter 68, Utah Osteopathic Medical Practice Act.

1874 (c) "FDA" means the United States Food and Drug Administration.

1875 (d) "M.D." means a physician and surgeon licensed under Title 58, Chapter 67, Utah
1876 Medical Practice Act.

1877 (e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment
1878 approach used by the federal Substance Abuse and Mental Health Services Administration or
1879 defined by the division, in consultation with the Division of Substance Abuse and Mental
1880 Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative
1881 Rulemaking Act.

1882 (2) (a) Beginning with the licensing period that begins after January 1, 2014, as a
1883 condition precedent for license renewal, each controlled substance prescriber shall complete at
1884 least 3.5 continuing education hours per licensing period that satisfy the requirements of
1885 Subsection (3).

1886 (b) (i) Beginning with the licensing period that begins after January 1, 2024, as a
1887 condition precedent for license renewal, each controlled substance prescriber shall complete at

1888 least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements
1889 of Subsection (4).

1890 (ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i),
1891 fulfills the continuing education hours requirement in Subsection (3) for the licensing period in
1892 which the class was completed.

1893 (iii) A controlled substance prescriber:

1894 (A) need only take the SBIRT-training class once during the controlled substance
1895 prescriber's licensure in the state; and

1896 (B) shall provide a completion record of the SBIRT-training class in order to be
1897 reimbursed for SBIRT services to patients, in accordance with ~~[Section]~~ Sections 26-18-22 and
1898 [Section] 49-20-416.

1899 (3) A controlled substance prescriber shall complete at least 3.5 hours of continuing
1900 education in one or more controlled substance prescribing classes, except dentists who shall
1901 complete at least two hours, that satisfy the requirements of Subsections (4) and (6).

1902 (4) A controlled substance prescribing class shall:

1903 (a) satisfy the division's requirements for the continuing education required for the
1904 renewal of the controlled substance prescriber's respective license type;

1905 (b) be delivered by an accredited or approved continuing education provider
1906 recognized by the division as offering continuing education appropriate for the controlled
1907 substance prescriber's respective license type; and

1908 (c) include a postcourse knowledge assessment.

1909 (5) An M.D. or D.O. completing continuing professional education hours under
1910 Subsection (4) shall complete those hours in classes that qualify for the American Medical
1911 Association Physician's Recognition Award Category 1 Credit.

1912 (6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4)
1913 shall include educational content covering the following:

1914 (a) the scope of the controlled substance abuse problem in Utah and the nation;

1915 (b) all elements of the FDA Blueprint for Prescriber Education under the FDA's
1916 Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation
1917 Strategy, as published July 9, 2012, or as it may be subsequently revised;

1918 (c) the national and Utah-specific resources available to prescribers to assist in

1919 appropriate controlled substance and opioid prescribing;

1920 (d) patient record documentation for controlled substance and opioid prescribing; ~~and~~

1921 (e) office policies, procedures, and implementation~~[-]; and~~

1922 (f) some training regarding medical cannabis, as that term is defined in Section

1923 26-61a-102.

1924 (7) (a) The division, in consultation with the Utah Medical Association Foundation,
1925 shall determine whether a particular controlled substance prescribing class satisfies the
1926 educational content requirements of Subsections (4) and (6) for an M.D. or D.O.

1927 (b) The division, in consultation with the applicable professional licensing boards,
1928 shall determine whether a particular controlled substance prescribing class satisfies the
1929 educational content requirements of Subsections (4) and (6) for a controlled substance
1930 prescriber other than an M.D. or D.O.

1931 (c) The division may by rule establish a committee that may audit compliance with the
1932 Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project
1933 grant, that satisfies the educational content requirements of Subsections (4) and (6) for a
1934 controlled substance prescriber.

1935 (d) The division shall consult with the Department of Health regarding the medical
1936 cannabis training described in Subsection (6)(f).

1937 (8) A controlled substance prescribing class required under this section:

1938 (a) may be held:

1939 (i) in conjunction with other continuing professional education programs; and

1940 (ii) online; and

1941 (b) does not increase the total number of state-required continuing professional
1942 education hours required for prescriber licensing.

1943 (9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah
1944 Administrative Rulemaking Act, to implement this section.

1945 (10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver
1946 to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction
1947 Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours
1948 of the continuing education requirement under Subsection (3) for two consecutive licensing
1949 periods.

1950 Section 19. Section **58-67-502** is amended to read:

1951 **58-67-502. Unprofessional conduct.**

1952 (1) "Unprofessional conduct" includes, in addition to the definition in Section
1953 **58-1-501**:

1954 (a) using or employing the services of any individual to assist a licensee in any manner
1955 not in accordance with the generally recognized practices, standards, or ethics of the
1956 profession, state law, or division rule;

1957 (b) making a material misrepresentation regarding the qualifications for licensure under
1958 Section **58-67-302.7** or Section **58-67-302.8**;

1959 (c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
1960 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

1961 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

1962 (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

1963 (i) a wrongful or negligent act or omission of an individual licensed under this chapter

1964 or an individual under the direction or control of an individual licensed under this chapter; or

1965 (ii) conduct described in Subsections (1)(a) through (d) or Subsection **58-1-501**(1).

1966 (2) "Unprofessional conduct" does not include:

1967 (a) in compliance with Section **58-85-103**:

1968 (i) obtaining an investigational drug or investigational device;

1969 (ii) administering the investigational drug to an eligible patient; or

1970 (iii) treating an eligible patient with the investigational drug or investigational device;

1971 or

1972 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

1973 (i) when registered as a qualified medical provider or acting as a limited medical

1974 provider, as [~~that term is~~] those terms are defined in Section **26-61a-102**, recommending the
1975 use of medical cannabis;

1976 (ii) when registered as a pharmacy medical provider, as that term is defined in Section
1977 **26-61a-102**, providing pharmacy medical provider services in a medical cannabis pharmacy; or

1978 (iii) when registered as a state central patient portal medical provider, as that term is

1979 defined in Section **26-61a-102**, providing state central patient portal medical provider services.

1980 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and

1981 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
1982 unprofessional conduct for a physician described in Subsection (2)(b).

1983 Section 20. Section **58-68-502** is amended to read:

1984 **58-68-502. Unprofessional conduct.**

1985 (1) "Unprofessional conduct" includes, in addition to the definition in Section
1986 [58-1-501](#):

1987 (a) using or employing the services of any individual to assist a licensee in any manner
1988 not in accordance with the generally recognized practices, standards, or ethics of the
1989 profession, state law, or division rule;

1990 (b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
1991 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

1992 (c) making a material misrepresentation regarding the qualifications for licensure under
1993 Section [58-68-302.5](#);

1994 (d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

1995 (e) falsely making an entry in, or altering, a medical record with the intent to conceal:

1996 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
1997 or an individual under the direction or control of an individual licensed under this chapter; or

1998 (ii) conduct described in Subsections (1)(a) through (d) or Subsection [58-1-501\(1\)](#).

1999 (2) "Unprofessional conduct" does not include:

2000 (a) in compliance with Section [58-85-103](#):

2001 (i) obtaining an investigational drug or investigational device;

2002 (ii) administering the investigational drug to an eligible patient; or

2003 (iii) treating an eligible patient with the investigational drug or investigational device;

2004 or

2005 (b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

2006 (i) when registered as a qualified medical provider, as that term is defined in Section

2007 [26-61a-102](#), recommending the use of medical cannabis;

2008 (ii) when registered as a pharmacy medical provider, as that term is defined in Section

2009 [26-61a-102](#), providing pharmacy medical provider services in a medical cannabis pharmacy; or

2010 (iii) when registered as a state central patient portal medical provider, as that term is

2011 defined in Section [26-61a-102](#), providing state central patient portal medical provider services.

2012 (3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and
2013 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2014 unprofessional conduct for a physician described in Subsection (2)(b).

2015 Section 21. Section **58-70a-503** is amended to read:

2016 **58-70a-503. Unprofessional conduct.**

2017 (1) "Unprofessional conduct" includes:

2018 (a) violation of a patient confidence to any person who does not have a legal right and a
2019 professional need to know the information concerning the patient;

2020 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,
2021 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
2022 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
2023 prescribed or provided;

2024 (c) prescribing prescription drugs for oneself or administering prescription drugs to
2025 oneself, except those that have been legally prescribed for the physician assistant by a licensed
2026 practitioner and that are used in accordance with the prescription order for the condition
2027 diagnosed;

2028 (d) failure to maintain at the practice site a delegation of services agreement that
2029 accurately reflects current practices;

2030 (e) failure to make the delegation of services agreement available to the division for
2031 review upon request;

2032 (f) in a practice that has physician assistant ownership interests, failure to allow the
2033 supervising physician the independent final decision making authority on patient treatment
2034 decisions, as set forth in the delegation of services agreement or as defined by rule;

2035 (g) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
2036 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

2037 (h) falsely making an entry in, or altering, a medical record with the intent to conceal:

2038 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2039 or an individual under the direction or control of an individual licensed under this chapter; or

2040 (ii) conduct described in Subsections (1)(a) through (g) or Subsection **58-1-501(1)**.

2041 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
2042 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a

2043 limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102,
2044 recommending the use of medical cannabis.

2045 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
2046 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2047 unprofessional conduct for a physician assistant described in Subsection (2).

2048 Section 22. Section ~~62A-4a-404~~ is amended to read:

2049 **62A-4a-404. Fetal alcohol syndrome or spectrum disorder and drug dependency**
2050 **-- Reporting requirements.**

2051 (1) As used in this section:

2052 (a) "Health care provider" means:

2053 (i) an individual licensed under:

2054 (A) Title 58, Chapter 31b, Nurse Practice Act;

2055 (B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

2056 (C) Title 58, Chapter 67, Utah Medical Practice Act;

2057 (D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2058 (E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

2059 (F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

2060 (ii) an unlicensed individual who practices midwifery.

2061 (b) "Newborn child" means a child who is 30 days of age or younger.

2062 (c) "[~~Qualified~~] Recommending medical provider" means the same as that term is
2063 defined in Section 26-61a-102.

2064 (d) (i) "Substance abuse" means the misuse or excessive use of alcohol or other drugs
2065 or substances.

2066 (ii) "Substance abuse" does not include use of drugs or other substances that are:

2067 (A) obtained by lawful prescription and used as prescribed; or

2068 (B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act,

2069 and used as recommended by a [~~qualified~~] recommending medical provider.

2070 (2) A health care provider who attends the birth of a newborn child or cares for a
2071 newborn child and determines any of the following, shall report the determination to the
2072 division as soon as possible:

2073 (a) the newborn child:

- 2074 (i) is adversely affected by the child's mother's substance abuse during pregnancy;
2075 (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or
2076 (iii) demonstrates drug or alcohol withdrawal symptoms; or
2077 (b) the parent of the newborn child or a person responsible for the child's care
2078 demonstrates functional impairment or an inability to care for the child as a result of the
2079 parent's or person's substance abuse.

2080 Section 23. Section **78A-2-231** is amended to read:

2081 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

2082 (1) As used in this section:

2083 (a) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

2084 (b) "Directions of use" means the same as that term is defined in Section [26-61a-102](#).

2085 (c) "Dosing guidelines" means the same as that term is defined in Section [26-61a-102](#).

2086 (d) "Medical cannabis" means the same as that term is defined in Section [26-61a-102](#).

2087 (e) "Medical cannabis card" means the same as that term is defined in Section

2088 [26-61a-102](#).

2089 (f) "Medical cannabis device" means the same as that term is defined in Section

2090 [26-61a-102](#).

2091 (g) "[~~Qualified~~] Recommending medical provider" means the same as that term is

2092 defined in Section [26-61a-102](#).

2093 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner
2094 makes a finding, determination, or otherwise considers an individual's possession or use of
2095 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or
2096 court commissioner may not consider or treat the individual's possession or use any differently
2097 than the lawful possession or use of any prescribed controlled substance if:

2098 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production
2099 Establishments;

2100 (b) the individual's possession or use complies with Subsection [58-37-3.7\(2\)](#) or (3); or

2101 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah

2102 Medical Cannabis Act; and

2103 (ii) the individual reasonably complies with the directions of use and dosing guidelines

2104 determined by the individual's [~~qualified~~] recommending medical provider or through a

2105 consultation described in Subsection 26-61a-502(4) or (5).

2106 (3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in
2107 abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of
2108 Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain
2109 from the use or possession of medical cannabis, a cannabis product, or a medical cannabis
2110 device, either directly or through a general prohibition on violating federal law, without an
2111 exception related to medical cannabis use, if the individual's use or possession complies with:

2112 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

2113 (b) Subsection 58-37-3.7(2) or (3).

2114 Section 24. Section 78A-6-115 is amended to read:

2115 **78A-6-115. Hearings -- Record -- County attorney or district attorney**
2116 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**
2117 **evidence -- Cannabis.**

2118 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result
2119 in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall
2120 also be made unless dispensed with by the court.

2121 (b) (i) For purposes of this Subsection (1)(b):

2122 (A) "Record of a proceeding" does not include documentary materials of any type
2123 submitted to the court as part of the proceeding, including items submitted under Subsection
2124 (4)(a).

2125 (B) "Subjects of the record" includes the child's guardian ad litem, the child's legal
2126 guardian, the Division of Child and Family Services, and any other party to the proceeding.

2127 (ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government
2128 Records Access and Management Act, the court shall release a record of a proceeding made
2129 under Subsection (1)(a) to any person upon a finding on the record for good cause.

2130 (iii) Following a petition for a record of a proceeding made under Subsection (1)(a),
2131 the court shall:

2132 (A) provide notice to all subjects of the record that a request for release of the record
2133 has been made; and

2134 (B) allow sufficient time for the subjects of the record to respond before making a
2135 finding on the petition.

2136 (iv) A record of a proceeding may not be released under this Subsection (1)(b) if the
2137 court's jurisdiction over the subjects of the proceeding ended more than 12 months before the
2138 day on which the request is made.

2139 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a
2140 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
2141 case.

2142 (b) Subject to the attorney general's prosecutorial discretion in civil enforcement
2143 actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and
2144 Family Services, and this chapter, relating to:

2145 (i) protection or custody of an abused, neglected, or dependent child; and

2146 (ii) petitions for termination of parental rights.

2147 (3) The board may adopt special rules of procedure to govern proceedings involving
2148 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings
2149 involving offenses under Section 78A-6-606 are governed by that section regarding suspension
2150 of driving privileges.

2151 (4) (a) For the purposes of determining proper disposition of the minor in dispositional
2152 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and
2153 in hearings upon petitions for termination of parental rights, written reports and other material
2154 relating to the minor's mental, physical, and social history and condition may be received in
2155 evidence and may be considered by the court along with other evidence. The court may require
2156 that the individual who wrote the report or prepared the material appear as a witness if the
2157 individual is reasonably available.

2158 (b) For the purpose of determining proper disposition of a minor alleged to be or
2159 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division
2160 under Section 78A-6-315 may be received in evidence and may be considered by the court
2161 along with other evidence. The court may require any individual who participated in preparing
2162 the dispositional report to appear as a witness, if the individual is reasonably available.

2163 (5) (a) Except as provided in Subsections (5)(c) through (e), in an abuse, neglect, or
2164 dependency proceeding occurring after the commencement of a shelter hearing under Section
2165 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding
2166 shall provide in writing to the other parties or their counsel any information which the party:

- 2167 (i) plans to report to the court at the proceeding; or
2168 (ii) could reasonably expect would be requested of the party by the court at the
2169 proceeding.
- 2170 (b) The disclosure required under Subsection (5)(a) shall be made:
2171 (i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than
2172 five days before the day on which the proceeding is held;
2173 (ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in
2174 accordance with Utah Rules of Civil Procedure; and
2175 (iii) for all other proceedings, no less than five days before the day on which the
2176 proceeding is held.
- 2177 (c) The division is not required to provide a court report or a child and family plan to
2178 each party to the proceeding if:
2179 (i) the information is electronically filed with the court; and
2180 (ii) each party to the proceeding has access to the electronically filed information.
- 2181 (d) If a party to a proceeding obtains information after the deadline in Subsection
2182 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the
2183 party certifies to the court that the information was obtained after the deadline.
- 2184 (e) Subsection (5)(a) does not apply to:
2185 (i) pretrial hearings; and
2186 (ii) the frequent, periodic review hearings held in a dependency drug court case to
2187 assess and promote the parent's progress in substance use disorder treatment.
- 2188 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
2189 may, in the court's discretion, consider evidence of statements made by a child under eight
2190 years of age to an individual in a trust relationship.
- 2191 (7) (a) As used in this Subsection (7):
2192 (i) "Cannabis" means the same as that term is defined in Section 26-61a-102.
2193 (ii) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
2194 (iii) (A) "Chronic" means repeated or patterned.
2195 (B) "Chronic" does not mean an isolated incident.
2196 (iv) "Directions of use" means the same as that term is defined in Section 26-61a-102.
2197 (v) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

2198 (vi) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

2199 (vii) "Medical cannabis cardholder" means the same as that term is defined in Section
2200 26-61a-102.

2201 (viii) "[~~Qualified~~] Recommending medical provider" means the same as that term is
2202 defined in Section 26-61a-102.

2203 (b) In any child welfare proceeding in which the court makes a finding, determination,
2204 or otherwise considers an individual's possession or use of medical cannabis, a cannabis
2205 product, or a medical cannabis device, the court may not consider or treat the individual's
2206 possession or use any differently than the lawful possession or use of any prescribed controlled
2207 substance if:

2208 (i) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis
2209 Production Establishments;

2210 (ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

2211 (iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah
2212 Medical Cannabis Act; and

2213 (B) the individual reasonably complies with the directions of use and dosing guidelines
2214 determined by the individual's [~~qualified~~] recommending medical provider or through a
2215 consultation described in Subsection 26-61a-502(4) or (5).

2216 (c) In a child welfare proceeding, a parent's or guardian's use of cannabis or a cannabis
2217 product is not abuse or neglect of a child under Section 78A-6-105 unless there is evidence
2218 showing that:

2219 (i) the child is harmed because of the child's inhalation or ingestion of cannabis, or
2220 because of cannabis being introduced to the child's body in another manner; or

2221 (ii) the child is at an unreasonable risk of harm because of chronic inhalation or
2222 ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

2223 (d) Unless there is harm or an unreasonable risk of harm to the child as described in
2224 Subsection (7)(c), in a child welfare proceeding a parent's or guardian's use of medical cannabis
2225 or a cannabis product is not contrary to the best interests of a child if:

2226 (i) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's
2227 possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there
2228 is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates

2229 from the directions of use and dosing guidelines determined by the parent's or guardian's
2230 [qualified] recommending medical provider or through a consultation described in Subsection
2231 26-61a-502(4) or (5); or

2232 (ii) before January 1, 2021, the parent's or guardian's possession or use complies with
2233 Subsection 58-37-3.7(2) or (3).

2234 (e) Subsection (7)(c) does not prohibit a finding of abuse or neglect of a child under
2235 Section 78A-6-105, and Subsection (7)(d) does not prohibit a finding that a parent's or
2236 guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a
2237 child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or
2238 a cannabis product and behavior that would separately constitute abuse or neglect of the child.

2239 Section 25. **Effective date.**

2240 If approved by two-thirds of all the members elected to each house, this bill takes effect
2241 upon approval by the governor, or the day following the constitutional time limit of Utah
2242 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
2243 the date of veto override.

2244 Section 26. **Revisor instructions.**

2245 The Legislature intends that the Office of Legislative Research and General Counsel, in
2246 preparing the Utah Code database for publication, replace the language "the effective date of
2247 this bill" in Subsections 26-61a-201(8)(b)(ii) and 58-37-3.7(2) to the bill's actual effective date.