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MEDICAL CANNABIS ACT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the cultivation, processing, recommending, dispensing, and use of medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends provisions regarding the reallocation of allowed cultivation space;
- ▶ creates the Cannabis Production Establishment Licensing Advisory Board and provides the board's composition and duties;
- ▶ amends provisions regarding a short-term or permanent increase in cultivation space;
- ▶ amends provisions regarding signage for cannabis production establishments and medical cannabis pharmacies;
- ▶ requires a cannabis cultivation facility to identify cannabis biomass and process or destroy cannabis cultivation byproduct;
- ▶ prohibits a cannabis cultivation facility from receiving industrial hemp waste without satisfying certain criteria;
- ▶ removes a requirement that a cannabis processing facility package cannabis and cannabis product in a container that is opaque;
- ▶ imposes certain labeling requirements regarding derivative and synthetic



- 28 cannabinoids;
- 29 ▶ requires the processing and testing of derivative and synthetic cannabinoids to a
- 30 certain product quality;
- 31 ▶ amends the rulemaking authority of UDAF regarding testing;
- 32 ▶ amends the duties of UDAF in the event testing identifies a defective batch of
- 33 cannabis or cannabis product;
- 34 ▶ amends the information required for a university to obtain a research license;
- 35 ▶ requires the electronic verification system to communicate dispensing information
- 36 to the controlled substance database;
- 37 ▶ allows the Compassionate Use Board to approve an individual for a medical
- 38 cannabis card for periods shorter than a standard initial period of validity;
- 39 ▶ allows a qualified medical provider to advertise the individual's registration as a
- 40 qualified medical provider;
- 41 ▶ clarifies certain duties of a qualified medical provider before recommending or
- 42 renewing a recommendation for medical cannabis;
- 43 ▶ requires DOH to record the issuance or revocation of a medical cannabis card in the
- 44 controlled substance database;
- 45 ▶ prohibits the removal or alteration of a label from a container that contains medical
- 46 cannabis;
- 47 ▶ authorizes DOH to issue a 15th medical cannabis pharmacy license in a specific
- 48 geographic region under certain circumstances;
- 49 ▶ allows a home delivery pharmacy to establish up to a certain number of medical
- 50 cannabis pharmacy warehouse locations to facilitate distribution of medical
- 51 cannabis shipments;
- 52 ▶ allows DOH to charge a license fee for any change in location, ownership, or
- 53 company structure for a medical cannabis pharmacy;
- 54 ▶ requires DOH to rescind a notice of an intent to issue a medical cannabis pharmacy
- 55 license if the medical cannabis pharmacy does not begin operations by a certain
- 56 date;
- 57 ▶ imposes restrictions on medical cannabis pharmacy and pharmacy medical provider
- 58 advertising;

- 59 ▶ allows an emancipated minor to enter a medical cannabis pharmacy and amends
- 60 other access provisions;
- 61 ▶ modifies a medical cannabis pharmacy labeling requirement;
- 62 ▶ clarifies information a qualified medical provider must submit if the qualified
- 63 medical provider intends for a pharmacy medical provider to determine directions
- 64 of use and dosing guidelines for a medical cannabis recommendation;
- 65 ▶ requires a medical cannabis pharmacy to provide an opaque, child-resistant bag in
- 66 which a medical cannabis cardholder is required to keep a container of medical
- 67 cannabis while transporting the container in public;
- 68 ▶ amends provisions governing what a medical cannabis pharmacy may and may not
- 69 give at no cost;
- 70 ▶ repeals an outdated method for a patient to obtain medical cannabis without a
- 71 medical cannabis card;
- 72 ▶ amends provisions regarding a medical cannabis pharmacy's logo, advertising, and
- 73 educational events;
- 74 ▶ clarifies that a person is not prohibited from selling a medical cannabis device
- 75 within the state; and
- 76 ▶ makes technical and conforming changes.

77 **Money Appropriated in this Bill:**

78 None

79 **Other Special Clauses:**

80 This bill provides a special effective date.

81 **Utah Code Sections Affected:**

82 AMENDS:

83 **4-41a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

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

85 **4-41a-201**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

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

87 **4-41a-203**, as last amended by Laws of Utah 2020, Chapter 12

88 **4-41a-204**, as last amended by Laws of Utah 2020, Chapter 12

89 **4-41a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

- 90 **4-41a-403**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 91 **4-41a-501**, as last amended by Laws of Utah 2020, Chapter 148
- 92 **4-41a-602**, as last amended by Laws of Utah 2020, Chapter 12
- 93 **4-41a-603**, as last amended by Laws of Utah 2020, Chapter 12
- 94 **4-41a-701**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 95 **4-41a-702**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 96 Chapter 1
- 97 **4-41a-901**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5
- 98 **26-61a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 99 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 100 **26-61a-103**, as last amended by Laws of Utah 2020, Chapter 12
- 101 **26-61a-105**, as last amended by Laws of Utah 2020, Chapter 12
- 102 **26-61a-106**, as last amended by Laws of Utah 2020, Chapter 12
- 103 **26-61a-201**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 104 **26-61a-202**, as last amended by Laws of Utah 2020, Chapter 12
- 105 **26-61a-204**, as last amended by Laws of Utah 2020, Chapter 12
- 106 **26-61a-301**, as last amended by Laws of Utah 2020, Chapters 12, 148, 354 and last
- 107 amended by Coordination Clause, Laws of Utah 2020, Chapter 148
- 108 **26-61a-305**, as last amended by Laws of Utah 2020, Chapter 12
- 109 **26-61a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 110 **26-61a-501**, as last amended by Laws of Utah 2020, Chapter 12
- 111 **26-61a-502**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 112 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 113 **26-61a-505**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 114 **26-61a-506**, as last amended by Laws of Utah 2020, Chapter 12
- 115 **26-61a-605**, as last amended by Laws of Utah 2020, Chapter 12
- 116 **26-61a-606**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 117 **26-61a-607**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 118 **58-37-3.7**, as last amended by Laws of Utah 2020, Chapter 12
- 119 **58-37-3.9**, as last amended by Laws of Utah 2020, Chapter 12
- 120 ENACTS:

121 [4-41a-201.1](#), Utah Code Annotated 1953



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

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

125 **4-41a-102. Definitions.**

126 As used in this chapter:

127 ~~[(1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and~~
128 ~~tetrahydrocannabinolic acid.]~~

129 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may
130 be injurious to health, including:

- 131 (a) pesticides;
- 132 (b) heavy metals;
- 133 (c) solvents;
- 134 (d) microbial life;
- 135 (e) toxins; or
- 136 (f) foreign matter.

137 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in
138 Section [26-61-201](#).

139 ~~[(2)]~~ (3) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

140 (4) "Cannabis concentrate" means:

- 141 (a) the product of any chemical or physical process applied to naturally occurring
142 biomass that concentrates or isolates the cannabinoids contained in the biomass; and
- 143 (b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic
144 cannabinoid's purified state.

145 (5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not
146 intended to be sold as a cannabis plant product.

147 ~~[(3)]~~ (6) "Cannabis cultivation facility" means a person that:

- 148 (a) possesses cannabis;
- 149 (b) grows or intends to grow cannabis; and
- 150 (c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis
151 processing facility, or a medical cannabis research licensee.

152 ~~[(4)]~~ (7) "Cannabis cultivation facility agent" means an individual who:
153 (a) is an employee of a cannabis cultivation facility; and
154 (b) holds a valid cannabis production establishment agent registration card.
155 (8) "Cannabis derivative product" means a product made using cannabis concentrate.
156 (9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold
157 in a form that is recognizable as a portion of a cannabis plant.
158 ~~[(5)]~~ (10) "Cannabis processing facility" means a person that:
159 (a) acquires or intends to acquire cannabis from a cannabis production establishment;
160 (b) possesses cannabis with the intent to manufacture a cannabis product;
161 (c) manufactures or intends to manufacture a cannabis product from unprocessed
162 cannabis or a cannabis extract; and
163 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
164 medical cannabis research licensee.
165 ~~[(6)]~~ (11) "Cannabis processing facility agent" means an individual who:
166 (a) is an employee of a cannabis processing facility; and
167 (b) holds a valid cannabis production establishment agent registration card.
168 ~~[(7)]~~ (12) "Cannabis product" means the same as that term is defined in Section
169 [26-61a-102](#).
170 ~~[(8)]~~ (13) "Cannabis production establishment" means a cannabis cultivation facility, a
171 cannabis processing facility, or an independent cannabis testing laboratory.
172 ~~[(9)]~~ (14) "Cannabis production establishment agent" means a cannabis cultivation
173 facility agent, a cannabis processing facility agent, or an independent cannabis testing
174 laboratory agent.
175 ~~[(10)]~~ (15) "Cannabis production establishment agent registration card" means a
176 registration card that the department issues that:
177 (a) authorizes an individual to act as a cannabis production establishment agent; and
178 (b) designates the type of cannabis production establishment for which an individual is
179 authorized to act as an agent.
180 ~~[(11)]~~ (16) "Community location" means a public or private elementary or secondary
181 school, a church, a public library, a public playground, or a public park.
182 ~~[(12)]~~ (17) "Cultivation space" means, quantified in square feet, the horizontal area in

183 which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area
184 if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above
185 other plants in multiple levels.

186 (18) "Delta-8-tetrahydrocannabinol" or "delta-8-THC" means the cannabinoid
187 identified as CAS# 5957-75-5, having a lower psychotropic potency than delta-9-THC.

188 (19) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid
189 identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.

190 ~~[(13)]~~ (20) "Department" means the Department of Agriculture and Food.

191 (21) "Derivative cannabinoid" means any cannabinoid that has been intentionally
192 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

193 ~~[(14)]~~ (22) "Family member" means a parent, step-parent, spouse, child, sibling,
194 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
195 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

196 ~~[(15)]~~ (23) (a) "Independent cannabis testing laboratory" means a person that:

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

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

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

202 ~~[(16)]~~ (24) "Independent cannabis testing laboratory agent" means an individual who:

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

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

205 (25) "Industrial hemp waste" means:

206 (a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp
207 biomass; or

208 (b) verified industrial hemp biomass with a total THC concentration of less than 0.3%
209 by dry weight.

210 ~~[(17)]~~ (26) "Inventory control system" means a system described in Section 4-41a-103.

211 (27) "Licensing board" or "board" means the Cannabis Production Establishment
212 Licensing Advisory Board created in Section 4-41a-201.1.

213 ~~[(18)]~~ (28) "Medical cannabis" means the same as that term is defined in Section

214 26-61a-102.

215 [~~(19)~~] (29) "Medical cannabis card" means the same as that term is defined in Section
216 26-61a-102.

217 [~~(20)~~] (30) "Medical cannabis pharmacy" means the same as that term is defined in
218 Section 26-61a-102.

219 [~~(21)~~] (31) "Medical cannabis pharmacy agent" means the same as that term is defined
220 in Section 26-61a-102.

221 [~~(22)~~] (32) "Medical cannabis research license" means a license that the department
222 issues to a research university for the purpose of obtaining and possessing medical cannabis for
223 academic research.

224 [~~(23)~~] (33) "Medical cannabis research licensee" means a research university that the
225 department licenses to obtain and possess medical cannabis for academic research, in
226 accordance with Section 4-41a-901.

227 [~~(24)~~] (34) "Medical cannabis treatment" means the same as that term is defined in
228 Section 26-61a-102.

229 [~~(25)~~] (35) "Medicinal dosage form" means the same as that term is defined in Section
230 26-61a-102.

231 [~~(26)~~] (36) "Qualified medical provider" means the same as that term is defined in
232 Section 26-61a-102.

233 [~~(27)~~] (37) "Qualified Production Enterprise Fund" means the fund created in Section
234 4-41a-104.

235 [~~(28)~~] (38) "Research university" means the same as that term is defined in Section
236 53B-7-702 and a private, nonprofit college or university in the state that:

- 237 (a) is accredited by the Northwest Commission on Colleges and Universities;
- 238 (b) grants doctoral degrees; and
- 239 (c) has a laboratory containing or a program researching a schedule I controlled
240 substance described in Section 58-37-4.

241 [~~(29)~~] (39) "State electronic verification system" means the system described in Section
242 26-61a-103.

243 (40) "Synthetic cannabinoid" means any cannabinoid that:

- 244 (a) was chemically synthesized from starting materials other than a naturally occurring

245 cannabinoid; and

246 (b) is not a derivative cannabinoid.

247 ~~[(30)]~~ (41) "Tetrahydrocannabinol" means a substance derived from cannabis or a
248 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

249 ~~[(31)]~~ (42) "Total composite tetrahydrocannabinol" means all detectable forms of
250 tetrahydrocannabinol.

251 (43) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined
252 amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC =
253 delta-9-THC + (THCA x 0.977)."

254 Section 2. Section **4-41a-201** is amended to read:

255 **4-41a-201. Cannabis production establishment -- License.**

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

258 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205[:], for
259 a licensing process that the department initiates after the effective date of this bill, the
260 department, through the licensing board, shall issue licenses in accordance with Section
261 4-41a-201.1.

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

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

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

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

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

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

274 (C) timely and objectively evaluate applications;

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

276 (E) select applicants to receive a license.

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

279 (b) An applicant is eligible for a license under this section if the applicant submits to
280 the [department] licensing board:

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

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

286 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
287 proposed cannabis production establishment;

288 (B) for a privately held company, a financial or voting interest in the proposed cannabis
289 production establishment; or

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

292 (iii) an operating plan that:

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

294 (B) includes operating procedures that comply with this chapter and any law the
295 municipality or county in which the person is located adopts that is consistent with Section
296 4-41a-406; and

297 (C) the department or licensing board approves;

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

300 (A) [~~\$250,000~~] \$150,000 for each cannabis cultivation facility for which the applicant
301 applies; or

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

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

306 (vi) a description of any investigation or adverse action taken by any licensing

307 jurisdiction, government agency, law enforcement agency, or court in any state for any
308 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
309 or businesses.

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

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

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

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

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

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

324 (3) ~~[(a)]~~ If the [department] licensing board approves an application for a license under
325 this section and Section 4-41a-201.1:

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

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

329 ~~[(B)]~~ (ii) a fee for a 120-day limited license to operate as a cannabis processing facility
330 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
331 Subsection (3)(a)(i)~~[(A)]~~[-]; and

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

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

336 ~~[(B) Except as provided in Subsection (3)(b)(i)(C), the department may not renew the~~
337 ~~120-day limited license.]~~

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

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

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

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

344 (4) (a) Except as provided in Subsection (4)(b), ~~[the department]~~ a cannabis production
345 establishment shall ~~[require]~~ obtain a separate license for each type of cannabis production
346 establishment and each location of a cannabis production establishment.

347 (b) The ~~[department]~~ licensing board may issue a cannabis cultivation facility license
348 and a cannabis processing facility license to a person to operate at the same physical location or
349 at separate physical locations.

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

354 (6) The ~~[department]~~ licensing board may not issue a license to operate an independent
355 cannabis testing laboratory to a person who:

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

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

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

364 (7) The ~~[department]~~ licensing board may not issue a license to operate a cannabis
365 production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

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

367 (i) a felony; or

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

- 369 (b) is younger than 21 years old; or
- 370 (c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.
- 371 (8) (a) If an applicant for a cannabis production establishment license under this
- 372 section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the [department]
- 373 licensing board may not give preference to the applicant based on the applicant's status as a
- 374 holder of the license.
- 375 (b) If an applicant for a license to operate a cannabis cultivation facility under this
- 376 section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a,
- 377 Utah Medical Cannabis Act, the [department] licensing board:
- 378 (i) shall consult with the Department of Health regarding the applicant; and
- 379 (ii) may give consideration to the applicant based on the applicant's status as a holder
- 380 of a medical cannabis pharmacy license if:
- 381 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
- 382 result from the applicant's vertical integration than from a more competitive marketplace; and
- 383 (B) the [department] licensing board finds multiple other factors, in addition to the
- 384 existing license, that support granting the new license.
- 385 (9) The [department] licensing board may revoke a license under this part:
- 386 (a) if the cannabis production establishment does not begin cannabis production
- 387 operations within one year after the day on which the [department] licensing board issues the
- 388 initial license;
- 389 (b) after the third of the same violation of this chapter in any of the licensee's licensed
- 390 cannabis production establishments or medical cannabis pharmacies;
- 391 (c) if any individual described in Subsection (2)(b) is convicted, while the license is
- 392 active, under state or federal law of:
- 393 (i) a felony; or
- 394 (ii) after December 3, 2018, a misdemeanor for drug distribution;
- 395 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
- 396 the time of application, or fails to supplement the information described in Subsection
- 397 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
- 398 application within 14 calendar days after the licensee receives notice of the investigation or
- 399 adverse action; or

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

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

408 (b) If a licensee fails to submit to the ~~[department]~~ licensing board a copy of the
409 licensee's approved land use permit application in accordance with Subsection (10)(a), the
410 ~~[department]~~ licensing board may revoke the licensee's license.

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

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

415 (13) (a) The department's authority, and consequently the licensing board's authority, to
416 issue a license under this section is plenary and is not subject to review.

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

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

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

421 (14) Notwithstanding this section, the department:

422 (a) may not issue more than four licenses to operate an independent cannabis testing
423 laboratory;

424 ~~[(a)]~~ (b) may operate an independent cannabis testing laboratory;

425 ~~[(b)]~~ (c) if the department operates an independent cannabis testing laboratory, may not
426 cease operating the independent cannabis testing laboratory unless:

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

429 (ii) the department has ensured that the licensed independent cannabis testing
430 laboratories have sufficient capacity to provide the testing necessary to support the state's

431 medical cannabis market; and

432 ~~[(e)]~~ (d) after ceasing operations under Subsection ~~[(14)(b)(ii)]~~ (14)(d)(ii) shall resume
433 independent cannabis testing laboratory operations at any time if:

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

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

437 Section 3. Section **4-41a-201.1** is enacted to read:

438 **4-41a-201.1. Cannabis Production Establishment Licensing Advisory Board --**

439 **Composition -- Duties.**

440 (1) As used in this section, "nominating individual or entity" means the individual or
441 entity described in Subsection (3)(a)(i) who nominates an individual for the commissioner's
442 appointment to the board.

443 (2) There is created within the department the Cannabis Production Establishment
444 Licensing Advisory Board.

445 (3) (a) The board shall consist of the following six members:

446 (i) the following five voting members whom the commissioner appoints:

447 (A) one member whom the speaker of the House of Representatives nominates;

448 (B) one member whom the president of the Senate nominates;

449 (C) one member whom the governor nominates;

450 (D) one member whom an organization representing medical cannabis patients

451 nominates; and

452 (E) a chemist who has experience with cannabis and who is associated with a research
453 university; and

454 (ii) the commissioner or the commissioner's designee as a non-voting member, except
455 to cast a deciding vote in the event of a tie.

456 (b) The commissioner or the commissioner's designee shall serve as the chair of the
457 board.

458 (4) (a) Except as provided in Subsection (4)(b), a voting board member shall serve a
459 term of four years, beginning July 1 and ending June 30.

460 (b) Notwithstanding Subsection (4)(a), for the initial appointments to the board, the
461 commissioner shall stagger the length of the terms of board members to ensure that the

462 commissioner appoints two or three board members every two years.

463 (c) As a board member's term expires:

464 (i) the board member is eligible for reappointment;

465 (ii) the nominating individual or entity shall nominate an individual for the

466 commissioner's consideration; and

467 (iii) the commissioner shall make an appointment for the new term before the end of
468 the member's term.

469 (d) When a vacancy occurs on the board for any reason other than the expiration of a
470 board member's term, the commissioner shall, in consultation with the nominating individual
471 or entity, appoint a replacement to the vacant position for the unexpired term.

472 (e) In making appointments, the commissioner shall ensure that no two members of the
473 board are employed by or represent the same company or nonprofit organization.

474 (f) The commissioner may remove a board member for cause, neglect of duty,
475 inefficiency, or malfeasance.

476 (5) (a) (i) Four members of the board constitute a quorum of the board.

477 (ii) An action of the majority of the board members when a quorum is present
478 constitutes an action of the board.

479 (b) The department shall provide staff support to the board.

480 (c) A member of the board may not receive compensation or benefits for the member's
481 service, but may receive per diem and travel expenses in accordance with:

482 (i) Section [63A-3-106](#);

483 (ii) Section [63A-3-107](#); and

484 (iii) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
485 [63A-3-107](#).

486 (6) The board shall:

487 (a) meet as called by the chair to review cannabis production establishment license
488 applications;

489 (b) review each license application for compliance with:

490 (i) this chapter; and

491 (ii) department rules;

492 (c) conduct a public hearing to consider the license application;

- 493 (d) approve the department's license application forms and checklists; and
494 (e) make a determination on each license application.
495 (7) The board shall hold a public hearing to review a cannabis production
496 establishment's license if the establishment:
497 (a) changes ownership by an interest of 20% or more;
498 (b) changes or adds a location;
499 (c) upgrades to a different licensing tier under department rule;
500 (d) changes extraction or formulation standard operating procedures;
501 (e) adds an industrial hemp processing or cultivation license to the same location as the
502 cannabis production establishment's processing facility; or
503 (f) as necessary based on the recommendation of the department.
504 (8) (a) The board shall meet annually in December to consider cannabis production
505 establishment license renewal applications.
506 (b) During the meeting described in Subsection (8)(a):
507 (i) a representative from each applicant for renewal shall:
508 (A) attend in person or electronically; or
509 (B) submit information before the meeting, as the board may require, for the board's
510 consideration; and
511 (ii) the board shall consider, for each cannabis cultivation facility seeking renewal,
512 information including:
513 (A) the amount of biomass the licensee produced during the current calendar year;
514 (B) the amount of biomass the licensee projects to produce during the following year;
515 (C) the amount of hemp waste the licensee currently holds;
516 (D) the current square footage or acres of growing area the licensee uses; and
517 (E) the square footage or acres of growing area the licensee projects to use in the
518 following year; and
519 (iii) the board shall consider, for each cannabis processing facility seeking renewal,
520 information including:
521 (A) methods and procedures for extraction;
522 (B) standard operating procedures; and
523 (C) a complete listing of the medical dosage forms that the licensee produces.

524 (c) The information a licensee or license applicant provides to the board for a license
525 determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the
526 applicant or licensee provides the board with the information regarding business confidentiality
527 required in Section 63G-2-309.

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

529 **4-41a-203. Renewal.**

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

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

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

537 (3) if the cannabis production establishment changes the operating plan described in
538 Section **4-41a-204** that the department or licensing board approved under Subsection
539 **4-41a-201(2)(b)(iii)**, the department approves the new operating plan.

540 Section 5. Section **4-41a-204** is amended to read:

541 **4-41a-204. Operating plan.**

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

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

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

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

551 (ii) any highly skilled or experienced prospective employee;

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

553 (d) a security plan;

554 (e) a description of the cannabis production establishment's inventory control system,

555 including a description of how the inventory control system is compatible with the state
556 electronic verification system described in Section 26-61a-103;

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

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

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

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

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

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

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

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

571 (i) for a facility that cultivates cannabis only indoors, use more than 100,000 total
572 square feet of cultivation space;

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

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

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

580 (A) a one-time, permanent increase of up to 20% of the limitation on the cannabis
581 cultivation facility's cultivation space; or

582 (B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on
583 the cannabis cultivation facility's cultivation space.

584 (ii) [~~The department may, after~~] After conducting a review [~~as~~] equivalent to the
585 review described in Subsection 4-41a-205(2)(a), if the department determines that additional

586 cultivation is needed, the department may:

587 (A) grant the [authorization] one-time, permanent increase described in Subsection
588 [(2)(c)(i).] (2)(c)(i)(A); or

589 (B) grant the short-term increase described in Subsection (2)(c)(i)(B).

590 (d) If a licensee describes an intended acreage or square footage under cultivation
591 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b)[:(†)],
592 the licensee may not cultivate more than the licensee's identified intended acreage or square
593 footage under cultivation[; and].

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

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

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

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

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

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

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

609 (a) offered variety of cannabis product;

610 (b) cannabinoid extraction method;

611 (c) cannabinoid extraction equipment;

612 (d) processing equipment;

613 (e) processing techniques; and

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

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

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

621 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
622 establishment is subject to land use regulations, as defined in Sections 10-9a-103 and
623 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

624 Section 6. Section 4-41a-301 is amended to read:

625 **4-41a-301. Cannabis production establishment agent -- Registration.**

626 (1) An individual may not act as a cannabis production establishment agent unless the
627 department registers the individual as a cannabis production establishment agent, regardless of
628 whether the individual is a seasonal, temporary, or permanent employee.

629 (2) The following individuals, regardless of the individual's status as a qualified
630 medical provider, may not serve as a cannabis production establishment agent, have a financial
631 or voting interest of 2% or greater in a cannabis production establishment, or have the power to
632 direct or cause the management or control of a cannabis production establishment:

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

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

636 (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
637 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

638 (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
639 Act.

640 (3) An independent cannabis testing laboratory agent may not act as an agent for a
641 medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a
642 cannabis cultivation facility.

643 (4) (a) The department shall, within 15 business days after the day on which the
644 department receives a complete application from a cannabis production establishment on
645 behalf of a prospective cannabis production establishment agent, register and issue a cannabis
646 production establishment agent registration card to the prospective agent if the cannabis
647 production establishment:

648 (i) provides to the department:
649 (A) the prospective agent's name and address;
650 (B) the name and location of a licensed cannabis production establishment where the
651 prospective agent will act as the cannabis production establishment's agent; and
652 (C) the submission required under Subsection (4)(b); and
653 (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5),
654 the department sets in accordance with Section 63J-1-504.

655 (b) Except for an applicant reapplying for a cannabis production establishment agent
656 registration card within less than one year after the expiration of the applicant's previous
657 cannabis production establishment agent registration card, each prospective agent described in
658 Subsection (4)(a) shall:

659 (i) submit to the department:
660 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
661 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
662 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
663 Generation Identification System's Rap Back Service; and
664 (ii) consent to a fingerprint background check by:
665 (A) the Bureau of Criminal Identification; and
666 (B) the Federal Bureau of Investigation.
667 (c) The Bureau of Criminal Identification shall:
668 (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against
669 the applicable state, regional, and national criminal records databases, including the Federal
670 Bureau of Investigation Next Generation Identification System;
671 (ii) report the results of the background check to the department;
672 (iii) maintain a separate file of fingerprints that prospective agents submit under
673 Subsection (4)(b) for search by future submissions to the local and regional criminal records
674 databases, including latent prints;
675 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
676 Generation Identification System's Rap Back Service for search by future submissions to
677 national criminal records databases, including the Next Generation Identification System and
678 latent prints; and

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

682 (d) The department shall:

683 (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an
684 amount that the department sets in accordance with Section 63J-1-504 for the services that the
685 Bureau of Criminal Identification or another authorized agency provides under this section; and

686 (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal
687 Identification.

688 (5) The department shall designate, on an individual's cannabis production
689 establishment agent registration card:

690 (a) the name of the cannabis production establishment where the individual is
691 registered as an agent; and

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

694 (6) A cannabis production establishment agent shall comply with:

695 (a) a certification standard that the department develops; or

696 (b) a certification standard that the department has reviewed and approved.

697 (7) (a) The department shall ensure that the certification standard described in
698 Subsection (6) includes training:

699 (i) in Utah medical cannabis law;

700 (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

701 (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing
702 safety procedures for items for human consumption, and sanitation best practices; and

703 (iv) for an independent cannabis testing laboratory agent, in cannabis testing best
704 practices.

705 (b) The department shall review the training described in Subsection (7)(a) annually or
706 as often as necessary to ensure compliance with this section.

707 (8) For an individual who holds or applies for a cannabis production establishment
708 agent registration card:

709 (a) the department may revoke or refuse to issue the card if the individual violates the

710 requirements of this chapter; and

711 (b) the department shall revoke or refuse to issue the card if the individual is convicted
712 under state or federal law of:

713 (i) a felony; or

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

715 (9) (a) A cannabis production establishment agent registration card expires two years
716 after the day on which the department issues the card.

717 (b) A cannabis production establishment agent may renew the agent's registration card
718 if the agent:

719 (i) is eligible for a cannabis production establishment registration card under this
720 section;

721 (ii) certifies to the department in a renewal application that the information in
722 Subsection (4)(a) is accurate or updates the information; and

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

724 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section
725 63J-1-504; and

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

728 Section 7. Section 4-41a-403 is amended to read:

729 **4-41a-403. Advertising.**

730 (1) Except as provided in this section, a cannabis production establishment may not
731 advertise to the general public in any medium.

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

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

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

736 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
737 devices.

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

741 ~~[(a)]~~ (i) includes only:
742 ~~[(i)]~~ (A) in accordance with Subsection (4)(b), the cannabis production establishment's
743 name, logo, and hours of operation; and
744 ~~[(ii)]~~ (B) a green cross; and
745 ~~[(b)]~~ (ii) complies with local ordinances regulating signage.
746 (b) The department shall define standards for a cannabis production establishment's
747 name and logo to ensure a medical rather than recreational disposition.
748 (5) (a) A cannabis production establishment may hold an educational event for the
749 public or medical providers in accordance with this Subsection (5) and the rules described in
750 Subsection (5)(c).
751 (b) A cannabis production establishment may not include in an educational event
752 described in Subsection (5)(a):
753 (i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical
754 Cannabis Act;
755 (ii) any gift items or merchandise other than educational materials, as those terms are
756 defined by the department;
757 (iii) any marketing for a specific product from the cannabis production establishment
758 or any other statement, claim, or information that would violate the federal Food, Drug, and
759 Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or
760 (iv) a presenter other than the following:
761 (A) a cannabis production establishment agent;
762 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
763 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
764 Practice Act;
765 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
766 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
767 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
768 Act; or
769 (F) a state employee.
770 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
771 Administrative Rulemaking Act, to define the elements of and restrictions on the educational

772 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

773 Section 8. Section **4-41a-501** is amended to read:

774 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

775 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
776 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation
777 facility perimeter.

778 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the
779 [~~cannabis cultivation~~] facility's inventory control system to identify:

780 (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each
781 cannabis plant;

782 (b) each unique harvest of cannabis plants;

783 (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a
784 cannabis processing facility, or an independent cannabis testing laboratory; and

785 (d) any excess, contaminated, or deteriorated cannabis of which the cannabis
786 cultivation facility disposes.

787 [~~(3) In a cannabis cultivation facility's acquisition of material related to cannabis
788 cultivation, a cannabis cultivation facility may acquire industrial hemp, an industrial hemp
789 product, or industrial hemp waste from an industrial hemp cultivator or processor.]~~

790 (3) A cannabis cultivation facility shall identify cannabis biomass as cannabis
791 byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

792 (4) A cannabis cultivation facility shall either:

793 (a) chemically or physically process cannabis cultivation byproduct to produce a
794 cannabis concentrate for incorporation into cannabis derivative products; or

795 (b) destroy cannabis cultivation byproduct in accordance with Section [4-41a-405](#).

796 (5) (a) (i) A cannabis cultivation facility may not purchase or otherwise receive
797 industrial hemp waste unless the waste meets department cannabis testing standards, as
798 determined by an independent cannabis testing laboratory, before the transfer of the waste to
799 the cannabis cultivation facility.

800 (ii) Upon receipt of the industrial hemp waste described in Subsection (5)(a)(i), the
801 cannabis cultivation facility shall assign a unique identifier to the industrial hemp waste that is
802 connected to the facility's inventory control system.

803 (iii) Industrial hemp waste described in this Subsection (5)(a) is considered to be
804 cannabis for all testing and regulatory purposes of the department.

805 (b) Except as provided in Subsection (5)(a), a cannabis production establishment or
806 agent may not receive industrial hemp waste for entry into the medical cannabis program.

807 Section 9. Section **4-41a-602** is amended to read:

808 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

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

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

816 (iii) has a unique identification number that:

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

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

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

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

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

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

828 (i) is tamper evident and tamper resistant;

829 (ii) does not appeal to children;

830 (iii) does not mimic a candy container;

831 [~~(iv) is opaque;~~]

832 [~~(v)~~] (iv) complies with child-resistant effectiveness standards that the United States
833 Consumer Product Safety Commission establishes; and

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

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

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

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

845 (3) For any cannabis product that contains any derivative cannabinoid or synthetic
846 cannabinoid, the cannabis processing facility shall ensure that the label clearly identifies each
847 derivative cannabinoid or synthetic cannabinoid.

848 [~~(3)~~] (4) The department shall make rules in accordance with Title 63G, Chapter 3,
849 Utah Administrative Rulemaking Act to establish:

850 (a) a standard labeling format that:

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

852 (ii) ensures inclusion of a pharmacy label; and

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

855 Section 10. Section **4-41a-603** is amended to read:

856 **4-41a-603. Cannabis product -- Product quality.**

857 (1) A cannabis processing facility:

858 (a) may not produce a cannabis product in a physical form that:

859 (i) the facility knows or should know appeals to children;

860 (ii) is designed to mimic or could be mistaken for a candy product; or

861 (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another
862 flavor that the facility knows or should know appeals to children; and

863 (b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor
864 that the department approves to facilitate minimizing the taste or odor of cannabis.

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

867 (3) A cannabis processing facility shall isolate derivative cannabinoids and synthetic
868 cannabinoids to a purity of greater than 95%, as determined by an independent cannabis testing
869 laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

870 ~~[(3)]~~ (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3,
871 Utah Administrative Rulemaking Act, human safety standards for the manufacturing of
872 cannabis products that are consistent with best practices for the use of cannabis.

873 Section 11. Section ~~4-41a-701~~ is amended to read:

874 **4-41a-701. Cannabis and cannabis product testing.**

875 ~~[(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis~~
876 ~~processing facility unless an independent cannabis testing laboratory has tested a representative~~
877 ~~sample of the cannabis or cannabis product to determine that the presence of contaminants,~~
878 ~~including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material,~~
879 ~~does not exceed an amount that is safe for human consumption.]~~

880 ~~[(2) A cannabis processing facility may not offer any cannabis or cannabis products for~~
881 ~~sale to a medical cannabis pharmacy and a medical cannabis pharmacy may not offer any~~
882 ~~cannabis or cannabis product for sale unless an independent cannabis testing laboratory has~~
883 ~~tested a representative sample of the cannabis or cannabis product to determine:]~~

884 ~~[(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the~~
885 ~~cannabis or cannabis product; and]~~

886 ~~[(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the~~
887 ~~label claims the cannabis or cannabis product contains;]~~

888 ~~[(b) that the presence of contaminants, including mold, fungus, pesticides, microbial~~
889 ~~contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for~~
890 ~~human consumption; and]~~

891 ~~[(c) for a cannabis product that is manufactured using a process that involves extraction~~
892 ~~using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that~~
893 ~~is not safe for human consumption.]~~

894 ~~[(3) By rule, in]~~

895 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

896 department may make rules to:

897 (a) determine required adulterant tests for a cannabis plant product, cannabis
898 concentrate, or cannabis product;

899 ~~[(a) may]~~ (b) determine the amount of any [substance described in Subsections (2)(b)
900 and (c)] adulterant that is safe for human consumption; [and]

901 ~~[(b) shall]~~ (c) establish protocols for a recall of cannabis or a cannabis product by a
902 cannabis production establishment[-]; or

903 (d) allow the propagation of testing results forward to derived product if the processing
904 steps the cannabis production establishment uses to produce the product are unlikely to change
905 the results of the test.

906 ~~[(4)]~~ (2) The department may require testing for a toxin if:

907 (a) the department receives information indicating the potential presence of a toxin; or

908 (b) the department's inspector has reason to believe a toxin may be present based on the
909 inspection of a facility.

910 (3) (a) A cannabis production establishment may not:

911 (i) incorporate cannabis concentrate into a cannabis derivative product until an
912 independent cannabis testing laboratory tests the cannabis concentrate in accordance with
913 department rule; or

914 (ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an
915 independent cannabis testing laboratory tests a representative sample of the cannabis or
916 cannabis product in accordance with department rule.

917 (b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for
918 sale unless an independent cannabis testing laboratory has tested a representative sample of the
919 cannabis or cannabis product in accordance with department rule.

920 ~~[(5)]~~ (4) The department shall establish by rule, in accordance with Title 63G, Chapter
921 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
922 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

923 ~~[(6)]~~ (5) The department may require an independent cannabis testing laboratory to
924 participate in a proficiency evaluation that the department conducts or that an organization that
925 the department approves conducts.

926 Section 12. Section **4-41a-702** is amended to read:

927 **4-41a-702. Reporting -- Inspections -- Seizure by the department.**

928 (1) If an independent cannabis testing laboratory determines that the results of a lab test
929 indicate that a cannabis or cannabis product batch may be unsafe for human use:

930 (a) the independent cannabis testing laboratory shall~~[(t)]~~ report the results and the
931 cannabis or cannabis product batch to:

932 ~~[(A)]~~ (i) the department; and

933 ~~[(B)]~~ (ii) the cannabis production establishment that prepared the cannabis or cannabis
934 product batch; ~~[and]~~

935 ~~[(ii) retain possession of the cannabis or cannabis product batch for two weeks in order
936 to investigate the cause of the defective batch and to make a determination; and]~~

937 (b) the department shall place a hold on the cannabis or cannabis product batch to:

938 (i) investigate the cause of the defective batch; and

939 (ii) make a determination; and

940 ~~[(b)]~~ (c) the cannabis production establishment that prepared the cannabis or cannabis
941 product batch may appeal the determination described in Subsection (1)(a)(ii) to the
942 department.

943 (2) If the department determines, under Subsection (1)~~[(a)]~~(b)(ii) or following an
944 appeal under Subsection (1)~~[(b)]~~(c), that a cannabis or cannabis product prepared by a cannabis
945 production establishment is unsafe for human consumption, the department may seize,
946 embargo, or destroy, in the same manner as a cannabis production establishment under Section
947 4-41a-405, the cannabis or cannabis product batch.

948 (3) If an independent cannabis testing laboratory determines that the results of a lab test
949 indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more
950 than 10% from the amounts the label indicates, the cannabis processing facility may not sell the
951 cannabis or cannabis product batch unless the facility replaces the incorrect label with a label
952 that correctly indicates the cannabinoid content.

953 Section 13. Section **4-41a-901** is amended to read:

954 **4-41a-901. Academic medical cannabis research -- License.**

955 (1) A medical cannabis research licensee may, subject to department rules described in
956 Subsection (4), obtain from a cannabis production establishment or a medical cannabis
957 pharmacy, and possess~~;~~ cannabis for academic medical cannabis research.

958 (2) The department shall license a research university to obtain and possess cannabis
959 for the purpose of academic medical cannabis research if the research university submits to the
960 department:

961 (a) the location where the research university intends to conduct the research;
962 (b) the research university's research plan; and
963 (c) the name of the ~~[employee]~~ principal investigator of the research university who
964 will:

965 (i) supervise the ~~[obtaining]~~ procurement, possession, and security of cannabis and
966 cannabis product; and

967 ~~[(ii) be responsible to possess and secure the cannabis; and]~~

968 ~~[(iii)]~~ (ii) oversee the academic research.

969 (3) The department shall maintain a list of each medical cannabis research licensee.

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

972 (a) establish requirements for a licensee to:

973 (i) participate in academic medical cannabis research;

974 (ii) obtain from a cannabis production establishment, and possess, cannabis for
975 academic medical cannabis research; and

976 (b) set sampling and testing procedures.

977 (5) A medical cannabis research licensee shall provide to the department written
978 consent allowing a representative of the department and local law enforcement to enter all
979 premises where the licensee possesses or stores cannabis for the purpose of:

980 (a) conducting a physical inspection; or

981 (b) ensuring compliance with the requirements of this chapter.

982 (6) An individual who has been convicted of a drug related felony within the last 10
983 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis
984 research licensee's license under this part.

985 (7) The department may set a fee, in accordance with Subsection [4-2-103\(2\)](#), for the
986 application for a medical cannabis research license.

987 Section 14. Section **26-61a-102** is amended to read:

988 **26-61a-102. Definitions.**

989 As used in this chapter:

990 (1) "Active tetrahydrocannabinol" means Delta-8-THC, Delta-9-THC, and
991 tetrahydrocannabinolic acid.

992 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in
993 Section 26-61-201.

994 [~~1~~] (3) "Cannabis" means marijuana.

995 [~~2~~] (4) "Cannabis cultivation facility" means the same as that term is defined in
996 Section 4-41a-102.

997 [~~3~~] (5) "Cannabis processing facility" means the same as that term is defined in
998 Section 4-41a-102.

999 [~~4~~] (6) "Cannabis product" means a product that:

1000 (a) is intended for human use; and

1001 (b) contains cannabis or tetrahydrocannabinol.

1002 [~~5~~] (7) "Cannabis production establishment" means the same as that term is defined
1003 in Section 4-41a-102.

1004 [~~6~~] (8) "Cannabis production establishment agent" means the same as that term is
1005 defined in Section 4-41a-102.

1006 [~~7~~] (9) "Cannabis production establishment agent registration card" means the same
1007 as that term is defined in Section 4-41a-102.

1008 [~~8~~] (10) "Community location" means a public or private elementary or secondary
1009 school, a church, a public library, a public playground, or a public park.

1010 (11) "Controlled substance database" means the controlled substance database created
1011 in Section 58-37f-201.

1012 (12) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:

1013 (a) is similar to Delta-9-THC with a lower psychotropic potency; and

1014 (b) interacts with the CB1 receptor of the nervous system.

1015 (13) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic
1016 cannabinoid in cannabis.

1017 [~~9~~] (14) "Department" means the Department of Health.

1018 [~~10~~] (15) "Designated caregiver" means:

1019 (a) an individual:

1020 (i) whom an individual with a medical cannabis patient card or a medical cannabis
1021 guardian card designates as the patient's caregiver; and

1022 (ii) who registers with the department under Section [26-61a-202](#); or

1023 (b) (i) a facility that an individual designates as a designated caregiver in accordance
1024 with Subsection [26-61a-202](#)(1)(b); or

1025 (ii) an assigned employee of the facility described in Subsection [26-61a-202](#)(1)(b)(ii).

1026 ~~[(11)]~~ [\(16\)](#) "Directions of use" means recommended routes of administration for a
1027 medical cannabis treatment and suggested usage guidelines.

1028 ~~[(12)]~~ [\(17\)](#) "Dosing guidelines" means a quantity range and frequency of administration
1029 for a recommended treatment of medical cannabis.

1030 ~~[(13)]~~ [\(18\)](#) "Financial institution" means a bank, trust company, savings institution, or
1031 credit union, chartered and supervised under state or federal law.

1032 ~~[(14)]~~ [\(19\)](#) "Home delivery medical cannabis pharmacy" means a medical cannabis
1033 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
1034 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
1035 that the state central patient portal facilitates.

1036 ~~[(15)]~~ [\(20\)](#) "Inventory control system" means the system described in Section
1037 [4-41a-103](#).

1038 ~~[(16)]~~ [\(21\)](#) "Legal dosage limit" means an amount that:

1039 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
1040 relevant qualified medical provider or the state central patient portal or pharmacy medical
1041 provider, in accordance with Subsection ~~[[26-61a-201](#)(4)]~~ [26-61a-502](#)(4) or (5), recommends;
1042 and

1043 (b) may not exceed:

1044 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

1045 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
1046 greater than 20 grams of active tetrahydrocannabinol.

1047 ~~[(17)]~~ [\(22\)](#) "Legal use termination date" means a date on the label of a container of
1048 unprocessed cannabis flower:

1049 (a) that is 60 days after the date of purchase of the cannabis; and

1050 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the

- 1051 primary residence of the relevant medical cannabis patient cardholder.
- 1052 ~~[(18)]~~ (23) "Marijuana" means the same as that term is defined in Section 58-37-2.
- 1053 ~~[(19)]~~ (24) "Medical cannabis" means cannabis in a medicinal dosage form or a
- 1054 cannabis product in a medicinal dosage form.
- 1055 ~~[(20)]~~ (25) "Medical cannabis card" means a medical cannabis patient card, a medical
- 1056 cannabis guardian card, or a medical cannabis caregiver card.
- 1057 ~~[(21)]~~ (26) "Medical cannabis cardholder" means:
- 1058 (a) a holder of a medical cannabis card; or
- 1059 (b) a facility or assigned employee, described in Subsection ~~[(10)]~~ (15)(b), only:
- 1060 (i) within the scope of the facility's or assigned employee's performance of the role of a
- 1061 medical cannabis patient cardholder's caregiver designation under Subsection
- 1062 26-61a-202(1)(b); and
- 1063 (ii) while in possession of documentation that establishes:
- 1064 (A) a caregiver designation described in Subsection 26-61a-202(1)(b);
- 1065 (B) the identity of the individual presenting the documentation; and
- 1066 (C) the relation of the individual presenting the documentation to the caregiver
- 1067 designation.
- 1068 ~~[(22)]~~ (27) "Medical cannabis caregiver card" means an electronic document that a
- 1069 cardholder may print or store on an electronic device or a physical card or document that:
- 1070 (a) the department issues to an individual whom a medical cannabis patient cardholder
- 1071 or a medical cannabis guardian cardholder designates as a designated caregiver; and
- 1072 (b) is connected to the electronic verification system.
- 1073 ~~[(23)]~~ (28) "Medical cannabis courier" means a courier that:
- 1074 (a) the department licenses in accordance with Section 26-61a-604; and
- 1075 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
- 1076 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.
- 1077 ~~[(24)]~~ (29) (a) "Medical cannabis device" means a device that an individual uses to
- 1078 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
- 1079 dosage form.
- 1080 (b) "Medical cannabis device" does not include a device that:
- 1081 (i) facilitates cannabis combustion; or

1082 (ii) an individual uses to ingest substances other than cannabis.

1083 [(25)] (30) "Medical cannabis guardian card" means an electronic document that a
1084 cardholder may print or store on an electronic device or a physical card or document that:

1085 (a) the department issues to the parent or legal guardian of a minor with a qualifying
1086 condition; and

1087 (b) is connected to the electronic verification system.

1088 [(26)] (31) "Medical cannabis patient card" means an electronic document that a
1089 cardholder may print or store on an electronic device or a physical card or document that:

1090 (a) the department issues to an individual with a qualifying condition; and

1091 (b) is connected to the electronic verification system.

1092 [(27)] (32) "Medical cannabis pharmacy" means a person that:

1093 (a) (i) acquires or intends to acquire[~~-(A) cannabis in a medicinal dosage form~~]
1094 medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing
1095 facility[~~;~~] or another medical cannabis pharmacy or [(B)] a medical cannabis device; or

1096 (ii) possesses [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal
1097 dosage form;~~] medical cannabis or a medical cannabis device; and

1098 (b) sells or intends to sell [~~cannabis in a medicinal dosage form, a cannabis product in a
1099 medicinal dosage form;~~] medical cannabis or a medical cannabis device to a medical cannabis
1100 cardholder.

1101 [(28)] (33) "Medical cannabis pharmacy agent" means an individual who:

1102 (a) is an employee of a medical cannabis pharmacy; and

1103 (b) who holds a valid medical cannabis pharmacy agent registration card.

1104 [(29)] (34) "Medical cannabis pharmacy agent registration card" means a registration
1105 card issued by the department that authorizes an individual to act as a medical cannabis
1106 pharmacy agent.

1107 (35) "Medical cannabis pharmacy warehouse location" means a warehouse location
1108 that:

1109 (a) a home delivery medical cannabis pharmacy uses to store and transport medical
1110 cannabis shipments in accordance with Section 26-61a-605; and

1111 (b) is closed to the general public.

1112 [(30)] (36) "Medical cannabis shipment" means a shipment of medical cannabis or a

1113 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
1114 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
1115 electronic medical cannabis order that the state central patient portal facilitates.

1116 ~~[(31)]~~ (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
1117 cannabis product in a medicinal dosage form, or a medical cannabis device.

1118 ~~[(32)]~~ (38) (a) "Medicinal dosage form" means:

1119 (i) for processed medical cannabis or a medical cannabis product, the following with a
1120 specific and consistent cannabinoid content:

1121 (A) a tablet;

1122 (B) a capsule;

1123 (C) a concentrated liquid or viscous oil;

1124 (D) a liquid suspension;

1125 (E) a topical preparation;

1126 (F) a transdermal preparation;

1127 (G) a sublingual preparation;

1128 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or

1129 rectangular cuboid shape; or

1130 (I) a resin or wax;

1131 (ii) for unprocessed cannabis flower, a container described in Section [4-41a-602](#) that:

1132 (A) contains cannabis flowers in a quantity that varies by no more than 10% from the
1133 stated weight at the time of packaging;

1134 (B) at any time the medical cannabis cardholder transports or possesses the container in
1135 public, is contained within an opaque, child-resistant bag that the medical cannabis pharmacy
1136 provides; and

1137 (C) is labeled with the container's content and weight, the date of purchase, the legal
1138 use termination date, and after December 31, 2020, a barcode that provides information
1139 connected to an inventory control system; and

1140 (iii) a form measured in grams, milligrams, or milliliters.

1141 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

1142 (i) the medical cannabis cardholder has recently removed from the container described
1143 in Subsection ~~[(32)(a)(ii)]~~ (38)(a)(ii) for use; and

- 1144 (ii) does not exceed the quantity described in Subsection [~~(32)~~(a)(ii)] (38)(a)(ii).
- 1145 (c) "Medicinal dosage form" does not include:
- 1146 (i) any unprocessed cannabis flower outside of the container described in Subsection
- 1147 [~~(32)~~(a)(ii)] (38)(a)(ii), except as provided in Subsection [~~(32)~~] (38)(b);
- 1148 (ii) any unprocessed cannabis flower in a container described in Subsection
- 1149 [~~(32)~~(a)(ii)] (38)(a)(ii) after the legal use termination date; or
- 1150 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
- 1151 on a nail or other metal object that is heated by a flame, including a blowtorch.
- 1152 [~~(33)~~] (39) "Nonresident patient" means an individual who:
- 1153 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;
- 1154 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
- 1155 card under the laws of another state, district, territory, commonwealth, or insular possession of
- 1156 the United States; and
- 1157 (c) has been diagnosed with a qualifying condition as described in Section [26-61a-104](#).
- 1158 [~~(34)~~] (40) "Payment provider" means an entity that contracts with a cannabis
- 1159 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
- 1160 the establishment or pharmacy and other businesses or individuals.
- 1161 [~~(35)~~] (41) "Pharmacy medical provider" means the medical provider required to be on
- 1162 site at a medical cannabis pharmacy under Section [26-61a-403](#).
- 1163 [~~(36)~~] (42) "Provisional patient card" means a card that:
- 1164 (a) the department issues to a minor with a qualifying condition for whom:
- 1165 (i) a qualified medical provider has recommended a medical cannabis treatment; and
- 1166 (ii) the department issues a medical cannabis guardian card to the minor's parent or
- 1167 legal guardian; and
- 1168 (b) is connected to the electronic verification system.
- 1169 [~~(37)~~] (43) "Qualified medical provider" means an individual who is qualified to
- 1170 recommend treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).
- 1171 [~~(38)~~] (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in
- 1172 Section [26-61a-109](#).
- 1173 [~~(39)~~] (45) "Qualifying condition" means a condition described in Section [26-61a-104](#).
- 1174 [~~(40)~~] (46) "Recommend" or "recommendation" means, for a qualified medical

1175 provider, the act of suggesting the use of medical cannabis treatment, which:

1176 (a) certifies the patient's eligibility for a medical cannabis card; and

1177 (b) may include, at the qualified medical provider's discretion, directions of use, with
1178 or without dosing guidelines.

1179 ~~[(41)]~~ (47) "State central patient portal" means the website the department creates, in
1180 accordance with Section [26-61a-601](#), to facilitate patient safety, education, and an electronic
1181 medical cannabis order.

1182 ~~[(42)]~~ (48) "State central patient portal medical provider" means a physician or
1183 pharmacist that the department employs in relation to the state central patient portal to consult
1184 with medical cannabis cardholders in accordance with Section [26-61a-602](#).

1185 ~~[(43)]~~ (49) "State electronic verification system" means the system described in Section
1186 [26-61a-103](#).

1187 (50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a
1188 synthetic equivalent as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

1189 ~~[(44)]~~ (51) "Valid form of photo identification" means a valid United States federal- or
1190 state-issued photo identification, including:

1191 (a) a driver license;

1192 (b) a United States passport;

1193 (c) a United States passport card; or

1194 (d) a United States military identification card.

1195 Section 15. Section **26-61a-103** is amended to read:

1196 **26-61a-103. Electronic verification system.**

1197 (1) The Department of Agriculture and Food, the department, the Department of Public
1198 Safety, and the Department of Technology Services shall:

1199 (a) enter into a memorandum of understanding in order to determine the function and
1200 operation of the state electronic verification system in accordance with Subsection (2);

1201 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1202 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1203 maintain the state electronic verification system in coordination with the Department of
1204 Technology Services; and

1205 (c) select a third-party provider who:

- 1206 (i) meets the requirements contained in the request for proposals issued under
- 1207 Subsection (1)(b); and
- 1208 (ii) may not have any commercial or ownership interest in a cannabis production
- 1209 establishment or a medical cannabis pharmacy.
- 1210 (2) The Department of Agriculture and Food, the department, the Department of Public
- 1211 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
- 1212 2020, the state electronic verification system described in Subsection (1):
- 1213 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
- 1214 medical cannabis guardian card, provided that the card may not become active until the
- 1215 relevant qualified medical provider completes the associated medical cannabis
- 1216 recommendation;
- 1217 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
- 1218 cannabis guardian card in accordance with Section 26-61a-201;
- 1219 (c) allows a qualified medical provider, or an employee described in Subsection (3)
- 1220 acting on behalf of the qualified medical provider, to:
- 1221 (i) access dispensing and card status information regarding a patient:
- 1222 (A) with whom the qualified medical provider has a provider-patient relationship; and
- 1223 (B) for whom the qualified medical provider has recommended or is considering
- 1224 recommending a medical cannabis card;
- 1225 (ii) electronically recommend, after an initial face-to-face visit with a patient described
- 1226 in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a
- 1227 cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;
- 1228 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
- 1229 medical cannabis guardian cardholder:
- 1230 (A) using telehealth services, for the qualified medical provider who originally
- 1231 recommended a medical cannabis treatment during a face-to-face visit with the patient; or
- 1232 (B) during a face-to-face visit with the patient, for a qualified medical provider who
- 1233 did not originally recommend the medical cannabis treatment during a face-to-face visit; and
- 1234 (iv) notate a determination of physical difficulty or undue hardship, described in
- 1235 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;
- 1236 (d) connects with:

- 1237 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1238 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1239 medicinal dosage form, or a medical cannabis device, including:
- 1240 (A) the time and date of each purchase;
- 1241 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1242 purchased;
- 1243 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1244 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1245 device; and
- 1246 (D) the personally identifiable information of the medical cannabis cardholder who
1247 made the purchase; and
- 1248 (ii) any commercially available inventory control system that a cannabis production
1249 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1250 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1251 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1252 track and confirm compliance;
- 1253 (e) provides access to:
- 1254 (i) the department to the extent necessary to carry out the department's functions and
1255 responsibilities under this chapter;
- 1256 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
1257 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1258 41a, Cannabis Production Establishments; and
- 1259 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
1260 carry out the functions and responsibilities related to the participation of the following in the
1261 recommendation and dispensing of medical cannabis:
- 1262 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1263 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1264 Practice Act;
- 1265 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1266 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 1267 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

1268 Assistant Act;

1269 (f) provides access to and interaction with the state central patient portal;

1270 (g) communicates dispensing information from a record that a medical cannabis
1271 pharmacy submits under Subsection 26-61a-502(6)(a) to the controlled substance database;

1272 [~~g~~] (h) provides access to state or local law enforcement:

1273 (i) during a law enforcement encounter, without a warrant, using the individual's driver
1274 license or state ID, only for the purpose of determining if the individual subject to the law
1275 enforcement encounter has a valid medical cannabis card; or

1276 (ii) after obtaining a warrant; and

1277 [~~h~~] (i) creates a record each time a person accesses the [~~database~~] system that
1278 identifies the person who accesses the [~~database~~] system and the individual whose records the
1279 person accesses.

1280 (3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1281 verification system is functionally capable of allowing employee access under this Subsection
1282 (3), an employee of a qualified medical provider may access the electronic verification system
1283 for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

1284 (i) the qualified medical provider has designated the employee as an individual
1285 authorized to access the electronic verification system on behalf of the qualified medical
1286 provider;

1287 (ii) the qualified medical provider provides written notice to the department of the
1288 employee's identity and the designation described in Subsection (3)(a)(i); and

1289 (iii) the department grants to the employee access to the electronic verification system.

1290 (b) An employee of a business that employs a qualified medical provider may access
1291 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1292 qualified medical provider if:

1293 (i) the qualified medical provider has designated the employee as an individual
1294 authorized to access the electronic verification system on behalf of the qualified medical
1295 provider;

1296 (ii) the qualified medical provider and the employing business jointly provide written
1297 notice to the department of the employee's identity and the designation described in Subsection
1298 (3)(b)(i); and

1299 (iii) the department grants to the employee access to the electronic verification system.

1300 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1301 (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1302 Practice Act;

1303 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
1304 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1305 (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1306 Assistant Act.

1307 (b) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1308 verification system is functionally capable of allowing provider access under this Subsection
1309 (4), a prescribing provider may access information in the electronic verification system
1310 regarding a patient the prescribing provider treats.

1311 (5) The department may release limited data that the system collects for the purpose of:

1312 (a) conducting medical and other department approved research;

1313 (b) providing the report required by Section 26-61a-703; and

1314 (c) other official department purposes.

1315 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1316 Administrative Rulemaking Act, to establish:

1317 (a) the limitations on access to the data in the state electronic verification system as
1318 described in this section; and

1319 (b) standards and procedures to ensure accurate identification of an individual
1320 requesting information or receiving information in this section.

1321 (7) (a) Any person who knowingly and intentionally releases any information in the
1322 state electronic verification system in violation of this section is guilty of a third degree felony.

1323 (b) Any person who negligently or recklessly releases any information in the state
1324 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1325 (8) (a) Any person who obtains or attempts to obtain information from the state
1326 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1327 (b) Any person who obtains or attempts to obtain information from the state electronic
1328 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1329 degree felony.

1330 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1331 intentionally use, release, publish, or otherwise make available to any other person information
1332 obtained from the state electronic verification system for any purpose other than a purpose
1333 specified in this section.

1334 (b) Each separate violation of this Subsection (9) is:

1335 (i) a third degree felony; and

1336 (ii) subject to a civil penalty not to exceed \$5,000.

1337 (c) The department shall determine a civil violation of this Subsection (9) in

1338 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1339 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the

1340 General Fund.

1341 (e) This Subsection (9) does not prohibit a person who obtains information from the

1342 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1343 (i) including the information in the person's medical chart or file for access by a person
1344 authorized to review the medical chart or file;

1345 (ii) providing the information to a person in accordance with the requirements of the
1346 Health Insurance Portability and Accountability Act of 1996; or

1347 (iii) discussing or sharing that information about the patient with the patient.

1348 Section 16. Section **26-61a-105** is amended to read:

1349 **26-61a-105. Compassionate Use Board.**

1350 (1) (a) The department shall establish a Compassionate Use Board consisting of:

1351 (i) seven qualified medical providers that the executive director appoints and the
1352 Senate confirms:

1353 (A) who are knowledgeable about the medicinal use of cannabis;

1354 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
1355 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1356 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
1357 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
1358 pediatrics, or gastroenterology; and

1359 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the
1360 executive director or the director's designee.

1361 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
1362 the executive director shall ensure that at least two have a board certification in pediatrics.

1363 (2) (a) Of the members of the Compassionate Use Board that the executive director
1364 first appoints:

1365 (i) three shall serve an initial term of two years; and

1366 (ii) the remaining members shall serve an initial term of four years.

1367 (b) After an initial term described in Subsection (2)(a) expires:

1368 (i) each term is four years; and

1369 (ii) each board member is eligible for reappointment.

1370 (c) A member of the Compassionate Use Board may serve until a successor is
1371 appointed.

1372 (3) Four members constitute a quorum of the Compassionate Use Board.

1373 (4) A member of the Compassionate Use Board may receive:

1374 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
1375 service; and

1376 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the
1377 Division of Finance in accordance with Section 63A-3-107.

1378 (5) The Compassionate Use Board shall:

1379 (a) review and recommend for department approval a petition to the board regarding an
1380 individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection
1381 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
1382 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced
1383 period of validity, if:

1384 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
1385 the individual's qualified medical provider is actively treating the individual for an intractable
1386 condition that:

1387 (A) substantially impairs the individual's quality of life; and

1388 (B) has not, in the qualified medical provider's professional opinion, adequately
1389 responded to conventional treatments;

1390 (ii) the qualified medical provider:

1391 (A) recommends that the individual or minor be allowed to use medical cannabis; and

1392 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
1393 describing relevant treatment history including rationale for considering the use of medical
1394 cannabis; and

1395 (iii) the Compassionate Use Board determines that:

1396 (A) the recommendation of the individual's qualified medical provider is justified; and

1397 (B) based on available information, it may be in the best interests of the individual to
1398 allow the use of medical cannabis;

1399 (b) review and approve or deny the use of a medical cannabis device for an individual
1400 described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection
1401 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the
1402 individual or minor be allowed to use a medical cannabis device to vaporize the medical
1403 cannabis treatment;

1404 (c) unless no petitions are pending:

1405 (i) meet to receive or review compassionate use petitions at least quarterly; and

1406 (ii) if there are more petitions than the board can receive or review during the board's
1407 regular schedule, as often as necessary;

1408 (d) except as provided in Subsection (6), complete a review of each petition and
1409 recommend to the department approval or denial of the applicant for qualification for a medical
1410 cannabis card within 90 days after the day on which the board received the petition;

1411 (e) consult with the department regarding the criteria described in Subsection (6); and

1412 (f) report, before November 1 of each year, to the Health and Human Services Interim
1413 Committee:

1414 (i) the number of compassionate use recommendations the board issued during the past
1415 year; and

1416 (ii) the types of conditions for which the board recommended compassionate use.

1417 (6) The department shall make rules, in consultation with the Compassionate Use
1418 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
1419 establish a process and criteria for a petition to the board to automatically qualify for expedited
1420 final review and approval or denial by the department in cases where, in the determination of
1421 the department and the board:

1422 (a) time is of the essence;

1423 (b) engaging the full review process would be unreasonable in light of the petitioner's
1424 physical condition; and

1425 (c) sufficient factors are present regarding the petitioner's safety.

1426 (7) (a) (i) The department shall review:

1427 (A) any compassionate use for which the Compassionate Use Board recommends
1428 approval under Subsection (5)(d) to determine whether the board properly exercised the board's
1429 discretion under this section; and

1430 (B) any expedited petitions the department receives under the process described in
1431 Subsection (6).

1432 (ii) If the department determines that the Compassionate Use Board properly exercised
1433 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited
1434 petition merits approval based on the criteria established in accordance with Subsection (6), the
1435 department shall:

1436 (A) issue the relevant medical cannabis card; and

1437 (B) provide for the renewal of the medical cannabis card in accordance with the
1438 recommendation of the qualified medical provider described in Subsection (5)(a).

1439 (b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d),
1440 the individual seeking to obtain a medical cannabis card may petition the department to review
1441 the board's decision.

1442 (ii) If the department determines that the Compassionate Use Board's recommendation
1443 for denial under Subsection (5)(d) was arbitrary or capricious:

1444 (A) the department shall notify the Compassionate Use Board of the department's
1445 determination; and

1446 (B) the board shall reconsider the Compassionate Use Board's refusal to recommend
1447 approval under this section.

1448 (c) In reviewing the Compassionate Use Board's recommendation for approval or
1449 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall
1450 presume the board properly exercised the board's discretion unless the department determines
1451 that the board's recommendation was arbitrary or capricious.

1452 (8) Any individually identifiable health information contained in a petition that the
1453 Compassionate Use Board or department receives under this section is a protected record in

1454 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

1455 (9) The Compassionate Use Board shall annually report the board's activity to the
1456 Cannabinoid Product Board [~~created in Section 26-61-201~~].

1457 Section 17. Section **26-61a-106** is amended to read:

1458 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1459 **Treatment recommendation.**

1460 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a
1461 medical cannabis treatment unless the department registers the individual as a qualified
1462 medical provider in accordance with this section.

1463 (b) An individual who meets the qualifications in Subsections [26-61a-106\(2\)\(a\)\(iii\)](#)
1464 and (iv) may recommend a medical cannabis treatment without registering under Subsection
1465 (1)(a) until January 1, 2021.

1466 (2) (a) The department shall, within 15 days after the day on which the department
1467 receives an application from an individual, register and issue a qualified medical provider
1468 registration card to the individual if the individual:

1469 (i) provides to the department the individual's name and address;

1470 (ii) provides to the department a report detailing the individual's completion of the
1471 applicable continuing education requirement described in Subsection (3);

1472 (iii) provides to the department evidence that the individual:

1473 (A) has the authority to write a prescription;

1474 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1475 Controlled Substances Act; and

1476 (C) possesses the authority, in accordance with the individual's scope of practice, to
1477 prescribe a Schedule II controlled substance;

1478 (iv) provides to the department evidence that the individual is:

1479 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1480 Practice Act;

1481 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1482 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1483 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1484 Act, whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),

1485 includes the recommending of medical cannabis, and whose supervising physician is a
1486 qualified medical provider; and

1487 (v) pays the department a fee in an amount that:

1488 (A) the department sets, in accordance with Section 63J-1-504; and

1489 (B) does not exceed \$300 for an initial registration.

1490 (b) The department may not register an individual as a qualified medical provider if the
1491 individual is:

1492 (i) a pharmacy medical provider; or

1493 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1494 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

1495 (3) (a) An individual shall complete the continuing education described in this
1496 Subsection (3) in the following amounts:

1497 (i) for an individual as a condition precedent to registration, four hours; and

1498 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1499 every two years.

1500 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1501 (i) complete continuing education:

1502 (A) regarding the topics described in Subsection (3)(d); and

1503 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1504 continuing education provider that the department recognizes as offering continuing education
1505 appropriate for the recommendation of cannabis to patients; and

1506 (ii) make a continuing education report to the department in accordance with a process
1507 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1508 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1509 Professional Licensing and:

1510 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1511 Nurse Practice Act, the Board of Nursing;

1512 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1513 Practice Act, the Physicians Licensing Board;

1514 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1515 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;

1516 and

1517 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1518 Assistant Act, the Physician Assistant Licensing Board.

1519 (c) The department may, in consultation with the Division of Occupational and
1520 Professional Licensing, develop the continuing education described in this Subsection (3).

1521 (d) The continuing education described in this Subsection (3) may discuss:

1522 (i) the provisions of this chapter;

1523 (ii) general information about medical cannabis under federal and state law;

1524 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1525 including risks and benefits;

1526 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1527 patient in pain management, risk management, potential addiction, or palliative care; and

1528 (v) best practices for recommending the form and dosage of medical cannabis products
1529 based on the qualifying condition underlying a medical cannabis recommendation.

1530 (4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not
1531 recommend a medical cannabis treatment to more than 275 of the qualified medical provider's
1532 patients at the same time, as determined by the number of medical cannabis cards under the
1533 qualified medical provider's name in the state electronic verification system.

1534 (b) A qualified medical provider may recommend a medical cannabis treatment to up to
1535 600 of the qualified medical provider's patients at any given time, as determined by the number
1536 of medical cannabis cards under the qualified medical provider's name in the state electronic
1537 verification system, if:

1538 (i) the appropriate American medical board has certified the qualified medical provider
1539 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1540 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1541 psychiatry; or

1542 (ii) a licensed business employs or contracts with the qualified medical provider for the
1543 specific purpose of providing hospice and palliative care.

1544 (5) A qualified medical provider may recommend medical cannabis to an individual
1545 under this chapter only in the course of a qualified medical provider-patient relationship after
1546 the qualifying medical provider has completed and documented in the patient's medical record

1547 a thorough assessment of the patient's condition and medical history based on the appropriate
1548 standard of care for the patient's condition.

1549 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the
1550 individual recommends medical cannabis treatment in accordance with this chapter.

1551 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1552 website, by an individual described in Subsection (6)(c), does not constitute advertising:

1553 (i) a green cross;

1554 (ii) a qualifying condition that the ~~[qualified medical provider]~~ individual treats; ~~[or]~~

1555 (iii) the individual's registration as a qualified medical provider; or

1556 ~~[(iii)]~~ (iv) a scientific study regarding medical cannabis use.

1557 (c) The following are subject to Subsection (6)(b):

1558 (i) before the department begins registering qualified medical providers:

1559 (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

1560 (B) a physician described in Subsection (2)(a)(iv)(B); or

1561 (C) a physician assistant described in Subsection (2)(a)(iv)(C); and

1562 (ii) after the department begins registering qualified medical providers, a qualified
1563 medical provider.

1564 (7) (a) A qualified medical provider registration card expires two years after the day on
1565 which the department issues the card.

1566 (b) The department shall renew a qualified medical provider's registration card if the
1567 provider:

1568 (i) applies for renewal;

1569 (ii) is eligible for a qualified medical provider registration card under this section,
1570 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

1571 (iii) certifies to the department in a renewal application that the information in
1572 Subsection (2)(a) is accurate or updates the information;

1573 (iv) submits a report detailing the completion of the continuing education requirement
1574 described in Subsection (3); and

1575 (v) pays the department a fee in an amount that:

1576 (A) the department sets, in accordance with Section [63J-1-504](#); and

1577 (B) does not exceed \$50 for a registration renewal.

1578 (8) The department may revoke the registration of a qualified medical provider who
1579 fails to maintain compliance with the requirements of this section.

1580 (9) A qualified medical provider may not receive any compensation or benefit for the
1581 qualified medical provider's medical cannabis treatment recommendation from:

1582 (a) a cannabis production establishment or an owner, officer, director, board member,
1583 employee, or agent of a cannabis production establishment;

1584 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1585 employee, or agent of a medical cannabis pharmacy; or

1586 (c) a qualified medical provider or pharmacy medical provider.

1587 Section 18. Section **26-61a-201** is amended to read:

1588 **26-61a-201. Medical cannabis patient card -- Provisional patient card -- Medical**
1589 **cannabis guardian card application -- Application -- Fees -- Studies.**

1590 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
1591 which an individual who satisfies the eligibility criteria in this section or Section [26-61a-202](#)
1592 submits an application in accordance with this section or Section [26-61a-202](#):

1593 (a) issue a medical cannabis patient card to an individual described in Subsection
1594 (2)(a);

1595 (b) issue a medical cannabis guardian card to an individual described in Subsection
1596 (2)(b);

1597 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1598 (d) issue a medical cannabis caregiver card to an individual described in Subsection
1599 [26-61a-202](#)(4).

1600 (2) (a) An individual is eligible for a medical cannabis patient card if:

1601 (i) (A) the individual is at least 21 years old; or

1602 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate
1603 Use Board under Section [26-61a-105](#), and the Compassionate Use Board recommends
1604 department approval of the petition;

1605 (ii) the individual is a Utah resident;

1606 (iii) the individual's qualified medical provider recommends treatment with medical
1607 cannabis in accordance with Subsection (4);

1608 (iv) the individual signs an acknowledgment stating that the individual received the

1609 information described in Subsection (8); and

1610 (v) the individual pays to the department a fee in an amount that, subject to Subsection
1611 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

1612 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1613 (A) is at least 18 years old;

1614 (B) is a Utah resident;

1615 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
1616 provider recommends a medical cannabis treatment, the individual petitions the Compassionate
1617 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends
1618 department approval of the petition;

1619 (D) the individual signs an acknowledgment stating that the individual received the
1620 information described in Subsection (8);

1621 (E) pays to the department a fee in an amount that, subject to Subsection
1622 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1623 criminal background check described in Section 26-61a-203; and

1624 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
1625 offense under either state or federal law, unless the individual completed any imposed sentence
1626 six months or more before the day on which the individual applies for a medical cannabis
1627 guardian card.

1628 (ii) The department shall notify the Department of Public Safety of each individual that
1629 the department registers for a medical cannabis guardian card.

1630 (c) (i) A minor is eligible for a provisional patient card if:

1631 (A) the minor has a qualifying condition;

1632 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1633 to address the minor's qualifying condition;

1634 (C) the minor's parent or legal guardian petitions the Compassionate Use Board under
1635 Section 26-61a-105, and the Compassionate Use Board recommends department approval of
1636 the petition; and

1637 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1638 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1639 medical cannabis caregiver card under Section 26-61a-202.

1640 (ii) The department shall automatically issue a provisional patient card to the minor
1641 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1642 guardian card to the minor's parent or legal guardian.

1643 (d) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1644 verification system is functionally capable of servicing the designation, if the parent or legal
1645 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a
1646 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1647 designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that
1648 the minor has adequate and safe access to the recommended medical cannabis treatment.

1649 (3) (a) An individual who is eligible for a medical cannabis card described in
1650 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
1651 department:

1652 (i) through an electronic application connected to the state electronic verification
1653 system;

1654 (ii) with the recommending qualified medical provider; and

1655 (iii) with information including:

1656 (A) the applicant's name, gender, age, and address;

1657 (B) the number of the applicant's valid form of photo identification;

1658 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1659 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1660 and

1661 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1662 holds the associated medical cannabis guardian card.

1663 (b) The department shall ensure that a medical cannabis card the department issues
1664 under this section contains the information described in Subsection (3)(a)(iii).

1665 (c) (i) If a qualified medical provider determines that, because of age, illness, or
1666 disability, a medical cannabis patient cardholder requires assistance in administering the
1667 medical cannabis treatment that the qualified medical provider recommends, the qualified
1668 medical provider may indicate the cardholder's need in the state electronic verification system.

1669 (ii) If a qualified medical provider makes the indication described in Subsection
1670 (3)(c)(i):

1671 (A) the department shall add a label to the relevant medical cannabis patient card
1672 indicating the cardholder's need for assistance; and

1673 (B) any adult who is 18 years old or older and who is physically present with the
1674 cardholder at the time the cardholder needs to use the recommended medical cannabis
1675 treatment may handle the medical cannabis treatment and any associated medical cannabis
1676 device as needed to assist the cardholder in administering the recommended medical cannabis
1677 treatment; and

1678 (C) an individual of any age who is physically present with the cardholder in the event
1679 of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle
1680 the medical cannabis treatment and any associated medical cannabis device as needed to assist
1681 the cardholder in administering the recommended medical cannabis treatment.

1682 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

1683 (A) ingest or inhale medical cannabis;

1684 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1685 of the immediate area where the cardholder is present or with an intent other than to provide
1686 assistance to the cardholder; or

1687 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1688 the cardholder is not in the process of being dosed with medical cannabis.

1689 (4) To recommend a medical cannabis treatment to a patient or to renew a
1690 recommendation, a qualified medical provider shall:

1691 (a) before recommending or renewing a recommendation for medical cannabis in a
1692 medicinal dosage form or a cannabis product in a medicinal dosage form:

1693 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1694 guardian's valid form of identification described in Subsection (3)(a);

1695 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1696 or legal guardian in:

1697 (A) the state electronic verification system; and

1698 (B) the controlled substance database created in Section 58-37f-201; and

1699 (iii) consider the recommendation in light of the patient's qualifying condition and
1700 history of medical cannabis and controlled substance use during an initial face-to-face visit
1701 with the patient; and

1702 (b) state in the qualified medical provider's recommendation that the patient:
1703 (i) suffers from a qualifying condition, including the type of qualifying condition; and
1704 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1705 product in a medicinal dosage form.

1706 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1707 department issues under this section is valid for the lesser of:

- 1708 (i) an amount of time that the qualified medical provider determines; or
- 1709 (ii) (A) for the first issuance, 90 days;
- 1710 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or
- 1711 (C) for a renewal, one year if, after at least one year following the issuance of the
1712 original medical cannabis card, the qualified medical provider determines that the patient has
1713 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

1714 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1715 illness described in Section 26-61a-104 does not expire.

1716 (ii) The recommending qualified medical provider may revoke a recommendation that
1717 the provider made in relation to a terminal illness described in Section 26-61a-104 if the
1718 medical cannabis cardholder no longer has the terminal illness.

1719 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1720 renewable if:

- 1721 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1722 (b); or
- 1723 (ii) the cardholder received the medical cannabis card through the recommendation of
1724 the Compassionate Use Board under Section 26-61a-105.

1725 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

- 1726 (i) using the application process described in Subsection (3); or
- 1727 (ii) through phone or video conference with the qualified medical provider who made
1728 the recommendation underlying the card, at the qualifying medical provider's discretion.

1729 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1730 pay to the department a renewal fee in an amount that:

- 1731 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1732 63J-1-504; and

1733 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1734 comparison to the original application process.

1735 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1736 patient card renews automatically at the time the minor's parent or legal guardian renews the
1737 parent or legal guardian's associated medical cannabis guardian card.

1738 ~~[(e) The department may revoke a medical cannabis guardian card if the cardholder
1739 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
1740 under either state or federal law.]~~

1741 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1742 cannabis card with the patient's name.

1743 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1744 purchase, in accordance with this chapter and the recommendation underlying the card,
1745 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1746 medical cannabis device.

1747 (ii) A cardholder under this section may possess or transport, in accordance with this
1748 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1749 cannabis product in a medicinal dosage form, or a medical cannabis device.

1750 (iii) To address the qualifying condition underlying the medical cannabis treatment
1751 recommendation:

1752 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1753 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1754 or a medical cannabis device; and

1755 (B) a medical cannabis guardian cardholder may assist the associated provisional
1756 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1757 product in a medicinal dosage form, or a medical cannabis device.

1758 (c) If a licensed medical cannabis pharmacy is not operating within the state after
1759 January 1, 2021, a cardholder under this section:

1760 (i) may possess:

1761 (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

1762 (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

1763 (C) marijuana drug paraphernalia; and

1764 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

1765 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1766 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1767 to an individual receiving a medical cannabis card:

1768 (a) risks associated with medical cannabis treatment;

1769 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1770 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1771 Subsection 26-61a-104(1); and

1772 (c) other relevant warnings and safety information that the department determines.

1773 (9) The department may establish procedures by rule, in accordance with Title 63G,
1774 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1775 provisions of this section.

1776 (10) (a) On or before January 1, 2021, the department shall establish by rule, in
1777 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1778 an individual from another state to register with the Department of Health in order to purchase
1779 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
1780 individual is visiting the state.

1781 (b) The department may only provide the registration process described in Subsection
1782 (10)(a):

1783 (i) to a nonresident patient; and

1784 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
1785 per visitation period.

1786 (11) (a) A person may submit to the department a request to conduct a research study
1787 using medical cannabis cardholder data that the state electronic verification system contains.

1788 (b) The department shall review a request described in Subsection (11)(a) to determine
1789 whether an institutional review board, as that term is defined in Section 26-61-102, could
1790 approve the research study.

1791 (c) At the time an individual applies for a medical cannabis card, the department shall
1792 notify the individual:

1793 (i) of how the individual's information will be used as a cardholder;

1794 (ii) that by applying for a medical cannabis card, unless the individual withdraws

1795 consent under Subsection (11)(d), the individual consents to the use of the individual's
1796 information for external research; and

1797 (iii) that the individual may withdraw consent for the use of the individual's
1798 information for external research at any time, including at the time of application.

1799 (d) An applicant may, through the medical cannabis card application, and a medical
1800 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
1801 cardholder's consent to participate in external research at any time.

1802 (e) The department may release, for the purposes of a study described in this
1803 Subsection (11), information about a cardholder under this section who consents to participate
1804 under Subsection (11)(c).

1805 (f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of
1806 consent:

1807 (i) applies to external research that is initiated after the withdrawal of consent; and

1808 (ii) does not apply to research that was initiated before the withdrawal of consent.

1809 (g) The department may establish standards for a medical research study's validity, by
1810 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1811 (12) The department shall record the issuance or revocation of a medical cannabis card
1812 under this section in the controlled substance database.

1813 Section 19. Section **26-61a-202** is amended to read:

1814 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**
1815 **Revocation.**

1816 (1) (a) A cardholder described in Section **26-61a-201** may designate, through the state
1817 central patient portal, up to two individuals, or an individual and a facility in accordance with
1818 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical
1819 provider notates in the electronic verification system that the provider determines that, due to
1820 physical difficulty or undue hardship, including concerns of distance to a medical cannabis
1821 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the
1822 qualified medical provider recommends.

1823 (b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1824 verification system is functionally capable of servicing the designation, a cardholder described
1825 in Section **26-61a-201** who is a patient in one of the following types of facilities may designate

1826 the facility as one of the caregivers described in Subsection (1)(a):

1827 (A) an assisted living facility, as that term is defined in Section 26-21-2;

1828 (B) a nursing care facility, as that term is defined in Section 26-21-2; or

1829 (C) a general acute hospital, as that term is defined in Section 26-21-2.

1830 (ii) A facility may assign one or more employees to assist patients with medical

1831 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1832 (iii) The department shall make rules to regulate the practice of facilities and facility

1833 employees serving as designated caregivers under this Subsection (1)(b).

1834 (c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in

1835 consultation with the minor and the minor's qualified medical provider, may designate, through

1836 the state central patient portal, up to two individuals to serve as a designated caregiver for the

1837 minor, if the department determines that the parent or legal guardian is not eligible for a

1838 medical cannabis guardian card under Section 26-61a-201.

1839 (2) An individual that the department registers as a designated caregiver under this

1840 section and a facility described in Subsection (1)(b):

1841 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver

1842 card;

1843 (b) in accordance with this chapter, may purchase, possess, transport, or assist the

1844 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal

1845 dosage form, or a medical cannabis device on behalf of the designating medical cannabis

1846 cardholder;

1847 (c) may not charge a fee to an individual to act as the individual's designated caregiver

1848 or for a service that the designated caregiver provides in relation to the role as a designated

1849 caregiver;

1850 (d) may accept reimbursement from the designating medical cannabis cardholder for

1851 direct costs the designated caregiver incurs for assisting with the designating cardholder's

1852 medicinal use of cannabis; and

1853 (e) if a licensed medical cannabis pharmacy is not operating within the state after

1854 January 1, 2021:

1855 (i) may possess up to the legal dosage limit of:

1856 (A) unprocessed medical cannabis in a medicinal dosage form;

1857 (B) a cannabis product in a medicinal dosage form; and
1858 (ii) may possess marijuana drug paraphernalia; and
1859 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).
1860 (3) (a) The department shall:
1861 (i) within 15 days after the day on which an individual submits an application in
1862 compliance with this section, issue a medical cannabis card to the applicant if the applicant:
1863 (A) is designated as a caregiver under Subsection (1);
1864 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and
1865 (C) complies with this section; and
1866 (ii) notify the Department of Public Safety of each individual that the department
1867 registers as a designated caregiver.
1868 (b) The department shall ensure that a medical cannabis caregiver card contains the
1869 information described in Subsection (5)(b).
1870 (4) An individual is eligible for a medical cannabis caregiver card if the individual:
1871 (a) is at least 21 years old;
1872 (b) is a Utah resident;
1873 (c) pays to the department a fee in an amount that, subject to Subsection
1874 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#), plus the cost of the
1875 criminal background check described in Section [26-61a-203](#);
1876 (d) signs an acknowledgment stating that the applicant received the information
1877 described in Subsection [~~[26-61a-201\(8\)](#)~~ [26-61a-201\(9\)](#)]; and
1878 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
1879 a felony under either state or federal law, unless the individual completes any imposed sentence
1880 two or more years before the day on which the individual submits the application.
1881 (5) An eligible applicant for a medical cannabis caregiver card shall:
1882 (a) submit an application for a medical cannabis caregiver card to the department
1883 through an electronic application connected to the state electronic verification system; and
1884 (b) submit the following information in the application described in Subsection (5)(a):
1885 (i) the applicant's name, gender, age, and address;
1886 (ii) the name, gender, age, and address of the cardholder described in Section
1887 [26-61a-201](#) who designated the applicant; and

1888 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
1889 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
1890 cannabis guardian cardholder.

1891 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1892 department issues under this section is valid for the lesser of:

1893 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1894 designated the caregiver determines; or

1895 (b) the amount of time remaining before the card of the cardholder described in Section
1896 26-61a-201 expires.

1897 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1898 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1899 cardholder described in Section 26-61a-201 who designated the caregiver:

1900 (i) renews the cardholder's card; and

1901 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1902 (b) The department shall provide a method in the card renewal process to allow a
1903 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1904 (i) signify that the cardholder renews the caregiver's designation;

1905 (ii) remove a caregiver's designation; or

1906 (iii) designate a new caregiver.

1907 (8) The department may revoke a medical cannabis caregiver card if the designated
1908 caregiver:

1909 (a) violates this chapter; or

1910 (b) is convicted under state or federal law of:

1911 (i) a felony drug distribution offense; or

1912 (ii) after December 3, 2018, a misdemeanor [~~for~~] drug distribution offense.

1913 (9) The department shall record the issuance or revocation of a medical cannabis card
1914 under this section in the controlled substance database.

1915 Section 20. Section 26-61a-204 is amended to read:

1916 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**
1917 **requirements -- Rebuttable presumption.**

1918 (1) (a) A medical cannabis cardholder who possesses medical cannabis that the

1919 cardholder purchased under this chapter:

1920 (i) shall carry:

1921 (A) at all times the cardholder's medical cannabis card; and

1922 (B) after the earlier of January 1, 2021, or the day on which the individual purchases
1923 any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label
1924 that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy
1925 and includes an identification number that links the medical cannabis to the inventory control
1926 system; and

1927 (ii) may possess up to the legal dosage limit of:

1928 (A) unprocessed cannabis in medicinal dosage form; and

1929 (B) a cannabis product in medicinal dosage form; [~~and~~]

1930 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii)[-];

1931 (iv) may only possess the medical cannabis in the container in which the cardholder
1932 received the medical cannabis from the medical cannabis pharmacy; and

1933 (v) may not alter or remove any label from the container described in Subsection
1934 (1)(a)(iv).

1935 (b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who
1936 possesses medical cannabis in violation of Subsection (1)(a) is:

1937 (i) guilty of an infraction; and

1938 (ii) subject to a \$100 fine.

1939 (c) A medical cannabis cardholder or a nonresident patient who possesses medical
1940 cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice
1941 the legal dosage limit is:

1942 (i) for a first offense:

1943 (A) guilty of an infraction; and

1944 (B) subject to a fine of up to \$100; and

1945 (ii) for a second or subsequent offense:

1946 (A) guilty of a class B misdemeanor; and

1947 (B) subject to a fine of \$1,000.

1948 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
1949 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the

1950 conduct underlying the penalty described in Subsection (1)(b) or (c).

1951 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
1952 dosage form is:

1953 (i) for a first offense:

1954 (A) guilty of an infraction; and

1955 (B) subject to a fine of up to \$100; and

1956 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,
1957 Chapter 37, Utah Controlled Substances Act.

1958 (f) A medical cannabis cardholder or a nonresident patient who possesses medical
1959 cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties
1960 described in Title 58, Chapter 37, Utah Controlled Substances Act.

1961 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
1962 as that term is defined in Section [31A-22-627](#).

1963 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a
1964 provisional patient cardholder, or a nonresident patient may not use, in public view, medical
1965 cannabis or a cannabis product.

1966 (c) In the event of an emergency medical condition, an individual described in
1967 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
1968 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
1969 medicinal dosage form or a cannabis product in a medicinal dosage form.

1970 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

1971 (i) for a first offense:

1972 (A) guilty of an infraction; and

1973 (B) subject to a fine of up to \$100; and

1974 (ii) for a second or subsequent offense:

1975 (A) guilty of a class B misdemeanor; and

1976 (B) subject to a fine of \$1,000.

1977 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
1978 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
1979 medical cannabis device that corresponds with the cannabis or cannabis product:

1980 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,

1981 cannabis product, or medical cannabis device legally; and

1982 (b) there is no probable cause, based solely on the cardholder's possession of the
1983 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
1984 cannabis device, to believe that the cardholder is engaging in illegal activity.

1985 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
1986 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
1987 device, and the individual represents to the law enforcement officer that the individual holds a
1988 valid medical cannabis card, but the individual does not have the medical cannabis card in the
1989 individual's possession at the time of the stop by the law enforcement officer, the law
1990 enforcement officer shall attempt to access the state electronic verification system to determine
1991 whether the individual holds a valid medical cannabis card.

1992 (b) If the law enforcement officer is able to verify that the individual described in
1993 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

1994 (i) may not arrest or take the individual into custody for the sole reason that the
1995 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
1996 medicinal dosage form, or a medical cannabis device; and

1997 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1998 Section 21. Section **26-61a-301** is amended to read:

1999 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

2000 (1) A person may not operate as a medical cannabis pharmacy without a license that
2001 the department issues under this part.

2002 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department
2003 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
2004 Chapter 6a, Utah Procurement Code.

2005 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
2006 an applicant who is not eligible for a license under this section.

2007 (b) An applicant is eligible for a license under this section if the applicant submits to
2008 the department:

2009 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
2010 operate the medical cannabis pharmacy, including the address of any associated medical
2011 cannabis pharmacy warehouse location;

- 2012 (ii) the name and address of an individual who:
- 2013 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in
- 2014 the proposed medical cannabis pharmacy;
- 2015 (B) for a privately held company, a financial or voting interest in the proposed medical
- 2016 cannabis pharmacy; or
- 2017 (C) has the power to direct or cause the management or control of a proposed medical
- 2018 cannabis pharmacy;
- 2019 (iii) a statement that the applicant will obtain and maintain a performance bond that a
- 2020 surety authorized to transact surety business in the state issues in an amount of at least
- 2021 \$125,000 for each application that the applicant submits to the department;
- 2022 (iv) an operating plan that:
- 2023 (A) complies with Section 26-61a-304;
- 2024 (B) includes operating procedures to comply with the operating requirements for a
- 2025 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
- 2026 law that is consistent with Section 26-61a-507; and
- 2027 (C) the department approves;
- 2028 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
- 2029 department sets in accordance with Section 63J-1-504; and
- 2030 (vi) a description of any investigation or adverse action taken by any licensing
- 2031 jurisdiction, government agency, law enforcement agency, or court in any state for any
- 2032 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
- 2033 or businesses.
- 2034 (c) (i) A person may not locate a medical cannabis pharmacy:
- 2035 (A) within 200 feet of a community location; or
- 2036 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
- 2037 as primarily residential.
- 2038 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
- 2039 from the nearest entrance to the medical cannabis pharmacy establishment by following the
- 2040 shortest route of ordinary pedestrian travel to the property boundary of the community location
- 2041 or residential area.
- 2042 (iii) The department may grant a waiver to reduce the proximity requirements in

2043 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
2044 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

2045 (iv) An applicant for a license under this section shall provide evidence of compliance
2046 with the proximity requirements described in Subsection (2)(c)(i).

2047 (d) The department may not issue a license to an eligible applicant that the department
2048 has selected to receive a license until the selected eligible applicant obtains the performance
2049 bond described in Subsection (2)(b)(iii).

2050 (e) If the department receives more than one application for a medical cannabis
2051 pharmacy within the same city or town, the department shall consult with the local land use
2052 authority before approving any of the applications pertaining to that city or town.

2053 (3) If the department selects an applicant for a medical cannabis pharmacy license
2054 under this section, the department shall:

2055 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2056 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); ~~and~~

2057 (b) notify the Department of Public Safety of the license approval and the names of
2058 each individual described in Subsection (2)(b)(ii)~~[-]; and~~

2059 (c) charge the licensee a fee in an amount that, subject to Subsection [26-61a-109\(5\)](#),
2060 the department sets in accordance with Section [63J-1-504](#), for any change in location,
2061 ownership, or company structure.

2062 (4) The department may not issue a license to operate a medical cannabis pharmacy to
2063 an applicant if an individual described in Subsection (2)(b)(ii):

2064 (a) has been convicted under state or federal law of:

2065 (i) a felony; or

2066 (ii) after December 3, 2018, a misdemeanor for drug distribution;

2067 (b) is younger than 21 years old; or

2068 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

2069 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
2070 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give
2071 preference to the applicant based on the applicant's status as a holder of the license.

2072 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
2073 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis

2074 Production Establishments, the department:

2075 (i) shall consult with the Department of Agriculture and Food regarding the applicant;
2076 and

2077 (ii) may give consideration to the applicant based on the applicant's status as a holder
2078 of a license to operate a cannabis cultivation facility if:

2079 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
2080 result from the applicant's vertical integration than from a more competitive marketplace; and

2081 (B) the department finds multiple other factors, in addition to the existing license, that
2082 support granting the new license.

2083 (6) (a) The department may revoke a license under this part:

2084 ~~[(a)]~~ (i) if the medical cannabis pharmacy does not begin operations within one year
2085 after the day on which the department issues the initial license;

2086 ~~[(b)]~~ (ii) after the third the same violation of this chapter in any of the licensee's
2087 licensed cannabis production establishments or medical cannabis pharmacies;

2088 ~~[(c)]~~ (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the
2089 license is active, under state or federal law of:

2090 ~~[(i)]~~ (A) a felony; or

2091 ~~[(ii)]~~ (B) after December 3, 2018, a misdemeanor for drug distribution;

2092 ~~[(d)]~~ (iv) if the licensee fails to provide the information described in Subsection
2093 (2)(b)(vi) at the time of application, or fails to supplement the information described in
2094 Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission
2095 of the application within 14 calendar days after the licensee receives notice of the investigation
2096 or adverse action; or

2097 ~~[(e)]~~ (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard
2098 for the requirements of this chapter or the rules the department makes in accordance with this
2099 chapter.

2100 (b) The department shall rescind a notice of an intent to issue a license under this part
2101 to an applicant or revoke a license issued under this part if the associated medical cannabis
2102 pharmacy does not begin operation on or before June 1, 2021.

2103 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
2104 if the municipality or county where the licensed medical cannabis pharmacy will be located

2105 requires a local land use permit, shall submit to the department a copy of the licensee's
2106 approved application for the land use permit within 120 days after the day on which the
2107 department issues the license.

2108 (b) If a licensee fails to submit to the department a copy the licensee's approved land
2109 use permit application in accordance with Subsection (7)(a), the department may revoke the
2110 licensee's license.

2111 (8) The department shall deposit the proceeds of a fee imposed by this section [~~in~~] into
2112 the Qualified Patient Enterprise Fund.

2113 (9) The department shall begin accepting applications under this part on or before
2114 March 1, 2020.

2115 (10) (a) The department's authority to issue a license under this section is plenary and is
2116 not subject to review.

2117 (b) Notwithstanding Subsection (2), the decision of the department to award a license
2118 to an applicant is not subject to:

2119 (i) Title 63G, Chapter 6a, Part 16, Protests; or

2120 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2121 Section 22. Section **26-61a-305** is amended to read:

2122 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**
2123 **pharmacies.**

2124 (1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of
2125 applicants apply, the department shall issue [~~14~~] up to 15 medical cannabis pharmacy licenses
2126 in accordance with this section.

2127 (b) If [~~fewer than 14~~] an insufficient number of qualified applicants apply [~~for a~~] for
2128 the available number of medical cannabis pharmacy [~~license~~] licenses, the department shall
2129 issue a medical cannabis pharmacy license to each qualified applicant.

2130 (c) The department may issue the licenses described in Subsection (1)(a) [~~in two~~
2131 ~~phases~~] in accordance with this Subsection (1)(c).

2132 (i) Using one procurement process, the department may issue eight licenses to an initial
2133 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis
2134 pharmacies.

2135 (ii) If the department issues licenses in two phases in accordance with [~~this~~] Subsection

2136 (1)(c)(i), the department shall:

2137 (A) divide the state into no less than four geographic regions;

2138 (B) issue at least one license in each geographic region during each phase of issuing
2139 licenses; and

2140 (C) complete the process of issuing medical cannabis pharmacy licenses no later than
2141 July 1, 2020.

2142 (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the
2143 license recipient:

2144 (A) will locate the medical cannabis pharmacy within a county of the fourth, fifth, or
2145 sixth class, or a county of the third class that does not border a county of the first or second
2146 class, in the eastern or southern geographic regions that the department identifies under
2147 Subsection (1)(c)(ii); and

2148 (B) will operate in a vertically integrated business model with a licensed cannabis
2149 cultivation facility or a licensed cannabis processing facility.

2150 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in
2151 addition to the licenses described in Subsection (1)(a) if the department determines, in
2152 consultation with the Department of Agriculture and Food and after an annual or more frequent
2153 analysis of the current and anticipated market for medical cannabis, that each additional license
2154 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical
2155 cannabis cardholders.

2156 (ii) The department shall:

2157 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2158 make rules to establish criteria and processes for the consultation, analysis, and application for
2159 a license described in Subsection (1)(d)(i);

2160 (B) before November 30, 2020, report on the rules described in Subsection
2161 (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

2162 (C) report to the Executive Appropriations Committee of the Legislature before each
2163 time the department issues an additional license under Subsection (1)(d)(i) regarding the results
2164 of the consultation and analysis described in Subsection (1)(d)(i) and the application of the
2165 criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

2166 (2) (a) If there are more qualified applicants than there are available licenses for

2167 medical cannabis pharmacies, the department shall:

2168 (i) evaluate each applicant and award the license to the applicant that best
2169 demonstrates:

2170 (A) experience with establishing and successfully operating a business that involves
2171 complying with a regulatory environment, tracking inventory, and training, evaluating, and
2172 monitoring employees;

2173 (B) an operating plan that will best ensure the safety and security of patrons and the
2174 community;

2175 (C) positive connections to the local community;

2176 (D) the suitability of the proposed location and the location's accessibility for
2177 qualifying patients;

2178 (E) the extent to which the applicant can increase efficiency and reduce the cost of
2179 medical cannabis for patients; and

2180 (F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively
2181 high likelihood of success; and

2182 (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably
2183 maximize access to the largest number of medical cannabis cardholders.

2184 (b) In making the evaluation described in Subsection (2)(a), the department may give
2185 increased consideration to applicants who indicate a willingness to:

2186 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic
2187 medical cannabis orders that the state central patient portal facilitates; and

2188 (ii) accept payments through:

2189 (A) a payment provider that the Division of Finance approves, in consultation with the
2190 state treasurer, in accordance with Section 26-61a-603; or

2191 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2192 (3) The department may conduct a face-to-face interview with an applicant for a
2193 license that the department evaluates under Subsection (2).

2194 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery
2195 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's
2196 operating plan demonstrates the functional and technical ability to:

2197 (i) safely conduct transactions for medical cannabis shipments;

2198 (ii) accept electronic medical cannabis orders that the state central patient portal
2199 facilitates; and

2200 (iii) accept payments through:

2201 (A) a payment provider that the Division of Finance approves, in consultation with the
2202 state treasurer, in accordance with Section 26-61a-603; or

2203 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2204 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy
2205 shall identify in the applicant's operating plan any information relevant to the department's
2206 evaluation described in Subsection (4)(a), including:

2207 (i) the name and contact information of the payment provider;

2208 (ii) the nature of the relationship between the prospective licensee and the payment
2209 provider;

2210 (iii) the processes of the following to safely and reliably conduct transactions for
2211 medical cannabis shipments:

2212 (A) the prospective licensee; and

2213 (B) the electronic payment provider or the financial institution described in Subsection
2214 (4)(a)(iii); and

2215 (iv) the ability of the licensee to comply with the department's rules regarding the
2216 secure transportation and delivery of medical cannabis or medical cannabis product to a
2217 medical cannabis cardholder.

2218 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy
2219 that the department designates as a home delivery medical cannabis pharmacy may deliver
2220 medical cannabis shipments in accordance with this chapter.

2221 Section 23. Section **26-61a-403** is amended to read:

2222 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

2223 (1) (a) A medical cannabis pharmacy:

2224 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
2225 Practice Act, as a pharmacy medical provider;

2226 (ii) may employ a physician who has the authority to write a prescription and is
2227 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
2228 Osteopathic Medical Practice Act, as a pharmacy medical provider;

2229 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
2230 works onsite during all business hours; and

2231 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
2232 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
2233 cannabis pharmacy.

2234 (b) An individual may not serve as a pharmacy medical provider unless the department
2235 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

2236 (2) (a) The department shall, within 15 days after the day on which the department
2237 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
2238 medical provider, register and issue a pharmacy medical provider registration card to the
2239 prospective pharmacy medical provider if the medical cannabis pharmacy:

2240 (i) provides to the department:

2241 (A) the prospective pharmacy medical provider's name and address;

2242 (B) the name and location of the licensed medical cannabis pharmacy where the
2243 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

2244 (C) a report detailing the completion of the continuing education requirement described
2245 in Subsection (3); and

2246 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
2247 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
2248 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
2249 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

2250 (ii) pays a fee to the department in an amount that, subject to Subsection
2251 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2252 (b) The department may not register a qualified medical provider or a state central
2253 patient portal medical provider as a pharmacy medical provider.

2254 (3) (a) A pharmacy medical provider shall complete the continuing education described
2255 in this Subsection (3) in the following amounts:

2256 (i) as a condition precedent to registration, four hours; and

2257 (ii) as a condition precedent to renewal of the registration, four hours every two years.

2258 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

2259 (i) complete continuing education:

2260 (A) regarding the topics described in Subsection (3)(d); and
2261 (B) offered by the department under Subsection (3)(c) or an accredited or approved
2262 continuing education provider that the department recognizes as offering continuing education
2263 appropriate for the medical cannabis pharmacy practice; and
2264 (ii) make a continuing education report to the department in accordance with a process
2265 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
2266 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
2267 Professional Licensing and:
2268 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
2269 Pharmacy Practice Act, the Board of Pharmacy;
2270 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
2271 Practice Act, the Physicians Licensing Board; and
2272 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah
2273 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.
2274 (c) The department may, in consultation with the Division of Occupational and
2275 Professional Licensing, develop the continuing education described in this Subsection (3).
2276 (d) The continuing education described in this Subsection (3) may discuss:
2277 (i) the provisions of this chapter;
2278 (ii) general information about medical cannabis under federal and state law;
2279 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
2280 including risks and benefits;
2281 (iv) recommendations for medical cannabis as it relates to the continuing care of a
2282 patient in pain management, risk management, potential addiction, and palliative care; or
2283 (v) best practices for recommending the form and dosage of a medical cannabis
2284 product based on the qualifying condition underlying a medical cannabis recommendation.
2285 (4) (a) A pharmacy medical provider registration card expires two years after the day
2286 on which the department issues or renews the card.
2287 (b) A pharmacy medical provider may renew the provider's registration card if the
2288 provider:
2289 (i) is eligible for a pharmacy medical provider registration card under this section;
2290 (ii) certifies to the department in a renewal application that the information in

2291 Subsection (2)(a) is accurate or updates the information;

2292 (iii) submits a report detailing the completion of the continuing education requirement

2293 described in Subsection (3); and

2294 (iv) pays to the department a renewal fee in an amount that:

2295 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with

2296 Section 63J-1-504; and

2297 (B) may not exceed the cost of the relatively lower administrative burden of renewal in

2298 comparison to the original application process.

2299 (5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the

2300 individual dispenses medical cannabis.

2301 (b) For purposes of this Subsection (5), the communication of the following, through a

2302 website, by a pharmacy medical provider, does not constitute advertising:

2303 (i) a green cross;

2304 (ii) the individual's registration as a pharmacy medical provider; or

2305 (iii) a scientific study regarding medical cannabis use.

2306 Section 24. Section 26-61a-501 is amended to read:

2307 **26-61a-501. Operating requirements -- General.**

2308 (1) (a) A medical cannabis pharmacy shall operate:

2309 (i) at the physical address provided to the department under Section 26-61a-301; and

2310 (ii) in accordance with the operating plan provided to the department under Section

2311 26-61a-301 and, if applicable, 26-61a-304.

2312 (b) A medical cannabis pharmacy shall notify the department before a change in the

2313 medical cannabis pharmacy's physical address or operating plan.

2314 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

2315 (a) is at least 18 years old or is an emancipated minor under Section 78A-6-805; and

2316 (b) except as provided in Subsection (5)[;]:

2317 (i) possesses a valid:

2318 [(i)] (A) medical cannabis pharmacy agent registration card;

2319 [(ii)] (B) pharmacy medical provider registration card; or

2320 [(iii)] (C) medical cannabis card[;];

2321 (ii) is an employee of the department or the Department of Agriculture and Food

2322 performing an inspection under Section [26-61a-504](#); or

2323 (iii) is another individual as the department provides.

2324 (3) A medical cannabis pharmacy may not employ an individual who is younger than
2325 21 years old.

2326 (4) A medical cannabis pharmacy may not employ an individual who has been
2327 convicted of a felony under state or federal law.

2328 (5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an
2329 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
2330 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
2331 the individual at all times while the individual is at the medical cannabis pharmacy and
2332 maintains a record of the individual's access.

2333 (6) A medical cannabis pharmacy shall operate in a facility that has:

2334 (a) a single, secure public entrance;

2335 (b) a security system with a backup power source that:

2336 (i) detects and records entry into the medical cannabis pharmacy; and

2337 (ii) provides notice of an unauthorized entry to law enforcement when the medical
2338 cannabis pharmacy is closed; and

2339 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
2340 cannabis product.

2341 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
2342 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
2343 [26-61a-502\(2\)](#).

2344 (8) A medical cannabis pharmacy may not allow any individual to consume cannabis
2345 on the property or premises of the medical cannabis pharmacy.

2346 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
2347 first indicating on the cannabis or cannabis product label the name of the medical cannabis
2348 pharmacy.

2349 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
2350 following information regarding each recommendation underlying a transaction:

2351 (i) the qualified medical provider's name, address, and telephone number;

2352 (ii) the patient's name and address;

- 2353 (iii) the date of issuance;
- 2354 (iv) directions of use and dosing guidelines or an indication that the qualified medical
- 2355 provider did not recommend specific directions of use or dosing guidelines; and
- 2356 (v) if the patient did not complete the transaction, the name of the medical cannabis
- 2357 cardholder who completed the transaction.
- 2358 (b) (i) Except as provided in Subsection [~~(10)(b)(ii)~~] (10)(b)(iii), a medical cannabis
- 2359 pharmacy may not sell medical cannabis unless the medical cannabis has a label securely
- 2360 affixed to the container indicating the following minimum information:
- 2361 (A) the name, address, and telephone number of the medical cannabis pharmacy;
- 2362 (B) the unique identification number that the medical cannabis pharmacy assigns;
- 2363 (C) the date of the sale;
- 2364 (D) the name of the patient;
- 2365 (E) the name of the qualified medical provider who recommended the medical
- 2366 cannabis treatment;
- 2367 (F) directions for use and cautionary statements, if any;
- 2368 (G) the amount dispensed and the cannabinoid content;
- 2369 (H) the suggested use date;
- 2370 (I) for unprocessed cannabis flower, the legal use termination date; and
- 2371 (J) any other requirements that the department determines, in consultation with the
- 2372 Division of Occupational and Professional Licensing and the Board of Pharmacy.
- 2373 (ii) A medical cannabis pharmacy is exempt from the following labeling requirements
- 2374 if the information is already provided on the product label that a cannabis production
- 2375 establishment affixes:
- 2376 (A) Subsection (10)(b)(i)(B) regarding a unique identification number;
- 2377 (B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;
- 2378 (C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and
- 2379 (D) Subsection (10)(b)(i)(H) regarding a suggested use date.
- 2380 [~~(ii)~~] (iii) A medical cannabis pharmacy may sell medical cannabis to another medical
- 2381 cannabis pharmacy without a label described in Subsection (10)(b)(i).
- 2382 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:
- 2383 (a) unless the medical cannabis cardholder has had a consultation under Subsection

2384 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of
2385 cannabis, a cannabis product, or a medical cannabis device, personal counseling with the
2386 pharmacy medical provider; and

2387 (b) provide a telephone number or website by which the cardholder may contact a
2388 pharmacy medical provider for counseling.

2389 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
2390 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
2391 medical cannabis device, or medical cannabis product in a locked box or other secure
2392 receptacle within the medical cannabis pharmacy.

2393 (b) A medical cannabis pharmacy with a disposal program described in Subsection
2394 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
2395 can access deposited medical cannabis or medical cannabis products.

2396 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2397 medical cannabis products by:

2398 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2399 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2400 products from the medical cannabis pharmacy; and

2401 (ii) disposing of the deposited medical cannabis or medical cannabis products in
2402 accordance with:

2403 (A) federal and state law, rules, and regulations related to hazardous waste;

2404 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

2405 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

2406 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2407 3, Utah Administrative Rulemaking Act.

2408 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
2409 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
2410 by a medical cannabis pharmacy.

2411 Section 25. Section 26-61a-502 is amended to read:

2412 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
2413 **Reporting -- Form of cannabis or cannabis product.**

2414 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this

2415 chapter:

2416 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2417 from another medical cannabis pharmacy or a cannabis processing facility that is licensed
2418 under Section 4-41a-201;

2419 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2420 acquired from another medical cannabis pharmacy or a cannabis processing facility that is
2421 licensed under Section 4-41a-201;

2422 (iii) a medical cannabis device; or

2423 (iv) educational material related to the medical use of cannabis.

2424 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2425 an individual with:

2426 (i) (A) a medical cannabis card; or

2427 (B) a department registration described in Subsection [~~26-61a-202(10)~~]

2428 26-61a-201(10); [~~or~~] and

2429 [~~(C) until December 31, 2020, a letter from a medical provider in accordance with~~
2430 ~~Subsection (10); and~~]

2431 (ii) a corresponding valid form of photo identification.

2432 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
2433 cannabis-based drug that the United States Food and Drug Administration has approved.

2434 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
2435 medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a
2436 minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the
2437 approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

2438 (2) A medical cannabis pharmacy:

2439 (a) may dispense to a medical cannabis cardholder [~~or to an individual described in~~
2440 ~~Subsection (10)(b)~~], in any one 28-day period, up to the legal dosage limit of:

2441 (i) unprocessed cannabis that:

2442 (A) is in a medicinal dosage form; and

2443 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
2444 cannabidiol in the cannabis; and

2445 (ii) a cannabis product that is in a medicinal dosage form; and

2446 (b) may not dispense:
2447 (i) more medical cannabis than described in Subsection (2)(a); or
2448 (ii) to an individual whose qualified medical provider~~[, or for an individual described~~
2449 ~~in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i),]~~ did not
2450 recommend directions of use and dosing guidelines, until the individual consults with the
2451 pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

2452 (3) An individual with a medical cannabis card ~~[or an individual described in~~
2453 ~~Subsection (10)(a)]~~:

2454 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
2455 (i) unprocessed cannabis in a medicinal dosage form; and
2456 (ii) a cannabis product in a medicinal dosage form;

2457 (b) may not purchase:
2458 (i) more medical cannabis than described in Subsection (3)(a); or
2459 (ii) if the relevant qualified medical provider did not recommend directions of use and
2460 dosing guidelines, until the individual consults with the pharmacy medical provider in
2461 accordance with Subsection (4), any medical cannabis; and

2462 (c) may not use a route of administration that the relevant qualified medical provider or
2463 the pharmacy medical provider, in accordance with Subsection (4) or (5), has not
2464 recommended.

2465 (4) If a qualified medical provider recommends treatment with medical cannabis but
2466 ~~[does not provide]~~ wishes for the pharmacy medical provider to determine directions of use and
2467 dosing guidelines:
2468 (a) the qualified medical provider shall ~~[document in the recommendation]~~ provide to
2469 the pharmacy medical provider any of the following information that the qualified medical
2470 provider feels would be needed to provide appropriate directions of use and dosing guidelines:
2471 (i) ~~[an evaluation of]~~ information regarding the qualifying condition underlying the
2472 recommendation;
2473 (ii) information regarding prior treatment attempts with medical cannabis; and
2474 (iii) portions of the patient's current medication list; and
2475 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the
2476 pharmacy medical provider shall:

2477 (i) review pertinent medical records, including the qualified medical provider
2478 documentation described in Subsection (4)(a); and
2479 (ii) unless the pertinent medical records show directions of use and dosing guidelines
2480 from a state central patient portal medical provider in accordance with Subsection (5), after
2481 completing the review described in Subsection (4)(b)(i) and consulting with the recommending
2482 qualified medical provider as needed, determine the best course of treatment through
2483 consultation with the cardholder regarding:

2484 (A) the patient's qualifying condition underlying the recommendation from the
2485 qualified medical provider;

2486 (B) indications for available treatments;

2487 (C) directions of use and dosing guidelines; and

2488 (D) potential adverse reactions.

2489 (5) (a) A state central patient portal medical provider may provide the consultation and
2490 make the determination described in Subsection (4)(b) for a medical cannabis patient
2491 cardholder regarding an electronic order that the state central patient portal facilitates.

2492 (b) The state central patient portal medical provider described in Subsection (5)(a)
2493 shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)
2494 in the pertinent medical records.

2495 (6) (a) A medical cannabis pharmacy shall:

2496 ~~[(a)(i)]~~ (i) (A) access the state electronic verification system before dispensing
2497 cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the
2498 cardholder or, where applicable, the associated patient has met the maximum amount of
2499 medical cannabis described in Subsection (2); and

2500 ~~[(i)]~~ (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met
2501 the maximum amount described in Subsection (2)~~[-(A)]~~, decline the sale~~;~~ and ~~[(B)]~~ notify the
2502 qualified medical provider who made the underlying recommendation;

2503 ~~[(b)]~~ (ii) submit a record to the state electronic verification system each time the
2504 medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

2505 (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews
2506 each medical cannabis transaction before dispensing the medical cannabis to the cardholder in
2507 accordance with pharmacy practice standards;

2508 ~~[(e)]~~ (iv) package any medical cannabis that is in a container that:

2509 ~~[(i)]~~ (A) complies with Subsection [4-41a-602\(2\)](#) or, if applicable,

2510 [26-61a-102\(32\)\(a\)\(ii\)](#);

2511 ~~[(ii)]~~ (B) is tamper-resistant and tamper-evident; and

2512 ~~[(iii)] opaque; and~~

2513 (C) provides an opaque, child-resistant bag for the medical cannabis cardholder's use in

2514 transporting the container in public; and

2515 ~~[(d)]~~ (v) for a product that is a cube that is designed for ingestion through chewing or
2516 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2517 of over-consumption.

2518 (b) A medical cannabis cardholder transporting or possessing the container described
2519 in Subsection (6)(a)(iv) in public shall keep the container within the opaque, child-resistant bag
2520 that the medical cannabis pharmacist provides.

2521 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2522 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2523 intentionally designed or constructed to resemble a cigarette.

2524 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2525 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2526 individual's respiratory system.

2527 (8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the
2528 medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

2529 (b) A medical cannabis pharmacy may give, at no cost, educational material related to
2530 the medical use of cannabis.

2531 (9) The department may impose a uniform fee on each medical cannabis transaction in
2532 a medical cannabis pharmacy in an amount that, subject to Subsection [26-61a-109\(5\)](#), the
2533 department sets in accordance with Section [63J-1-504](#).

2534 ~~[(10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an~~
2535 ~~individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from~~
2536 ~~a licensed medical cannabis pharmacy if:]~~

2537 ~~[(i) the individual presents to the medical cannabis pharmacy a letter from the medical~~
2538 ~~professional described in Subsection [58-37-3.7\(2\)\(a\)\(i\)\(B\)](#) that indicates the medical~~

2539 professional's medical cannabis recommendation for the individual;]
2540 ~~[(ii) the medical cannabis pharmacy receives independent confirmation from the~~
2541 ~~medical professional described in Subsection (10)(a)(i) or an employee of the medical~~
2542 ~~professional that the letter is valid;]~~
2543 ~~[(iii) the medical cannabis pharmacy:]~~
2544 ~~[(A) scans or photocopies the individual's letter and the individual's valid form of~~
2545 ~~photo identification;]~~
2546 ~~[(B) creates a record of the transaction, including the documents described in~~
2547 ~~Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis~~
2548 ~~the individual purchased; and]~~
2549 ~~[(C) provides information to the individual about obtaining a medical cannabis card;~~
2550 ~~and]~~
2551 ~~[(iv) unless the medical professional recommends specific directions of using and~~
2552 ~~dosing guidelines in the letter, the pharmacy medical provider determines the best course of~~
2553 ~~treatment through consultation with the individual regarding:]~~
2554 ~~[(A) the individual's qualifying condition underlying the recommendation from the~~
2555 ~~medical professional;]~~
2556 ~~[(B) indications for available treatments;]~~
2557 ~~[(C) directions of use and dosing guidelines; and]~~
2558 ~~[(D) potential adverse reactions.]~~
2559 ~~[(b) (i) An individual who purchases medical cannabis from a medical cannabis~~
2560 ~~pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different~~
2561 ~~medical cannabis pharmacy under Subsection (10)(a).]~~
2562 ~~[(ii) If the department notifies a medical cannabis pharmacy, in accordance with~~
2563 ~~Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a)~~
2564 ~~from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an~~
2565 ~~item listed in Subsection (1)(a) to the individual under Subsection (10)(a).]~~
2566 ~~[(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the~~
2567 ~~individual is a medical cannabis cardholder.]~~
2568 ~~[(c) (i) Until December 31, 2020, on or before the first day of each month, each~~
2569 ~~medical cannabis pharmacy shall provide to the department, in a secure manner, information~~

2570 identifying each individual who has purchased medical cannabis from the medical cannabis
2571 pharmacy under Subsection (10)(a).]

2572 [~~(ii)~~ The department shall review information the department receives under
2573 Subsection (10)(c)(i) to identify any individuals who:]

2574 [~~(A)~~ have purchased medical cannabis under Subsection (10)(a) from more than one
2575 pharmacy; or]

2576 [~~(B)~~ hold a medical cannabis card.]

2577 [(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the
2578 department shall notify each medical cannabis pharmacy regarding:]

2579 [~~(A)~~ the identification of the individual; and]

2580 [~~(B)~~ the individual's ineligibility to purchase medical cannabis for a reason described in
2581 Subsection (10)(b).]

2582 [(H)] (10) A medical cannabis pharmacy may purchase and store medical cannabis
2583 devices regardless of whether the seller has a cannabis-related license under this title or Title 4,
2584 Chapter 41a, Cannabis Production Establishments.

2585 Section 26. Section **26-61a-505** is amended to read:

2586 **26-61a-505. Advertising.**

2587 (1) Except as provided in this section, a medical cannabis pharmacy may not advertise
2588 in any medium.

2589 (2) A medical cannabis pharmacy may advertise an employment opportunity at the
2590 medical cannabis pharmacy.

2591 (3) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a
2592 medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy
2593 that:

2594 [~~(a)~~] (i) includes only:

2595 [~~(i)~~] (A) in accordance with Subsection (3)(b), the medical cannabis pharmacy's name,
2596 logo, and hours of operation; and

2597 [~~(ii)~~] (B) a green cross; and

2598 [~~(b)~~] (ii) complies with local ordinances regulating signage.

2599 (b) The department shall define standards for a medical cannabis pharmacy's name and
2600 logo to ensure a medical rather than recreational disposition.

2601 (4) (a) A medical cannabis pharmacy may maintain a website that includes information
2602 about:

- 2603 (i) the location and hours of operation of the medical cannabis pharmacy;
- 2604 (ii) a product or service available at the medical cannabis pharmacy;
- 2605 (iii) personnel affiliated with the medical cannabis pharmacy;
- 2606 (iv) best practices that the medical cannabis pharmacy upholds; and
- 2607 (v) educational material related to the medical use of cannabis, as defined by the
2608 department.

2609 (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2610 Administrative Rulemaking Act, to define the educational material described in Subsection
2611 (4)(a).

2612 (5) (a) A medical cannabis pharmacy may hold an educational event for the public or
2613 medical providers in accordance with this Subsection (5) and the rules described in Subsection
2614 (5)(c).

2615 (b) A medical cannabis pharmacy may not include in an educational event described in
2616 Subsection (5)(a):

- 2617 (i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis
2618 Production Establishments;
- 2619 (ii) any gift items or merchandise other than educational materials, as those terms are
2620 defined by the department;
- 2621 (iii) any marketing for a specific product from the medical cannabis pharmacy or any
2622 other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic
2623 Act, 21 U.S.C. Sec. 301, et seq.; or
- 2624 (iv) a presenter other than the following:
 - 2625 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
 - 2626 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
2627 Practice Act;
 - 2628 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
2629 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - 2630 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
2631 Assistant Act; [or]

2632 (E) a medical practitioner, similar to the practitioners described in this Subsection
2633 (5)(b)(iv), who is licensed in another state or country;

2634 [~~(F)~~] (F) a state employee[-]; or

2635 (G) if the presentation relates to a cannabis topic other than medical treatment or
2636 medical conditions, an individual whom the department approves based on the individual's
2637 background and credentials in the presented topic.

2638 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2639 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
2640 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

2641 Section 27. Section **26-61a-506** is amended to read:

2642 **26-61a-506. Medical cannabis transportation.**

2643 (1) Only the following individuals may transport medical cannabis under this chapter:

2644 (a) a registered medical cannabis pharmacy agent;

2645 (b) a registered medical cannabis courier agent;

2646 (c) a registered pharmacy medical provider; or

2647 (d) a medical cannabis cardholder who is transporting a medical cannabis treatment
2648 that the cardholder is authorized to transport.

2649 (2) Except for an individual with a valid medical cannabis card under this chapter who
2650 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an
2651 individual described in Subsection (1) shall possess a transportation manifest that:

2652 (a) includes a unique identifier that links the cannabis or cannabis product to a relevant
2653 inventory control system;

2654 (b) includes origin and destination information for the medical cannabis that the
2655 individual is transporting; and

2656 (c) identifies the departure and arrival times and locations of the individual
2657 transporting the medical cannabis.

2658 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
2659 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2660 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2661 Rulemaking Act, requirements for transporting medical cannabis to ensure that the medical
2662 cannabis remains safe for human consumption.

2663 (b) The transportation described in Subsection (1)(a) is limited to transportation
2664 between a medical cannabis pharmacy or a medical cannabis pharmacy warehouse location
2665 and:

2666 (i) another medical cannabis pharmacy or medical cannabis pharmacy warehouse
2667 location; or

2668 (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

2669 (4) (a) It is unlawful for an individual described in Subsection (1) to make a transport
2670 described in this section with a manifest that does not meet the requirements of this section.

2671 (b) Except as provided in Subsection (4)(d), an individual who violates Subsection
2672 (4)(a) is:

2673 (i) guilty of an infraction; and

2674 (ii) subject to a \$100 fine.

2675 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
2676 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2677 underlying the violation described in Subsection (4)(b).

2678 (d) If the individual described in Subsection (4)(a) is transporting more medical
2679 cannabis than the manifest identifies, except for a de minimis administrative error:

2680 (i) this chapter does not apply; and

2681 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2682 Substances Act.

2683 (5) An individual other than an individual described in Subsection (1) may transport a
2684 medical cannabis device within the state if the transport does not also contain medical
2685 cannabis.

2686 Section 28. Section **26-61a-605** is amended to read:

2687 **26-61a-605. Medical cannabis shipment transportation.**

2688 (1) The department shall ensure that each home delivery medical cannabis pharmacy is
2689 capable of delivering, directly or through a medical cannabis courier, medical cannabis
2690 shipments in a secure manner.

2691 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed
2692 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
2693 cannabis orders that the state central patient portal facilitates.

2694 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
2695 Subsection (2)(a), the pharmacy shall:

2696 (i) impose security and personnel requirements on the medical cannabis courier
2697 sufficient to ensure the security and safety of medical cannabis shipments; and

2698 (ii) provide regular oversight of the medical cannabis courier.

2699 (3) Except for an individual with a valid medical cannabis card who transports a
2700 shipment the individual receives, an individual may not transport a medical cannabis shipment
2701 unless the individual is:

2702 (a) a registered pharmacy medical provider;

2703 (b) a registered medical cannabis pharmacy agent; or

2704 (c) a registered agent of the medical cannabis courier described in Subsection (2).

2705 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
2706 possess a physical or electronic transportation manifest that:

2707 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
2708 inventory control system;

2709 (b) includes origin and destination information for the medical cannabis shipment the
2710 individual is transporting; and

2711 (c) indicates the departure and estimated arrival times and locations of the individual
2712 transporting the medical cannabis shipment.

2713 (5) In addition to the requirements in Subsections (3) and (4), the department may
2714 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2715 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2716 Rulemaking Act, requirements for transporting medical cannabis shipments that are related to
2717 safety for human consumption of cannabis or a cannabis product.

2718 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
2719 manifest that does not meet the requirements of Subsection (4).

2720 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
2721 (6)(a) is:

2722 (i) guilty of an infraction; and

2723 (ii) subject to a \$100 fine.

2724 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not

2725 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2726 underlying the violation described in Subsection (6)(b).

2727 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
2728 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
2729 minimis administrative error:

2730 (i) this chapter does not apply; and

2731 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2732 Substances Act.

2733 (7) (a) A home delivery medical cannabis pharmacy:

2734 (i) may operate up to two medical cannabis pharmacy warehouse locations to better
2735 geographically facilitate the delivery of medical cannabis shipments to medical cannabis
2736 cardholders, subject to the requirements of this chapter, including storage, transportation, and
2737 access; and

2738 (ii) shall ensure that each medical cannabis pharmacy warehouse location remains
2739 closed to the general public.

2740 (b) The operation of a medical cannabis pharmacy warehouse location does not alter
2741 the requirement for pharmacist review of each medical cannabis transaction, including as
2742 described in Section [26-61a-201](#).

2743 Section 29. Section **26-61a-606** is amended to read:

2744 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
2745 **card -- Rebuttable presumption.**

2746 (1) An individual may not serve as a medical cannabis courier agent unless:

2747 (a) the individual is an employee of a licensed medical cannabis courier; and

2748 (b) the department registers the individual as a medical cannabis courier agent.

2749 (2) (a) The department shall, within 15 days after the day on which the department
2750 receives a complete application from a medical cannabis courier on behalf of a medical
2751 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
2752 the prospective agent if the medical cannabis courier:

2753 (i) provides to the department:

2754 (A) the prospective agent's name and address;

2755 (B) the name and address of the medical cannabis courier;

2756 (C) the name and address of each home delivery medical cannabis pharmacy with
2757 which the medical cannabis courier contracts to deliver medical cannabis shipments; and

2758 (D) the submission required under Subsection (2)(b);

2759 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
2760 law of:

2761 (A) a felony; or

2762 (B) after December 3, 2018, a misdemeanor for drug distribution; and

2763 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),
2764 the department sets in accordance with Section 63J-1-504.

2765 (b) Except for an applicant reapplying for a medical cannabis courier agent registration
2766 card within less than one year after the expiration of the applicant's previous medical cannabis
2767 courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

2768 (i) submit to the department:

2769 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

2770 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
2771 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
2772 Generation Identification System's Rap Back Service; and

2773 (ii) consent to a fingerprint background check by:

2774 (A) the Bureau of Criminal Identification; and

2775 (B) the Federal Bureau of Investigation.

2776 (c) The Bureau of Criminal Identification shall:

2777 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
2778 the applicable state, regional, and national criminal records databases, including the Federal
2779 Bureau of Investigation Next Generation Identification System;

2780 (ii) report the results of the background check to the department;

2781 (iii) maintain a separate file of fingerprints that prospective agents submit under
2782 Subsection (2)(b) for search by future submissions to the local and regional criminal records
2783 databases, including latent prints;

2784 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2785 Generation Identification System's Rap Back Service for search by future submissions to
2786 national criminal records databases, including the Next Generation Identification System and

2787 latent prints; and

2788 (v) establish a privacy risk mitigation strategy to ensure that the department only
2789 receives notifications for an individual with whom the department maintains an authorizing
2790 relationship.

2791 (d) The department shall:

2792 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
2793 amount that the department sets in accordance with Section 63J-1-504 for the services that the
2794 Bureau of Criminal Identification or another authorized agency provides under this section; and

2795 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
2796 Identification.

2797 (3) The department shall designate on an individual's medical cannabis courier agent
2798 registration card the name of the medical cannabis [~~courier~~] pharmacy where the individual is
2799 registered as an agent and each home delivery medical cannabis courier for which the medical
2800 cannabis courier delivers medical cannabis shipments.

2801 (4) (a) A medical cannabis courier agent shall comply with a certification standard that
2802 the department develops, in collaboration with the Division of Occupational and Professional
2803 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
2804 designates by rule in collaboration with the Division of Occupational and Professional
2805 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
2806 Administrative Rulemaking Act.

2807 (b) The department shall ensure that the certification standard described in Subsection
2808 (4)(a) includes training in:

2809 (i) Utah medical cannabis law;

2810 (ii) the medical cannabis shipment process; and

2811 (iii) medical cannabis courier agent best practices.

2812 (5) (a) A medical cannabis courier agent registration card expires two years after the
2813 day on which the department issues or renews the card.

2814 (b) A medical cannabis courier agent may renew the agent's registration card if the
2815 agent:

2816 (i) is eligible for a medical cannabis courier agent registration card under this section;

2817 (ii) certifies to the department in a renewal application that the information in

2818 Subsection (2)(a) is accurate or updates the information; and
2819 (iii) pays to the department a renewal fee in an amount that:
2820 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2821 Section 63J-1-504; and
2822 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2823 comparison to the original application process.
2824 (6) The department may revoke or refuse to issue or renew the medical cannabis
2825 courier agent registration card of an individual who:
2826 (a) violates the requirements of this chapter; or
2827 (b) is convicted under state or federal law of:
2828 (i) a felony; or
2829 (ii) after December 3, 2018, a misdemeanor for drug distribution.
2830 (7) A medical cannabis courier agent whom the department has registered under this
2831 section shall carry the agent's medical cannabis courier agent registration card with the agent at
2832 all times when:
2833 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
2834 pharmacy, or a medical cannabis cardholder's home address; and
2835 (b) the agent is handling a medical cannabis shipment.
2836 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
2837 the shipment in compliance with Subsection (7):
2838 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
2839 (b) there is no probable cause, based solely on the agent's possession of the medical
2840 cannabis shipment that the agent is engaging in illegal activity.
2841 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:
2842 (i) guilty of an infraction; and
2843 (ii) subject to a \$100 fine.
2844 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
2845 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2846 underlying the violation described in Subsection (9)(a).
2847 Section 30. Section 26-61a-607 is amended to read:
2848 **26-61a-607. Home delivery of medical cannabis shipments.**

2849 (1) An individual may not receive and a medical cannabis pharmacy agent or a medical
2850 cannabis courier agent may not deliver a medical cannabis shipment from a home delivery
2851 medical cannabis pharmacy unless:

2852 (a) the individual receiving the shipment presents:

2853 (i) a valid form of photo identification; and

2854 (ii) a valid medical cannabis card under the same name that appears on the valid form
2855 of photo identification; and

2856 (b) the delivery occurs at the medical cannabis cardholder's home address that is on file
2857 in the state electronic verification system.

2858 (2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent
2859 distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

2860 (a) verify the shipment information using the state electronic verification system;

2861 (b) ensure that the individual satisfies the identification requirements in Subsection (1);

2862 (c) verify that payment is complete; and

2863 (d) record the completion of the shipment transaction in a manner such that the
2864 delivery of the shipment will later be recorded within a reasonable period in the electronic
2865 verification system.

2866 (3) The medical cannabis courier shall:

2867 (a) (i) store each medical cannabis shipment in a secure manner until the recipient
2868 medical cannabis cardholder receives the shipment or the medical cannabis courier returns the
2869 shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4);
2870 and

2871 (ii) ensure that only a medical cannabis courier agent is able to access the medical
2872 cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

2873 (b) return any undelivered medical cannabis shipment to the home delivery medical
2874 cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has
2875 possessed the shipment for 10 business days; and

2876 (c) return any medical cannabis shipment to the home delivery medical cannabis
2877 pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to
2878 accept the shipment.

2879 (4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy

2880 agent returns an undelivered medical cannabis shipment that remains unopened, the home
2881 delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

2882 (b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent
2883 returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears
2884 to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the
2885 shipment by:

2886 (i) rendering the shipment unusable and unrecognizable before transporting the
2887 shipment from the home delivery medical cannabis pharmacy; and

2888 (ii) disposing of the shipment in accordance with:

2889 (A) federal and state laws, rules, and regulations related to hazardous waste;

2890 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

2891 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

2892 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2893 3, Utah Administrative Rulemaking Act.

2894 (5) For purposes of this section, a delivery of a medical cannabis shipment from or to a
2895 medical cannabis pharmacy warehouse location constitutes a delivery from or to the associated
2896 home delivery medical cannabis pharmacy.

2897 Section 31. Section **58-37-3.7** is amended to read:

2898 **58-37-3.7. Medical cannabis decriminalization.**

2899 (1) As used in this section:

2900 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

2901 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

2902 (c) "Legal dosage limit" means the same as that term is defined in Section [26-61a-102](#).

2903 (d) "Medical cannabis card" means the same as that term is defined in Section
2904 [26-61a-102](#).

2905 (e) "Medical cannabis device" means the same as that term is defined in Section
2906 [26-61a-102](#).

2907 (f) "Medicinal dosage form" means the same as that term is defined in Section
2908 [26-61a-102](#).

2909 (g) "Nonresident patient" means the same as that term is defined in Section
2910 [26-61a-102](#).

- 2911 (h) "Qualifying condition" means the same as that term is defined in Section
2912 26-61a-102.
- 2913 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
2914 58-37-3.9.
- 2915 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
2916 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:
- 2917 (a) at the time of the arrest or citation, the individual:
- 2918 (i) (A) had been diagnosed with a qualifying condition; and
2919 (B) had a pre-existing provider-patient relationship with an advanced practice
2920 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
2921 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
2922 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
2923 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness
2924 described in Subsection (2)(a)(i)(A) could benefit from the use in question;
- 2925 (ii) for possession, was:
- 2926 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
2927 is a minor; or
2928 (B) the spouse of an individual described in Subsection (2)(a)(i); or
2929 (iii) (A) for possession, was a medical cannabis cardholder; or
2930 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
2931 condition under the supervision of a medical cannabis guardian cardholder; and
- 2932 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
2933 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
2934 dosage limit:
- 2935 (A) unprocessed cannabis in a medicinal dosage form; or
2936 (B) a cannabis product in a medicinal dosage form; and
2937 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
2938 medical cannabis device.
- 2939 (3) A nonresident patient is not guilty under this chapter for the use or possession of
2940 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:
- 2941 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or

2942 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
2943 dosage limit:

- 2944 (i) unprocessed cannabis in a medicinal dosage form; or
- 2945 (ii) a cannabis product in a medicinal dosage form; and
- 2946 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
2947 medical cannabis device.

2948 (4) (a) There is a rebuttable presumption against an allegation of use or possession of
2949 marijuana or tetrahydrocannabinol if:

- 2950 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the
2951 sample; and
- 2952 (ii) the individual provides evidence that the individual possessed or used cannabidiol
2953 or a cannabidiol product.

2954 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that
2955 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized
2956 under:

- 2957 (i) Section 4-41-402; or
- 2958 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

2959 (5) (a) An individual is not guilty under this chapter for the use or possession of
2960 marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

2961 (b) Nothing in this section prohibits a person, either within the state or outside the
2962 state, from selling a medical cannabis device within the state.

2963 (c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
2964 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for
2965 the protections of this section to sell a medical cannabis device.

2966 Section 32. Section 58-37-3.9 is amended to read:

2967 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**
2968 **illness.**

2969 (1) As used in this section:

- 2970 (a) "Cannabis" means marijuana.
- 2971 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- 2972 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

2973 (d) "Medical cannabis cardholder" means the same as that term is defined in Section
2974 26-61a-102.

2975 (e) "Medical cannabis device" means the same as that term is defined in Section
2976 26-61a-102.

2977 (f) " Medicinal dosage form" means the same as that term is defined in Section
2978 26-61a-102.

2979 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic
2980 description as described in Subsection 58-37-4(2)(a)(iii)(AA).

2981 (2) Notwithstanding any other provision of law, except as otherwise provided in this
2982 section:

2983 (a) an individual is not guilty of a violation of this title for the following conduct if the
2984 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis
2985 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

2986 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,
2987 selling, or offering to sell cannabis or a cannabis product; or

2988 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct
2989 described in Subsection (2)(a)(i); and

2990 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if
2991 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,
2992 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

2993 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis
2994 device; or

2995 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct
2996 described in Subsection (2)(b)(i).

2997 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or
2998 heating of medical cannabis.

2999 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical
3000 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking
3001 or combustion of cannabis.

3002 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or
3003 engages in any other conduct described in Subsection (3)(b):

3004 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah
3005 Medical Cannabis Act; and

3006 (ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug
3007 paraphernalia for the conduct described in Subsection (3)(b):

3008 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

3009 (B) for a second or subsequent offense, subject to charges under this chapter.

3010 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,
3011 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
3012 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a
3013 penalty described in this chapter for:

3014 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis
3015 product; or

3016 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3017 (5) (a) Nothing in this section prohibits a person, either within the state or outside the
3018 state, from selling a medical cannabis device within the state.

3019 (b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
3020 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for
3021 the protections of this section to sell a medical cannabis device.

3022 Section 33. **Effective date.**

3023 If approved by two-thirds of all the members elected to each house, this bill takes effect
3024 upon approval by the governor, or the day following the constitutional time limit of Utah
3025 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
3026 the date of veto override.