

## SB0170S01 compared with SB0170

~~text~~ shows text that was in SB0170 but was deleted in SB0170S01.

text shows text that was not in SB0170 but was inserted into SB0170S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Luz Escamilla proposes the following substitute bill:

### CONSUMER PROTECTION FOR CANNABIS PATIENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Luz Escamilla**

House Sponsor: Raymond P. Ward

---

#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends a labeling requirement for consistency;
- ▶ allows a licensed podiatrist to recommend medical cannabis within the course and scope of a practice of podiatry;
- ▶ requires the state electronic verification system to allow a medical cannabis pharmacy to record a medical cannabis recommendation from a limited medical provider;

## **SB0170S01 compared with SB0170**

- ▶ allows certain medical providers to operate as limited medical providers to recommend cannabis to a limited number of the provider's patients without registering with the Department of Health (department) as a qualified medical provider;
- ▶ amends provisions to accommodate the allowance for limited medical providers;
- ▶ allows a licensed podiatrist to become a qualified medical provider;
- ▶ requires the department to issue an electronic conditional medical cannabis card to allow certain medical cannabis card applicants access to medical cannabis;
- ▶ requires medical cannabis pharmacies to record information in an order from a limited medical provider in the state electronic verification system;
- ▶ imposes certain verification requirements on a medical cannabis pharmacy before entering certain orders from a limited medical provider or processing a transaction for certain conditional medical cannabis cardholders;
- ▶ requires a medical cannabis component in required continuing education for controlled substance prescribers;
- ▶ extends a deadline that imposes a limitation on an individual's use or possession of medical cannabis from outside the state; and
- ▶ makes technical and conforming changes.

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

None

### **Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

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

AMENDS:

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

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

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

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

## **SB0170S01 compared with SB0170**

- 26-61a-106**, as last amended by Laws of Utah 2020, Chapter 12
- 26-61a-107**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148
- 26-61a-201**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 26-61a-202**, as last amended by Laws of Utah 2020, Chapter 12
- 26-61a-401**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-501**, as last amended by Laws of Utah 2020, Chapter 12
- 26-61a-502**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148
- 26-61a-503**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-601**, as last amended by Laws of Utah 2020, Chapter 12
- 58-5a-102**, as last amended by Laws of Utah 2020, Chapter 25
- 58-31b-502**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
- 58-37-3.7**, as last amended by Laws of Utah 2020, Chapter 12
- 58-37-6.5**, as last amended by Laws of Utah 2018, Chapter 318
- 58-67-502**, as last amended by Laws of Utah 2020, Chapter 25
- 58-68-502**, as last amended by Laws of Utah 2020, Chapter 25
- 58-70a-503**, as last amended by Laws of Utah 2020, Chapter 25
- 62A-4a-404**, as last amended by Laws of Utah 2020, Chapter 193
- 78A-2-231**, as last amended by Laws of Utah 2020, Chapter 12
- 78A-6-115**, as last amended by Laws of Utah 2020, Chapters 12, 132, 250, and 354

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

- 26-61a-201**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 58-37-3.7**, as last amended by Laws of Utah 2020, Chapter 12

---

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

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

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

As used in this chapter:

- (1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and

## SB0170S01 compared with SB0170

tetrahydrocannabinolic acid.

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

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

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

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

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

(5) "Cannabis processing facility" means a person that:

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) "Community location" means a public or private elementary or secondary school,

## **SB0170S01 compared with SB0170**

a church, a public library, a public playground, or a public park.

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

(13) "Department" means the Department of Agriculture and Food.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in

## SB0170S01 compared with SB0170

accordance with Section 4-41a-901.

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

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

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

(27) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

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

~~[(28)]~~ (29) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

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

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

~~[(29)]~~ (30) "State electronic verification system" means the system described in Section 26-61a-103.

~~[(30)]~~ (31) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

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

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

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

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

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

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

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

## SB0170S01 compared with SB0170

cannabidiol in the labeled container;

(iii) has a unique identification number that:

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

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

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

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

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

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

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) is opaque;

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

(vi) includes a warning label that states:

(A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."; or

(B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."

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

## SB0170S01 compared with SB0170

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

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

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

(a) a standard labeling format that:

(i) complies with the requirements of this section; and

(ii) ensures inclusion of a pharmacy label; and

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

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

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

As used in this chapter:

(1) "Cannabis" means marijuana.

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

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

(4) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

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

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

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

(8) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(9) "Conditional medical cannabis card" means an electronic medical cannabis card

## SB0170S01 compared with SB0170

that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

~~[(9)]~~ (10) "Department" means the Department of Health.

~~[(10)]~~ (11) "Designated caregiver" means:

(a) an individual:

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

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

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

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

~~[(11)]~~ (12) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

~~[(12)]~~ (13) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

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

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

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

~~[(16)]~~ (17) "Legal dosage limit" means an amount that:

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

(b) may not exceed:

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

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,

## SB0170S01 compared with SB0170

greater than 20 grams of active tetrahydrocannabinol.

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

- (a) that is 60 days after the date of purchase of the cannabis; and
- (b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

(19) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

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

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

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

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

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

- (a) a holder of a medical cannabis card; or
- (b) a facility or assigned employee, described in Subsection ~~[(10)]~~ (11)(b), only:
  - (i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

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

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

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

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

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

## SB0170S01 compared with SB0170

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

(b) is connected to the electronic verification system.

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

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

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

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

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

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

~~[(24)]~~ (27) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

(i) facilitates cannabis combustion; or

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

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

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

(b) is connected to the electronic verification system.

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

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

(b) is connected to the electronic verification system.

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

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

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

(B) a medical cannabis device; or

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

## SB0170S01 compared with SB0170

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

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

- (a) is an employee of a medical cannabis pharmacy; and
- (b) who holds a valid medical cannabis pharmacy agent registration card.

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

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

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

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

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

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

rectangular cuboid shape; or

(I) a resin or wax;

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

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

(B) at any time the medical cannabis cardholder transports or possesses the container in

## SB0170S01 compared with SB0170

public, is contained within an opaque, child-resistant bag that the medical cannabis pharmacy provides; and

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

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

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

(i) the medical cannabis cardholder has recently removed from the container described in Subsection ~~[(32)]~~ (35)(a)(ii) for use; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a ~~qualified~~ recommending medical provider has recommended a medical cannabis

## SB0170S01 compared with SB0170

treatment; and

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

(b) is connected to the electronic verification system.

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

(a) who meets the recommending qualifications; and

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

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

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

~~[(40)]~~ (43) "Recommend" or "recommendation" means, for a ~~[qualified]~~

recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

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

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

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

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

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

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

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

(b) who is licensed as:

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

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

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

## SB0170S01 compared with SB0170

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

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

(B) supervising physician is a qualified medical provider.

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

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

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

~~[(44)]~~ (49) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:

(a) a valid state-issued driver license or identification card;

(b) a valid United States ~~[federal- or state-issued]~~ federal-issued photo identification, including:

~~[(a)]~~ (a) a driver license;

~~[(b)]~~ (i) a United States passport;

~~[(c)]~~ (ii) a United States passport card; ~~[or]~~

~~[(d)]~~ (iii) a United States military identification card~~[-]; or~~

(iv) a permanent resident card or alien registration receipt card; or

(c) a passport that another country issued.

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

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

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

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

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

## SB0170S01 compared with SB0170

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

(c) select a third-party provider who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SB0170S01 compared with SB0170

recommended a medical cannabis treatment during a face-to-face visit with the patient; or

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

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

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

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

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

~~(d)~~ (e) connects with:

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

(A) the time and date of each purchase;

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

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

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

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

~~(e)~~ (f) provides access to:

## SB0170S01 compared with SB0170

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

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

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

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

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

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

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

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

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

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

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

(ii) after obtaining a warrant; and

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

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

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

## SB0170S01 compared with SB0170

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

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

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

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

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

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

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

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

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

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

~~(iii)~~ (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

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

(a) conducting medical and other department approved research;

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

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

## **SB0170S01 compared with SB0170**

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

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

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

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

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

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

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

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

(i) a third degree felony; and

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

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

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

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

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

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

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

## SB0170S01 compared with SB0170

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

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

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

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

(b) ~~[An]~~ Beginning on the earlier of September 1, 2021, or the date on which the department gives notice of that the electronic verification system is functionally capable as described in Subsection 26-61a-103(2)(d), an individual who meets the recommending qualifications [in Subsections 26-61a-106(2)(a)(iii) and (iv)] may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) [until January 1, 2021.] if:

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

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

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

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

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

(i) (A) that the individual or the individual's employee sends electronically to a medical

## SB0170S01 compared with SB0170

cannabis pharmacy; or

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

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).

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

(i) the date of issuance;

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

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

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

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

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

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

(iii) provides to the department evidence that the individual[:] meets the recommending qualifications; and

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

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

~~[(C) possesses the authority, in accordance with the individual's scope of practice, to~~

## SB0170S01 compared with SB0170

~~prescribe a Schedule II controlled substance;]~~

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

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

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

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

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

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

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

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

~~(i) a pharmacy medical provider; or~~

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

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

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

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

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

~~(i) complete continuing education:~~

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

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

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

## SB0170S01 compared with SB0170

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

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

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

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

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

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

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

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

(i) the provisions of this chapter;

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

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

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

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

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

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

## SB0170S01 compared with SB0170

verification system, if:

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

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

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

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

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

(i) a green cross;

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

(iii) a scientific study regarding medical cannabis use.

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

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

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

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

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

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

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

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

## SB0170S01 compared with SB0170

(i) applies for renewal;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58,

## SB0170S01 compared with SB0170

Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

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

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

(i) (A) whom the department has registered as a qualified medical provider; ~~[and]~~ or  
(B) who makes a recommendation as a limited medical provider; and

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

~~[(ii) before January 1, 2021, who:]~~

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

~~[(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and]~~

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

(i) whom the department has registered as a pharmacy medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

## SB0170S01 compared with SB0170

(4) (a) As used in this Subsection (4), "healthcare facility" means the same as that term is defined in Section 26-21-2.

(b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.

(c) An employee or agent of a healthcare facility described in this Subsection (4) is not subject to civil or criminal liability for carrying out employment duties, including:

(i) providing or supervising care to a medical cannabis cardholder; or

(ii) in accordance with a caregiver designation under Section ~~[26-61a-201]~~ 26-61a-202 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing medical cannabis for the relevant patient and in accordance with the designation.

(d) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4)(b).

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

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

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

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

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

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

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

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy

## **SB0170S01 compared with SB0170**

medical provider or medical cannabis pharmacy in accordance with Subsection 26-61a-501(11)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

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

(A) 60 days; or

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

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

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

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

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

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

(ii) the individual is a Utah resident;

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

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

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

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

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate

## **SB0170S01 compared with SB0170**

Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

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

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

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

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

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

(A) the minor has a qualifying condition;

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

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

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

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

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

## SB0170S01 compared with SB0170

the minor has adequate and safe access to the recommended medical cannabis treatment.

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

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

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

(iii) with information including:

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

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

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

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

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

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

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

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

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

## SB0170S01 compared with SB0170

treatment; and

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

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

(A) ingest or inhale medical cannabis;

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

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

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

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

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

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

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

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

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

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

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

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

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the

## SB0170S01 compared with SB0170

department issues under this section is valid for the lesser of:

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

or

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

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

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

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

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

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

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

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

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

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

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

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

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

## **SB0170S01 compared with SB0170**

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

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

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

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

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

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

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

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

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

(i) may possess:

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

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

(C) marijuana drug paraphernalia; and

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

(8) The department may revoke a medical cannabis card that the department issues

## SB0170S01 compared with SB0170

under this section if the cardholder:

(a) violates this chapter; or

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

(i) a felony; or

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

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

(a) risks associated with medical cannabis treatment;

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

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

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

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

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

(i) to a nonresident patient; and

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

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

(b) The department shall review a request described in Subsection ~~[(11)]~~ (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102,

## SB0170S01 compared with SB0170

could approve the research study.

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

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

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

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

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

(e) The department may release, for the purposes of a study described in this Subsection [(11)] (12), information about a cardholder under this section who consents to participate under Subsection [(11)] (12)(c).

(f) If an individual withdraws consent under Subsection [(11)] (12)(d), the withdrawal of consent:

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

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

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

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

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

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

(ii) The designation described in Subsection (1)(a)(i) takes effect if the state electronic verification system reflects a recommending medical provider's indication that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to

## SB0170S01 compared with SB0170

a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the [qualified] recommending medical provider recommends.

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

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

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

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

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

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

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

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

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

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

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

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's

## SB0170S01 compared with SB0170

medicinal use of cannabis; and

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

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

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

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

(ii) may possess marijuana drug paraphernalia; and

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

(3) (a) The department shall:

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

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

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

(C) complies with this section; and

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

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

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

(a) is at least 21 years old;

(b) is a Utah resident;

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

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201[~~(8)~~](9); and

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

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

(a) submit an application for a medical cannabis caregiver card to the department

## SB0170S01 compared with SB0170

through an electronic application connected to the state electronic verification system; and

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

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

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

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

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

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

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

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

(i) renews the cardholder's card; and

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

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

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

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

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

(a) violates this chapter; or

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

(i) a felony; or

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

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

## SB0170S01 compared with SB0170

### 26-61a-401. Medical cannabis pharmacy agent -- Registration.

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

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

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

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

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

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

## **SB0170S01 compared with SB0170**

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

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

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

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

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

(6) The department shall ensure that the certification standard described in Subsection

## SB0170S01 compared with SB0170

(5) includes training in:

- (a) Utah medical cannabis law; and
- (b) medical cannabis pharmacy best practices.

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

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
  - (i) a felony; or
  - (ii) after December 3, 2018, a misdemeanor for drug distribution.

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

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

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

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

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

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

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

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

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

(1) (a) A medical cannabis pharmacy:

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

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

## SB0170S01 compared with SB0170

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

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

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

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

(i) provides to the department:

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

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

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

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

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

(b) The department may not register a [qualified] recommending medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

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

(ii) as a condition precedent to renewal of the registration, four hours every two years.

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

(i) complete continuing education:

## **SB0170S01 compared with SB0170**

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

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

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

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

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

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

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

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

(i) the provisions of this chapter;

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

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

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

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

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

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

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

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

## **SB0170S01 compared with SB0170**

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

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

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

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

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

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

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

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

(i) at the physical address provided to the department under Section 26-61a-301; and  
(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, 26-61a-304.

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

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

- (a) is at least 18 years old; and
- (b) except as provided in Subsection (5), possesses a valid:
  - (i) medical cannabis pharmacy agent registration card;
  - (ii) pharmacy medical provider registration card; or
  - (iii) medical cannabis card.

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

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

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

## SB0170S01 compared with SB0170

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

(a) a single, secure public entrance;

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

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

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

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

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

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

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

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

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

(ii) the patient's name and address;

(iii) the date of issuance;

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

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

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

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

## SB0170S01 compared with SB0170

- (B) the unique identification number that the medical cannabis pharmacy assigns;
- (C) the date of the sale;
- (D) the name of the patient;
- (E) the name of the [qualified] recommending medical provider who recommended the medical cannabis treatment;
- (F) directions for use and cautionary statements, if any;
- (G) the amount dispensed and the cannabinoid content;
- (H) the suggested use date;
- (I) for unprocessed cannabis flower, the legal use termination date; and
- (J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

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

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) and (c):

(i) for a written order, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for a written order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (11)(a)(i) or an electronic order, enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

[(a)] (c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

## SB0170S01 compared with SB0170

~~(b)~~ (d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

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

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

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

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

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

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

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

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

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

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

## SB0170S01 compared with SB0170

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

(iii) a medical cannabis device; or

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

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

(i) (A) a medical cannabis card;

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

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

(ii) a corresponding valid form of photo identification.

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

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

(2) A medical cannabis pharmacy:

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

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

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

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

(b) may not dispense:

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

(ii) to an individual whose [~~qualified~~] recommending medical provider[~~, or for an individual described in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i),~~] did not recommend directions of use and dosing guidelines, until the individual

## SB0170S01 compared with SB0170

consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

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

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

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

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

(b) may not purchase:

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

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

(c) may not use a route of administration that the relevant [~~qualified~~] recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

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

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

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

(ii) prior treatment attempts with medical cannabis; and

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

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

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

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

## SB0170S01 compared with SB0170

consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the [qualified] recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

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

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

(6) A medical cannabis pharmacy shall:

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

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

(A) decline the sale; and

(B) notify the [qualified] recommending medical provider who made the underlying recommendation;

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

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

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

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

(iii) opaque; and

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

## SB0170S01 compared with SB0170

holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

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

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

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

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

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

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

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

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

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

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

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

~~[(iv) unless the medical professional recommends specific directions of using and]~~

## SB0170S01 compared with SB0170

dosing guidelines in the letter, the pharmacy medical provider determines the best course of treatment through consultation with the individual regarding:]

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

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

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

~~[(D) potential adverse reactions.]~~

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

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

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

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

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

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

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

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

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

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

~~[(11)] (10) A medical cannabis pharmacy may purchase and store medical cannabis~~

## **SB0170S01 compared with SB0170**

devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

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

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

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

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

(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

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

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

(b) the medical cannabis cardholder reports that:

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

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

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

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

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

## SB0170S01 compared with SB0170

(2) The state central patient portal shall:

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

(b) allow a medical cannabis patient cardholder to:

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

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

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201~~[(11)]~~(12);

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

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection 26-61a-502(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

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

## SB0170S01 compared with SB0170

Administrative Rulemaking Act, to implement the state central patient portal.

Section 15. Section **58-5a-102** is amended to read:

### **58-5a-102. Definitions.**

In addition to the definitions under Section 58-1-102, as used in this chapter:

- (1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.
- (2) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.
- (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.
- (5) "Unlawful conduct" includes:
  - (a) the conduct that constitutes unlawful conduct under Section 58-1-501; and
  - (b) for an individual who is not licensed under this chapter:
    - (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or
    - (ii) implying or representing that the individual is qualified to practice podiatry.
- (6) (a) "Unprofessional conduct" includes, for an individual licensed under this chapter:
  - ~~(a)~~ (i) the conduct that constitutes unprofessional conduct under Section 58-1-501;
  - ~~(b)~~ (ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;
  - ~~(c)~~ (iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;
  - ~~(d)~~ (iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;
  - ~~(e)~~ (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs

## SB0170S01 compared with SB0170

impairs the individual's ability to practice podiatry;

~~[(f)]~~ ~~(vi)~~ unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

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

~~[(h)]~~ ~~(viii)~~ willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

~~[(i)]~~ ~~(ix)~~ willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

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

~~[(k)]~~ ~~(xi)~~ conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

~~[(m)]~~ ~~(A)~~ a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

~~[(n)]~~ ~~(B)~~ conduct described in Subsections (6)(a)(i) through ~~[(k)]~~ ~~(xi)~~ or Subsection 58-1-501(1).

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

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

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

(1) "Unprofessional conduct" includes:

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

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character

## **SB0170S01 compared with SB0170**

and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

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

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

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

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

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

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

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

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

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

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

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

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

## SB0170S01 compared with SB0170

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(q) establishing or operating a pain clinic without a consultation and referral plan for Schedule II or III controlled substances; or

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

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

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

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

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

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

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

(1) As used in this section:

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

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

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

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

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

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

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

(h) "Qualifying condition" means the same as that term is defined in Section

## SB0170S01 compared with SB0170

26-61a-102.

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

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

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

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

~~[(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;]~~

~~[(ii) for possession, was:]~~

~~[(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or]~~

~~[(B) the spouse of an individual described in Subsection (2)(a)(i); or]~~

~~[(iii) (A) (i) for possession, was a medical cannabis cardholder; or]~~

~~[(B) (ii) for use, was a medical cannabis patient cardholder or a minor with a [qualifying condition] provisional patient card under the supervision of a medical cannabis guardian cardholder; and]~~

(b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(A) unprocessed cannabis in a medicinal dosage form; or

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

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(3) A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

## SB0170S01 compared with SB0170

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

- (i) unprocessed cannabis in a medicinal dosage form; or
- (ii) a cannabis product in a medicinal dosage form; and

(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4) (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of [~~tetrahydrocannabinol~~] tetrahydrocannabinol in the sample; and

(ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.

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

- (i) Section 4-41-402; or
- (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

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

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

(1) For the purposes of this section:

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

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

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

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

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

## SB0170S01 compared with SB0170

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

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

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

(b) (i) Beginning with the licensing period that begins after January 1, 2024, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements of Subsection (4).

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

(iii) A controlled substance prescriber:

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

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

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

(4) A controlled substance prescribing class shall:

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

(b) be delivered by an accredited or approved continuing education provider

## SB0170S01 compared with SB0170

recognized by the division as offering continuing education appropriate for the controlled substance prescriber's respective license type; and

(c) include a postcourse knowledge assessment.

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

(6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4) shall include educational content covering the following:

(a) the scope of the controlled substance abuse problem in Utah and the nation;

(b) all elements of the FDA Blueprint for Prescriber Education under the FDA's Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy, as published July 9, 2012, or as it may be subsequently revised;

(c) the national and Utah-specific resources available to prescribers to assist in appropriate controlled substance and opioid prescribing;

(d) patient record documentation for controlled substance and opioid prescribing; [~~and~~]

(e) office policies, procedures, and implementation[-]; and

(f) some training regarding medical cannabis, as that term is defined in Section 26-61a-102.

(7) (a) The division, in consultation with the Utah Medical Association Foundation, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for an M.D. or D.O.

(b) The division, in consultation with the applicable professional licensing boards, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber other than an M.D. or D.O.

(c) The division may by rule establish a committee that may audit compliance with the Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project grant, that satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber.

(d) The division shall consult with the Department of Health regarding the medical cannabis training described in Subsection (6)(f).

## SB0170S01 compared with SB0170

(8) A controlled substance prescribing class required under this section:

(a) may be held:

(i) in conjunction with other continuing professional education programs; and

(ii) online; and

(b) does not increase the total number of state-required continuing professional education hours required for prescriber licensing.

(9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours of the continuing education requirement under Subsection (3) for two consecutive licensing periods.

Section 19. Section **58-67-502** is amended to read:

### **58-67-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

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

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

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

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

## SB0170S01 compared with SB0170

- (i) obtaining an investigational drug or investigational device;
- (ii) administering the investigational drug to an eligible patient; or
- (iii) treating an eligible patient with the investigational drug or investigational device;

or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 20. Section **58-68-502** is amended to read:

### **58-68-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

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

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

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

## SB0170S01 compared with SB0170

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

- (i) obtaining an investigational drug or investigational device;
- (ii) administering the investigational drug to an eligible patient; or
- (iii) treating an eligible patient with the investigational drug or investigational device;

or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as ~~[that term is]~~ those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 21. Section **58-70a-503** is amended to read:

### **58-70a-503. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) failure to maintain at the practice site a delegation of services agreement that

## SB0170S01 compared with SB0170

accurately reflects current practices;

(e) failure to make the delegation of services agreement available to the division for review upon request;

(f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule;

(g) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

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

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

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

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2).

Section 22. Section **62A-4a-404** is amended to read:

**62A-4a-404. Fetal alcohol syndrome or spectrum disorder and drug dependency**

**-- Reporting requirements.**

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act;

(B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(C) Title 58, Chapter 67, Utah Medical Practice Act;

(D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

## SB0170S01 compared with SB0170

(ii) an unlicensed individual who practices midwifery.

(b) "Newborn child" means a child who is 30 days of age or younger.

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

(d) (i) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(ii) "Substance abuse" does not include use of drugs or other substances that are:

(A) obtained by lawful prescription and used as prescribed; or

(B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, and used as recommended by a [~~qualified~~] recommending medical provider.

(2) A health care provider who attends the birth of a newborn child or cares for a newborn child and determines any of the following, shall report the determination to the division as soon as possible:

(a) the newborn child:

(i) is adversely affected by the child's mother's substance abuse during pregnancy;

(ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

(iii) demonstrates drug or alcohol withdrawal symptoms; or

(b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

Section 23. Section **78A-2-231** is amended to read:

### **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

(1) As used in this section:

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

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

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

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

## SB0170S01 compared with SB0170

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

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's [~~qualified~~] recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 24. Section **78A-6-115** is amended to read:

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) For purposes of this Subsection (1)(b):

## **SB0170S01 compared with SB0170**

(A) "Record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a).

(B) "Subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the court shall release a record of a proceeding made under Subsection (1)(a) to any person upon a finding on the record for good cause.

(iii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iv) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and

## **SB0170S01 compared with SB0170**

in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the individual who wrote the report or prepared the material appear as a witness if the individual is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any individual who participated in preparing the dispositional report to appear as a witness, if the individual is reasonably available.

(5) (a) Except as provided in Subsections (5)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

- (i) plans to report to the court at the proceeding; or
- (ii) could reasonably expect would be requested of the party by the court at the

proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the day on which the proceeding is held;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the day on which the proceeding is held.

(c) The division is not required to provide a court report or a child and family plan to each party to the proceeding if:

- (i) the information is electronically filed with the court; and
- (ii) each party to the proceeding has access to the electronically filed information.

(d) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

## SB0170S01 compared with SB0170

(e) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in the court's discretion, consider evidence of statements made by a child under eight years of age to an individual in a trust relationship.

(7) (a) As used in this Subsection (7):

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

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

(iii) (A) "Chronic" means repeated or patterned.

(B) "Chronic" does not mean an isolated incident.

(iv) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(v) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

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

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

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(i) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's [~~qualified~~] recommending medical provider or through a

## **SB0170S01 compared with SB0170**

consultation described in Subsection 26-61a-502(4) or (5).

(c) In a child welfare proceeding, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105 unless there is evidence showing that:

(i) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(ii) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(d) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (7)(c), in a child welfare proceeding a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(i) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's [qualified] recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(ii) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(e) Subsection (7)(c) does not prohibit a finding of abuse or neglect of a child under Section 78A-6-105, and Subsection (7)(d) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

### **Section 25. Effective date.**

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

### **Section 26. Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in

## **SB0170S01 compared with SB0170**

preparing the Utah Code database for publication, replace the language "the effective date of this bill" in Subsections 26-61a-201(8)(b)(ii) and 58-37-3.7(2) to the bill's actual effective date.