

**Senator Evan J. Vickers** proposes the following substitute bill:

**MEDICAL CANNABIS ACT AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Francis D. Gibson

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**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



- 26 cannabis product in a container that is opaque;
- 27       ▶ 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 DOH to charge a license fee for any change in location, ownership, or
- 50 company structure for a medical cannabis pharmacy;
- 51       ▶ requires DOH to rescind a notice of an intent to issue a medical cannabis pharmacy
- 52 license if the medical cannabis pharmacy does not begin operations by a certain
- 53 date;
- 54       ▶ imposes restrictions on medical cannabis pharmacy and pharmacy medical provider
- 55 advertising;
- 56       ▶ allows an emancipated minor to enter a medical cannabis pharmacy and amends

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- 67       ▶ repeals an outdated method for a patient to obtain medical cannabis without a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

74 **Money Appropriated in this Bill:**

75       None

76 **Other Special Clauses:**

77       This bill provides a special effective date.

78       This bill coordinates with S.B. 170, Consumer Protection for Cannabis Patients, by  
79 providing substantive amendments.

80 **Utah Code Sections Affected:**

81 AMENDS:

82       **4-41a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended  
83 by Coordination Clause, Laws of Utah 2020, Chapter 148

84       **4-41a-201**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended  
85 by Coordination Clause, Laws of Utah 2020, Chapter 148

86       **4-41a-203**, as last amended by Laws of Utah 2020, Chapter 12

87       **4-41a-204**, as last amended by Laws of Utah 2020, Chapter 12

- 88            **4-41a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 89            **4-41a-403**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 90            **4-41a-501**, as last amended by Laws of Utah 2020, Chapter 148
- 91            **4-41a-602**, as last amended by Laws of Utah 2020, Chapter 12
- 92            **4-41a-603**, as last amended by Laws of Utah 2020, Chapter 12
- 93            **4-41a-701**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 94            **4-41a-702**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 95 Chapter 1
- 96            **4-41a-901**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5
- 97            **26-61a-102**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 98 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 99            **26-61a-103**, as last amended by Laws of Utah 2020, Chapter 12
- 100           **26-61a-105**, as last amended by Laws of Utah 2020, Chapter 12
- 101           **26-61a-106**, as last amended by Laws of Utah 2020, Chapter 12
- 102           **26-61a-201**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 103           **26-61a-202**, as last amended by Laws of Utah 2020, Chapter 12
- 104           **26-61a-204**, as last amended by Laws of Utah 2020, Chapter 12
- 105           **26-61a-301**, as last amended by Laws of Utah 2020, Chapters 12, 148, 354 and last
- 106 amended by Coordination Clause, Laws of Utah 2020, Chapter 148
- 107           **26-61a-305**, as last amended by Laws of Utah 2020, Chapter 12
- 108           **26-61a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 109           **26-61a-501**, as last amended by Laws of Utah 2020, Chapter 12
- 110           **26-61a-502**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 111 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 112           **26-61a-504**, as last amended by Laws of Utah 2020, Chapter 12
- 113           **26-61a-505**, as last amended by Laws of Utah 2020, Chapters 12 and 148
- 114           **26-61a-605**, as last amended by Laws of Utah 2020, Chapter 12
- 115           **26-61a-606**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 116           **26-61a-607**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 117           **58-37-3.7**, as last amended by Laws of Utah 2020, Chapter 12
- 118           **58-37-3.9**, as last amended by Laws of Utah 2020, Chapter 12

119 ENACTS:

120 **4-41a-201.1**, Utah Code Annotated 1953

121 **Utah Code Sections Affected by Coordination Clause:**

122 **26-61a-502**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended  
123 by Coordination Clause, Laws of Utah 2020, Chapter 148



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

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

126 **4-41a-102. Definitions.**

127 As used in this chapter:

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

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

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

138 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in  
139 Section **26-61-201**.

140 ~~[(2)]~~ (3) "Cannabis" means the same as that term is defined in Section **26-61a-102**.

141 (4) "Cannabis concentrate" means:

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

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

148 ~~[(3)]~~ (6) "Cannabis cultivation facility" means a person that:

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

181 authorized to act as an agent.

182 ~~[(11)]~~ (16) "Community location" means a public or private elementary or secondary  
183 school, a church, a public library, a public playground, or a public park.

184 ~~[(12)]~~ (17) "Cultivation space" means, quantified in square feet, the horizontal area in  
185 which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area  
186 if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above  
187 other plants in multiple levels.

188 (18) "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)]~~ (19) "Department" means the Department of Agriculture and Food.

191 (20) "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)]~~ (21) "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)]~~ (22) (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)]~~ (23) "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 (24) "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)]~~ (25) "Inventory control system" means a system described in Section [4-41a-103](#).

211 (26) "Licensing board" or "board" means the Cannabis Production Establishment

212 Licensing Advisory Board created in Section [4-41a-201.1](#).

213 [~~(18)~~] (27) "Medical cannabis" means the same as that term is defined in Section  
214 [26-61a-102](#).

215 [~~(19)~~] (28) "Medical cannabis card" means the same as that term is defined in Section  
216 [26-61a-102](#).

217 [~~(20)~~] (29) "Medical cannabis pharmacy" means the same as that term is defined in  
218 Section [26-61a-102](#).

219 [~~(21)~~] (30) "Medical cannabis pharmacy agent" means the same as that term is defined  
220 in Section [26-61a-102](#).

221 [~~(22)~~] (31) "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)~~] (32) "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)~~] (33) "Medical cannabis treatment" means the same as that term is defined in  
228 Section [26-61a-102](#).

229 [~~(25)~~] (34) "Medicinal dosage form" means the same as that term is defined in Section  
230 [26-61a-102](#).

231 [~~(26)~~] (35) "Qualified medical provider" means the same as that term is defined in  
232 Section [26-61a-102](#).

233 [~~(27)~~] (36) "Qualified Production Enterprise Fund" means the fund created in Section  
234 [4-41a-104](#).

235 [~~(28)~~] (37) "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)~~] (38) "State electronic verification [~~system~~" means the system described in Section  
242 [26-61a-103](#).



243 (39) "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)]~~ (40) "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)]~~ (41) "Total composite tetrahydrocannabinol" means all detectable forms of  
 250 tetrahydrocannabinol.

251 (42) "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 0.877)."

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~~] \$100,000 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 ~~[(+)]~~ (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 ~~[(+)]~~ (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 ~~[(c)]~~ (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) Except as provided in Subsection (3)(c), the board shall consist of the following  
446 six members:

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

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

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

450 (C) one member whom the governor nominates;

451 (D) one member whom an organization representing medical cannabis patients  
452 nominates; and

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

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

457 (b) The commissioner may appoint a seventh member to the board who has a  
458 background in the cannabis cultivation and processing industry.

459 (c) The commissioner or the commissioner's designee shall serve as the chair of the

460 board.

461 (d) An individual is not eligible for nomination or appointment to be a member of the  
462 board if the individual:

463 (i) has any commercial or ownership interest in a cannabis production establishment,  
464 medical cannabis pharmacy, or medical cannabis courier;

465 (ii) has an owner, officer, director, or employee whose family member holds a license  
466 or has an ownership interest in a cannabis production establishment, medical cannabis  
467 pharmacy, or medical cannabis courier; or

468 (iii) is employed or contracted to lobby on behalf of any cannabis production  
469 establishment, medical cannabis pharmacy, or medical cannabis courier.

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

472 (b) Notwithstanding Subsection (4)(a), for the initial appointments to the board, the  
473 commissioner shall stagger the length of the terms of board members to ensure that the  
474 commissioner appoints two or three board members every two years.

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

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

477 (ii) the nominating individual or entity shall nominate an individual for the  
478 commissioner's consideration; and

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

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

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

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

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

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



- 491 (b) The department shall provide staff support to the board.
- 492 (c) A member of the board may not receive compensation or benefits for the member's
- 493 service, but may receive per diem and travel expenses in accordance with:
- 494 (i) Section [63A-3-106](#);
- 495 (ii) Section [63A-3-107](#); and
- 496 (iii) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
- 497 [63A-3-107](#).
- 498 (6) The board shall:
- 499 (a) meet as called by the chair to review cannabis production establishment license
- 500 applications;
- 501 (b) review each license application for compliance with:
- 502 (i) this chapter; and
- 503 (ii) department rules;
- 504 (c) conduct a public hearing to consider the license application;
- 505 (d) approve the department's license application forms and checklists; and
- 506 (e) make a determination on each license application.
- 507 (7) The board shall hold a public hearing to review a cannabis production
- 508 establishment's license if the establishment:
- 509 (a) changes ownership by an interest of 20% or more;
- 510 (b) changes or adds a location;
- 511 (c) upgrades to a different licensing tier under department rule;
- 512 (d) changes extraction or formulation standard operating procedures;
- 513 (e) adds an industrial hemp processing or cultivation license to the same location as the
- 514 cannabis production establishment's processing facility; or
- 515 (f) as necessary based on the recommendation of the department.
- 516 (8) (a) The board shall meet annually in December to consider cannabis production
- 517 establishment license renewal applications.
- 518 (b) During the meeting described in Subsection (8)(a):
- 519 (i) a representative from each applicant for renewal shall:
- 520 (A) attend in person or electronically; or
- 521 (B) submit information before the meeting, as the board may require, for the board's

522 consideration; and

523 (ii) the board shall consider, for each cannabis cultivation facility seeking renewal,

524 information including:

525 (A) the amount of biomass the licensee produced during the current calendar year;

526 (B) the amount of biomass the licensee projects to produce during the following year;

527 (C) the amount of hemp waste the licensee currently holds;

528 (D) the current square footage or acres of growing area the licensee uses; and

529 (E) the square footage or acres of growing area the licensee projects to use in the

530 following year; and

531 (iii) the board shall consider, for each cannabis processing facility seeking renewal,

532 information including:

533 (A) methods and procedures for extraction;

534 (B) standard operating procedures; and

535 (C) a complete listing of the medical dosage forms that the licensee produces.

536 (c) The information a licensee or license applicant provides to the board for a license

537 determination constitutes a protected record under Subsection [63G-2-305](#)(1) or (2) if the

538 applicant or licensee provides the board with the information regarding business confidentiality

539 required in Section [63G-2-309](#).

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

541 **4-41a-203. Renewal.**

542 The department shall renew a license issued under Section [4-41a-201](#) every year

543 [~~without opening a process described in Subsection [4-41a-201](#)(2)(a) or convert a 120-day~~

544 ~~limited license described in Subsection [4-41a-201](#)(3)(b) into a full-year license if, at the time of~~

545 ~~renewal:] if:~~

546 (1) the licensee meets the requirements of Section [4-41a-201](#) at the time of renewal;

547 (2) the board does not identify a failure of compliance with this chapter or department

548 rules in the review described in Section [4-41a-201.1](#);

549 [~~2~~] (3) the licensee pays the department a license renewal fee in an amount that,

550 subject to Subsection [4-41a-104](#)(5), the department sets in accordance with Section [63J-1-504](#);

551 and

552 [~~3~~] (4) if the cannabis production establishment changes the operating plan described

553 in Section [4-41a-204](#) that the department or licensing board approved under Subsection  
554 [4-41a-201\(2\)\(b\)\(iii\)](#), the department approves the new operating plan.

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

556 **4-41a-204. Operating plan.**

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

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

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

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

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

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

568 (d) a security plan;

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

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

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

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

576 (i) for an independent cannabis testing laboratory, the information described in

577 Subsection (4).

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

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

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

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

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

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

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

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

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

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

599 (ii) [~~The department may, after~~] After conducting a review [~~as~~] equivalent to the  
600 review described in Subsection 4-41a-205(2)(a), if the department determines that additional  
601 cultivation is needed, the department may:

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

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

605 (d) If a licensee describes an intended acreage or square footage under cultivation  
606 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b)[~~(i)~~],  
607 the licensee may not cultivate more than the licensee's identified intended acreage or square  
608 footage under cultivation[~~; and~~].

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

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

614 (i) does not exceed, in estimated cultivation yield, the aggregate limitations described

615 in Subsection (2)(b)(i) or (ii); and

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

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

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

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

624 (a) offered variety of cannabis product;

625 (b) cannabinoid extraction method;

626 (c) cannabinoid extraction equipment;

627 (d) processing equipment;

628 (e) processing techniques; and

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

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

632 (a) cannabis and cannabis product testing capability;

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

634 (c) testing methods, standards, practices, and procedures for testing cannabis and  
635 cannabis products.

636 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production  
637 establishment is subject to land use regulations, as defined in Sections [10-9a-103](#) and  
638 [17-27a-103](#), regarding the availability of outdoor cultivation in an industrial zone.

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

640 **4-41a-301. Cannabis production establishment agent -- Registration.**

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

644 (2) The following individuals, regardless of the individual's status as a qualified  
645 medical provider, may not serve as a cannabis production establishment agent, have a financial

646 or voting interest of 2% or greater in a cannabis production establishment, or have the power to  
647 direct or cause the management or control of a cannabis production establishment:

- 648 (a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 649 (b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
650 Practice Act;
- 651 (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
652 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 653 (d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant  
654 Act.

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

658 (4) (a) The department shall, within 15 business days after the day on which the  
659 department receives a complete application from a cannabis production establishment on  
660 behalf of a prospective cannabis production establishment agent, register and issue a cannabis  
661 production establishment agent registration card to the prospective agent if the cannabis  
662 production establishment:

- 663 (i) provides to the department:
  - 664 (A) the prospective agent's name and address;
  - 665 (B) the name and location of a licensed cannabis production establishment where the  
666 prospective agent will act as the cannabis production establishment's agent; and
  - 667 (C) the submission required under Subsection (4)(b); and
- 668 (ii) pays a fee to the department in an amount that, subject to Subsection [4-41a-104\(5\)](#),  
669 the department sets in accordance with Section [63J-1-504](#).

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

- 674 (i) submit to the department:
  - 675 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
  - 676 (B) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the

677 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next  
678 Generation Identification System's Rap Back Service; and  
679 (ii) consent to a fingerprint background check by:  
680 (A) the Bureau of Criminal Identification; and  
681 (B) the Federal Bureau of Investigation.  
682 (c) The Bureau of Criminal Identification shall:  
683 (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against  
684 the applicable state, regional, and national criminal records databases, including the Federal  
685 Bureau of Investigation Next Generation Identification System;  
686 (ii) report the results of the background check to the department;  
687 (iii) maintain a separate file of fingerprints that prospective agents submit under  
688 Subsection (4)(b) for search by future submissions to the local and regional criminal records  
689 databases, including latent prints;  
690 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next  
691 Generation Identification System's Rap Back Service for search by future submissions to  
692 national criminal records databases, including the Next Generation Identification System and  
693 latent prints; and  
694 (v) establish a privacy risk mitigation strategy to ensure that the department only  
695 receives notifications for an individual with whom the department maintains an authorizing  
696 relationship.  
697 (d) The department shall:  
698 (i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an  
699 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the  
700 Bureau of Criminal Identification or another authorized agency provides under this section; and  
701 (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal  
702 Identification.  
703 (5) The department shall designate, on an individual's cannabis production  
704 establishment agent registration card:  
705 (a) the name of the cannabis production establishment where the individual is  
706 registered as an agent; and  
707 (b) the type of cannabis production establishment for which the individual is

708 authorized to act as an agent.

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

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

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

712 (7) (a) The department shall ensure that the certification standard described in

713 Subsection (6) includes training:

714 (i) in Utah medical cannabis law;

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

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

718 (iv) for an independent cannabis testing laboratory agent, in cannabis testing best  
719 practices.

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

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

724 (a) the department may revoke or refuse to issue the card if the individual violates the  
725 requirements of this chapter; and

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

728 (i) a felony; or

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

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

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

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

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

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



739 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section  
740 63J-1-504; and

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

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

744 **4-41a-403. Advertising.**

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

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

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

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

751 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis  
752 devices.

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

756 [~~(a)~~] (i) includes only:

757 [~~(i)~~] (A) in accordance with Subsection (4)(b), the cannabis production establishment's  
758 name, logo, and hours of operation; and

759 [~~(ii)~~] (B) a green cross; and

760 [~~(b)~~] (ii) complies with local ordinances regulating signage.

761 (b) The department shall define standards for a cannabis production establishment's  
762 name and logo to ensure a medical rather than recreational disposition.

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

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

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

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

772 (iii) any marketing for a specific product from the cannabis production establishment  
773 or any other statement, claim, or information that would violate the federal Food, Drug, and  
774 Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

775 (iv) a presenter other than the following:

776 (A) a cannabis production establishment agent;

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

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

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

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

784 (F) a state employee.

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

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

789 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

790 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the  
791 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation  
792 facility perimeter.

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

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

797 (b) each unique harvest of cannabis plants;

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

800 (d) any excess, contaminated, or deteriorated cannabis of which the cannabis

801 cultivation facility disposes.

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

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

807 (4) A cannabis cultivation facility shall either:

808 (a) ensure that a cannabis processing facility chemically or physically process cannabis  
809 cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis  
810 derivative products; or

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

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

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

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

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

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

824 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

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

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

832 (iii) has a unique identification number that:  
833 (A) is connected to the inventory control system; and  
834 (B) identifies the unique cannabis product manufacturing process the cannabis  
835 processing facility used to manufacture the cannabis product;  
836 (iv) identifies the cannabinoid extraction process that the cannabis processing facility  
837 used to create the cannabis product;  
838 (v) does not display an image, word, or phrase that the facility knows or should know  
839 appeals to children; and  
840 (vi) discloses each active or potentially active ingredient, in order of prominence, and  
841 possible allergen; and  
842 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a  
843 container that:  
844 (i) is tamper evident and tamper resistant;  
845 (ii) does not appeal to children;  
846 (iii) does not mimic a candy container;  
847 [~~(iv) is opaque;~~]  
848 [~~(v)~~] (iv) complies with child-resistant effectiveness standards that the United States  
849 Consumer Product Safety Commission establishes; and  
850 [~~(vi)~~] (v) includes a warning label that states: "WARNING: Cannabis has intoxicating  
851 effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP  
852 OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed  
853 by a qualified medical provider."  
854 (2) For any cannabis or cannabis product that the cannabis processing facility processes  
855 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular  
856 cuboid shape, the facility shall:  
857 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or  
858 other image of the content of the container; and  
859 (b) include on the label described in Subsection (1)(a) a warning about the risks of  
860 over-consumption.  
861 (3) For any cannabis product that contains any derivative cannabinoid or synthetic  
862 cannabinoid, the cannabis processing facility shall ensure that the label clearly identifies each

863 derivative cannabinoid or synthetic cannabinoid.

864 ~~[(3)]~~ (4) The department shall make rules in accordance with Title 63G, Chapter 3,  
865 Utah Administrative Rulemaking Act to establish:

866 (a) a standard labeling format that:

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

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

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

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

872 **4-41a-603. Cannabis product -- Product quality.**

873 (1) A cannabis processing facility:

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

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

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

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

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

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

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

886 ~~[(3)]~~ (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3,  
887 Utah Administrative Rulemaking Act, human safety standards for the manufacturing of  
888 cannabis products that are consistent with best practices for the use of cannabis.

889 Section 11. Section **4-41a-701** is amended to read:

890 **4-41a-701. Cannabis and cannabis product testing.**

891 ~~[(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis~~  
892 ~~processing facility unless an independent cannabis testing laboratory has tested a representative~~  
893 ~~sample of the cannabis or cannabis product to determine that the presence of contaminants,~~

894 including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material,  
895 does not exceed an amount that is safe for human consumption.]

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

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

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

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

907 [~~(c) for a cannabis product that is manufactured using a process that involves extraction~~  
908 ~~using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that~~  
909 ~~is not safe for human consumption:]~~

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

911 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
912 department may make rules to:

913 (a) determine required adulterant tests for a cannabis plant product, cannabis  
914 concentrate, or cannabis product;

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

917 [~~(b) shall] (c) establish protocols for a recall of cannabis or a cannabis product by a~~

918 cannabis production establishment[-]; or

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

922 [~~(4)] (2) The department may require testing for a toxin if:~~

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

924 (b) the department's inspector has reason to believe a toxin may be present based on the

925 inspection of a facility.

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

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

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

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

936 ~~[(5)]~~ (4) The department shall establish by rule, in accordance with Title 63G, Chapter  
 937 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for  
 938 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

939 ~~[(6)]~~ (5) The department may require an independent cannabis testing laboratory to  
 940 participate in a proficiency evaluation that the department conducts or that an organization that  
 941 the department approves conducts.

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

943 **4-41a-702. Reporting -- Inspections -- Seizure by the department.**

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

946 (a) the independent cannabis testing laboratory shall~~[(i)]~~ report the results and the  
 947 cannabis or cannabis product batch to:

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

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

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

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

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

955 (ii) make a determination; and

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

959           (2) If the department determines, under Subsection (1)~~[(a)]~~(b)(ii) or following an  
960 appeal under Subsection (1)~~[(b)]~~(c), that a cannabis or cannabis product prepared by a cannabis  
961 production establishment is unsafe for human consumption, the department may seize,  
962 embargo, or destroy, in the same manner as a cannabis production establishment under Section  
963 4-41a-405, the cannabis or cannabis product batch.

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

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

970           **4-41a-901. Academic medical cannabis research -- License.**

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

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

977           (a) the location where the research university intends to conduct the research;  
978           (b) the research university's research plan; and  
979           (c) the name of the ~~[employee]~~ principal investigator of the research university who  
980 will:

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

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

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

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

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



987 Administrative Rulemaking Act, to:

988 (a) establish requirements for a licensee to:

989 (i) participate in academic medical cannabis research;

990 (ii) obtain from a cannabis production establishment, and possess, cannabis for

991 academic medical cannabis research; and

992 (b) set sampling and testing procedures.

993 (5) A medical cannabis research licensee shall provide to the department written

994 consent allowing a representative of the department and local law enforcement to enter all

995 premises where the licensee possesses or stores cannabis for the purpose of:

996 (a) conducting a physical inspection; or

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

998 (6) An individual who has been convicted of a drug related felony within the last 10

999 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis  
1000 research licensee's license under this part.

1001 (7) The department may set a fee, in accordance with Subsection [4-2-103\(2\)](#), for the  
1002 application for a medical cannabis research license.

1003 Section 14. Section **26-61a-102** is amended to read:

1004 **26-61a-102. Definitions.**

1005 As used in this chapter:

1006 (1) "Active tetrahydrocannabinol" means Delta-8-THC, Delta-9-THC, and

1007 tetrahydrocannabinolic acid.

1008 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in

1009 Section [26-61-201](#).

1010 [~~1~~] (3) "Cannabis" means marijuana.

1011 [~~2~~] (4) "Cannabis cultivation facility" means the same as that term is defined in

1012 Section [4-41a-102](#).

1013 [~~3~~] (5) "Cannabis processing facility" means the same as that term is defined in

1014 Section [4-41a-102](#).

1015 [~~4~~] (6) "Cannabis product" means a product that:

1016 (a) is intended for human use; and

1017 (b) contains cannabis or tetrahydrocannabinol.

1018           ~~[(5)]~~ (7) "Cannabis production establishment" means the same as that term is defined  
1019 in Section [4-41a-102](#).

1020           ~~[(6)]~~ (8) "Cannabis production establishment agent" means the same as that term is  
1021 defined in Section [4-41a-102](#).

1022           ~~[(7)]~~ (9) "Cannabis production establishment agent registration card" means the same  
1023 as that term is defined in Section [4-41a-102](#).

1024           ~~[(8)]~~ (10) "Community location" means a public or private elementary or secondary  
1025 school, a church, a public library, a public playground, or a public park.

1026           (11) "Controlled substance database" means the controlled substance database created  
1027 in Section [58-37f-201](#).

1028           (12) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:

1029           (a) is similar to Delta-9-THC with a lower psychotropic potency; and

1030           (b) interacts with the CB1 receptor of the nervous system.

1031           (13) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic  
1032 cannabinoid in cannabis.

1033           ~~[(9)]~~ (14) "Department" means the Department of Health.

1034           ~~[(10)]~~ (15) "Designated caregiver" means:

1035           (a) an individual:

1036           (i) whom an individual with a medical cannabis patient card or a medical cannabis  
1037 guardian card designates as the patient's caregiver; and

1038           (ii) who registers with the department under Section [26-61a-202](#); or

1039           (b) (i) a facility that an individual designates as a designated caregiver in accordance  
1040 with Subsection [26-61a-202](#)(1)(b); or

1041           (ii) an assigned employee of the facility described in Subsection [26-61a-202](#)(1)(b)(ii).

1042           ~~[(11)]~~ (16) "Directions of use" means recommended routes of administration for a  
1043 medical cannabis treatment and suggested usage guidelines.

1044           ~~[(12)]~~ (17) "Dosing guidelines" means a quantity range and frequency of administration  
1045 for a recommended treatment of medical cannabis.

1046           ~~[(13)]~~ (18) "Financial institution" means a bank, trust company, savings institution, or  
1047 credit union, chartered and supervised under state or federal law.

1048           ~~[(14)]~~ (19) "Home delivery medical cannabis pharmacy" means a medical cannabis

1049 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical  
1050 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders  
1051 that the state central patient portal facilitates.

1052 ~~[(15)]~~ (20) "Inventory control system" means the system described in Section  
1053 4-41a-103.

1054 ~~[(16)]~~ (21) "Legal dosage limit" means an amount that:

1055 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the  
1056 relevant qualified medical provider or the state central patient portal or pharmacy medical  
1057 provider, in accordance with Subsection ~~[26-61a-201(4)]~~ 26-61a-502(4) or (5), recommends;  
1058 and

1059 (b) may not exceed:

1060 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

1061 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,  
1062 greater than 20 grams of active tetrahydrocannabinol.

1063 ~~[(17)]~~ (22) "Legal use termination date" means a date on the label of a container of  
1064 unprocessed cannabis flower:

1065 (a) that is 60 days after the date of purchase of the cannabis; and

1066 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the  
1067 primary residence of the relevant medical cannabis patient cardholder.

1068 ~~[(18)]~~ (23) "Marijuana" means the same as that term is defined in Section 58-37-2.

1069 ~~[(19)]~~ (24) "Medical cannabis" means cannabis in a medicinal dosage form or a  
1070 cannabis product in a medicinal dosage form.

1071 ~~[(20)]~~ (25) "Medical cannabis card" means a medical cannabis patient card, a medical  
1072 cannabis guardian card, or a medical cannabis caregiver card.

1073 ~~[(21)]~~ (26) "Medical cannabis cardholder" means:

1074 (a) a holder of a medical cannabis card; or

1075 (b) a facility or assigned employee, described in Subsection ~~[(10)]~~ (15)(b), only:

1076 (i) within the scope of the facility's or assigned employee's performance of the role of a  
1077 medical cannabis patient cardholder's caregiver designation under Subsection  
1078 26-61a-202(1)(b); and

1079 (ii) while in possession of documentation that establishes:

- 1080 (A) a caregiver designation described in Subsection 26-61a-202(1)(b);
- 1081 (B) the identity of the individual presenting the documentation; and
- 1082 (C) the relation of the individual presenting the documentation to the caregiver
- 1083 designation.
- 1084 [~~(22)~~] (27) "Medical cannabis caregiver card" means an electronic document that a
- 1085 cardholder may print or store on an electronic device or a physical card or document that:
- 1086 (a) the department issues to an individual whom a medical cannabis patient cardholder
- 1087 or a medical cannabis guardian cardholder designates as a designated caregiver; and
- 1088 (b) is connected to the electronic verification system.
- 1089 [~~(23)~~] (28) "Medical cannabis courier" means a courier that:
- 1090 (a) the department licenses in accordance with Section 26-61a-604; and
- 1091 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
- 1092 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.
- 1093 (29) "Medical cannabis courier agent" means an individual who:
- 1094 (a) is an employee of a medical cannabis courier; and
- 1095 (b) who holds a valid medical cannabis courier agent registration card.
- 1096 [~~(24)~~] (30) (a) "Medical cannabis device" means a device that an individual uses to
- 1097 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
- 1098 dosage form.
- 1099 (b) "Medical cannabis device" does not include a device that:
- 1100 (i) facilitates cannabis combustion; or
- 1101 (ii) an individual uses to ingest substances other than cannabis.
- 1102 [~~(25)~~] (31) "Medical cannabis guardian card" means an electronic document that a
- 1103 cardholder may print or store on an electronic device or a physical card or document that:
- 1104 (a) the department issues to the parent or legal guardian of a minor with a qualifying
- 1105 condition; and
- 1106 (b) is connected to the electronic verification system.
- 1107 [~~(26)~~] (32) "Medical cannabis patient card" means an electronic document that a
- 1108 cardholder may print or store on an electronic device or a physical card or document that:
- 1109 (a) the department issues to an individual with a qualifying condition; and
- 1110 (b) is connected to the electronic verification system.

1111 [~~(27)~~] (33) "Medical cannabis pharmacy" means a person that:

1112 (a) (i) acquires or intends to acquire [~~-(A) cannabis in a medicinal dosage form~~]  
1113 medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing  
1114 facility[;] or another medical cannabis pharmacy or [~~(B)~~] a medical cannabis device; or

1115 (ii) possesses [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal~~  
1116 ~~dosage form;~~] medical cannabis or a medical cannabis device; and

1117 (b) sells or intends to sell [~~cannabis in a medicinal dosage form, a cannabis product in a~~  
1118 ~~medicinal dosage form;~~] medical cannabis or a medical cannabis device to a medical cannabis  
1119 cardholder.

1120 [~~(28)~~] (34) "Medical cannabis pharmacy agent" means an individual who:

1121 (a) is an employee of a medical cannabis pharmacy; and

1122 (b) who holds a valid medical cannabis pharmacy agent registration card.

1123 [~~(29)~~] (35) "Medical cannabis pharmacy agent registration card" means a registration  
1124 card issued by the department that authorizes an individual to act as a medical cannabis  
1125 pharmacy agent.

1126 [~~(30)~~] (36) "Medical cannabis shipment" means a shipment of medical cannabis or a  
1127 medical cannabis product that a home delivery medical cannabis pharmacy or a medical  
1128 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an  
1129 electronic medical cannabis order that the state central patient portal facilitates.

1130 [~~(31)~~] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a  
1131 cannabis product in a medicinal dosage form, or a medical cannabis device.

1132 [~~(32)~~] (38) (a) "Medicinal dosage form" means:

1133 (i) for processed medical cannabis or a medical cannabis product, the following with a  
1134 specific and consistent cannabinoid content:

1135 (A) a tablet;

1136 (B) a capsule;

1137 (C) a concentrated liquid or viscous oil;

1138 (D) a liquid suspension;

1139 (E) a topical preparation;

1140 (F) a transdermal preparation;

1141 (G) a sublingual preparation;

1142 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or  
1143 rectangular cuboid shape; or  
1144 (I) a resin or wax;  
1145 (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:  
1146 (A) contains cannabis flowers in a quantity that varies by no more than 10% from the  
1147 stated weight at the time of packaging;  
1148 (B) at any time the medical cannabis cardholder transports or possesses the container in  
1149 public, is contained within an opaque~~[, child-resistant]~~ bag that the medical cannabis pharmacy  
1150 provides; and  
1151 (C) is labeled with the container's content and weight, the date of purchase, the legal  
1152 use termination date, and after December 31, 2020, a barcode that provides information  
1153 connected to an inventory control system; and  
1154 (iii) a form measured in grams, milligrams, or milliliters.  
1155 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:  
1156 (i) the medical cannabis cardholder has recently removed from the container described  
1157 in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii) for use; and  
1158 (ii) does not exceed the quantity described in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii).  
1159 (c) "Medicinal dosage form" does not include:  
1160 (i) any unprocessed cannabis flower outside of the container described in Subsection  
1161 [~~(32)(a)(ii)~~] (38)(a)(ii), except as provided in Subsection [~~(32)~~] (38)(b);  
1162 (ii) any unprocessed cannabis flower in a container described in Subsection  
1163 [~~(32)(a)(ii)~~] (38)(a)(ii) after the legal use termination date; or  
1164 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis  
1165 on a nail or other metal object that is heated by a flame, including a blowtorch.  
1166 [~~(33)~~] (39) "Nonresident patient" means an individual who:  
1167 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;  
1168 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis  
1169 card under the laws of another state, district, territory, commonwealth, or insular possession of  
1170 the United States; and  
1171 (c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.  
1172 [~~(34)~~] (40) "Payment provider" means an entity that contracts with a cannabis

1173 production establishment or medical cannabis pharmacy to facilitate transfers of funds between  
1174 the establishment or pharmacy and other businesses or individuals.

1175 ~~[(35)]~~ (41) "Pharmacy medical provider" means the medical provider required to be on  
1176 site at a medical cannabis pharmacy under Section [26-61a-403](#).

1177 ~~[(36)]~~ (42) "Provisional patient card" means a card that:

1178 (a) the department issues to a minor with a qualifying condition for whom:

1179 (i) a qualified medical provider has recommended a medical cannabis treatment; and

1180 (ii) the department issues a medical cannabis guardian card to the minor's parent or

1181 legal guardian; and

1182 (b) is connected to the electronic verification system.

1183 ~~[(37)]~~ (43) "Qualified medical provider" means an individual who is qualified to  
1184 recommend treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).

1185 ~~[(38)]~~ (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in  
1186 Section [26-61a-109](#).

1187 ~~[(39)]~~ (45) "Qualifying condition" means a condition described in Section [26-61a-104](#).

1188 ~~[(40)]~~ (46) "Recommend" or "recommendation" means, for a qualified medical  
1189 provider, the act of suggesting the use of medical cannabis treatment, which:

1190 (a) certifies the patient's eligibility for a medical cannabis card; and

1191 (b) may include, at the qualified medical provider's discretion, directions of use, with  
1192 or without dosing guidelines.

1193 ~~[(41)]~~ (47) "State central patient portal" means the website the department creates, in  
1194 accordance with Section [26-61a-601](#), to facilitate patient safety, education, and an electronic  
1195 medical cannabis order.

1196 ~~[(42)]~~ (48) "State central patient portal medical provider" means a physician or  
1197 pharmacist that the department employs in relation to the state central patient portal to consult  
1198 with medical cannabis cardholders in accordance with Section [26-61a-602](#).

1199 ~~[(43)]~~ (49) "State electronic verification system" means the system described in Section  
1200 [26-61a-103](#).

1201 (50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a  
1202 synthetic equivalent as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

1203 ~~[(44)]~~ (51) "Valid form of photo identification" means a valid United States federal- or

1204 state-issued photo identification, including:

- 1205 (a) a driver license;
- 1206 (b) a United States passport;
- 1207 (c) a United States passport card; or
- 1208 (d) a United States military identification card.

1209 Section 15. Section **26-61a-103** is amended to read:

1210 **26-61a-103. Electronic verification system.**

1211 (1) The Department of Agriculture and Food, the department, the Department of Public  
1212 Safety, and the Department of Technology Services shall:

1213 (a) enter into a memorandum of understanding in order to determine the function and  
1214 operation of the state electronic verification system in accordance with Subsection (2);

1215 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah  
1216 Procurement Code, to develop a request for proposals for a third-party provider to develop and  
1217 maintain the state electronic verification system in coordination with the Department of  
1218 Technology Services; and

1219 (c) select a third-party provider who:

1220 (i) meets the requirements contained in the request for proposals issued under  
1221 Subsection (1)(b); and

1222 (ii) may not have any commercial or ownership interest in a cannabis production  
1223 establishment or a medical cannabis pharmacy.

1224 (2) The Department of Agriculture and Food, the department, the Department of Public  
1225 Safety, and the Department of Technology Services shall ensure that, on or before March 1,  
1226 2020, the state electronic verification system described in Subsection (1):

1227 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a  
1228 medical cannabis guardian card, provided that the card may not become active until the  
1229 relevant qualified medical provider completes the associated medical cannabis  
1230 recommendation;

1231 (b) allows an individual to apply to renew a medical cannabis patient card or a medical  
1232 cannabis guardian card in accordance with Section [26-61a-201](#);

1233 (c) allows a qualified medical provider, or an employee described in Subsection (3)  
1234 acting on behalf of the qualified medical provider, to:



- 1235 (i) access dispensing and card status information regarding a patient:  
1236 (A) with whom the qualified medical provider has a provider-patient relationship; and  
1237 (B) for whom the qualified medical provider has recommended or is considering  
1238 recommending a medical cannabis card;
- 1239 (ii) electronically recommend, after an initial face-to-face visit with a patient described  
1240 in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a  
1241 cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;
- 1242 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or  
1243 medical cannabis guardian cardholder:  
1244 (A) using telehealth services, for the qualified medical provider who originally  
1245 recommended a medical cannabis treatment during a face-to-face visit with the patient; or  
1246 (B) during a face-to-face visit with the patient, for a qualified medical provider who  
1247 did not originally recommend the medical cannabis treatment during a face-to-face visit; and  
1248 (iv) notate a determination of physical difficulty or undue hardship, described in  
1249 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;
- 1250 (d) connects with:  
1251 (i) an inventory control system that a medical cannabis pharmacy uses to track in real  
1252 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a  
1253 medicinal dosage form, or a medical cannabis device, including:  
1254 (A) the time and date of each purchase;  
1255 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device  
1256 purchased;  
1257 (C) any cannabis production establishment, any medical cannabis pharmacy, or any  
1258 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis  
1259 device; and  
1260 (D) the personally identifiable information of the medical cannabis cardholder who  
1261 made the purchase; and  
1262 (ii) any commercially available inventory control system that a cannabis production  
1263 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of  
1264 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah  
1265 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to

1266 track and confirm compliance;

1267 (e) provides access to:

1268 (i) the department to the extent necessary to carry out the department's functions and

1269 responsibilities under this chapter;

1270 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

1271 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter

1272 41a, Cannabis Production Establishments; and

1273 (iii) the Division of Occupational and Professional Licensing to the extent necessary to

1274 carry out the functions and responsibilities related to the participation of the following in the

1275 recommendation and dispensing of medical cannabis:

1276 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1277 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

1278 Practice Act;

1279 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

1280 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1281 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

1282 Assistant Act;

1283 (f) provides access to and interaction with the state central patient portal;

1284 (g) communicates dispensing information from a record that a medical cannabis

1285 pharmacy submits to the state electronic verification system under Subsection

1286 [26-61a-502\(6\)\(a\)\(ii\)](#) to the controlled substance database;

1287 [~~g~~] (h) provides access to state or local law enforcement:

1288 (i) during a law enforcement encounter, without a warrant, using the individual's driver

1289 license or state ID, only for the purpose of determining if the individual subject to the law

1290 enforcement encounter has a valid medical cannabis card; or

1291 (ii) after obtaining a warrant; and

1292 [~~h~~] (i) creates a record each time a person accesses the [~~database~~] system that

1293 identifies the person who accesses the [~~database~~] system and the individual whose records the

1294 person accesses.

1295 (3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic

1296 verification system is functionally capable of allowing employee access under this Subsection

1297 (3), an employee of a qualified medical provider may access the electronic verification system  
1298 for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

1299 (i) the qualified medical provider has designated the employee as an individual  
1300 authorized to access the electronic verification system on behalf of the qualified medical  
1301 provider;

1302 (ii) the qualified medical provider provides written notice to the department of the  
1303 employee's identity and the designation described in Subsection (3)(a)(i); and

1304 (iii) the department grants to the employee access to the electronic verification system.

1305 (b) An employee of a business that employs a qualified medical provider may access  
1306 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the  
1307 qualified medical provider if:

1308 (i) the qualified medical provider has designated the employee as an individual  
1309 authorized to access the electronic verification system on behalf of the qualified medical  
1310 provider;

1311 (ii) the qualified medical provider and the employing business jointly provide written  
1312 notice to the department of the employee's identity and the designation described in Subsection  
1313 (3)(b)(i); and

1314 (iii) the department grants to the employee access to the electronic verification system.

1315 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1316 (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
1317 Practice Act;

1318 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
1319 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1320 (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
1321 Assistant Act.

1322 (b) Beginning on the earlier of January 1, 2021, or the date on which the electronic  
1323 verification system is functionally capable of allowing provider access under this Subsection  
1324 (4), a prescribing provider may access information in the electronic verification system  
1325 regarding a patient the prescribing provider treats.

1326 (5) The department may release limited data that the system collects for the purpose of:

1327 (a) conducting medical and other department approved research;

- 1328 (b) providing the report required by Section 26-61a-703; and  
1329 (c) other official department purposes.
- 1330 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
1331 Administrative Rulemaking Act, to establish:
- 1332 (a) the limitations on access to the data in the state electronic verification system as  
1333 described in this section; and
- 1334 (b) standards and procedures to ensure accurate identification of an individual  
1335 requesting information or receiving information in this section.
- 1336 (7) (a) Any person who knowingly and intentionally releases any information in the  
1337 state electronic verification system in violation of this section is guilty of a third degree felony.
- 1338 (b) Any person who negligently or recklessly releases any information in the state  
1339 electronic verification system in violation of this section is guilty of a class C misdemeanor.
- 1340 (8) (a) Any person who obtains or attempts to obtain information from the state  
1341 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
- 1342 (b) Any person who obtains or attempts to obtain information from the state electronic  
1343 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third  
1344 degree felony.
- 1345 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and  
1346 intentionally use, release, publish, or otherwise make available to any other person information  
1347 obtained from the state electronic verification system for any purpose other than a purpose  
1348 specified in this section.
- 1349 (b) Each separate violation of this Subsection (9) is:
- 1350 (i) a third degree felony; and  
1351 (ii) subject to a civil penalty not to exceed \$5,000.
- 1352 (c) The department shall determine a civil violation of this Subsection (9) in  
1353 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- 1354 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the  
1355 General Fund.
- 1356 (e) This Subsection (9) does not prohibit a person who obtains information from the  
1357 state electronic verification system under Subsection (2)(a), (c), or (f) from:
- 1358 (i) including the information in the person's medical chart or file for access by a person

1359 authorized to review the medical chart or file;

1360 (ii) providing the information to a person in accordance with the requirements of the  
1361 Health Insurance Portability and Accountability Act of 1996; or

1362 (iii) discussing or sharing that information about the patient with the patient.

1363 Section 16. Section **26-61a-105** is amended to read:

1364 **26-61a-105. Compassionate Use Board.**

1365 (1) (a) The department shall establish a Compassionate Use Board consisting of:

1366 (i) seven qualified medical providers that the executive director appoints and the  
1367 Senate confirms:

1368 (A) who are knowledgeable about the medicinal use of cannabis;

1369 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,  
1370 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1371 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine  
1372 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,  
1373 pediatrics, or gastroenterology; and

1374 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the  
1375 executive director or the director's designee.

1376 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),  
1377 the executive director shall ensure that at least two have a board certification in pediatrics.

1378 (2) (a) Of the members of the Compassionate Use Board that the executive director  
1379 first appoints:

1380 (i) three shall serve an initial term of two years; and

1381 (ii) the remaining members shall serve an initial term of four years.

1382 (b) After an initial term described in Subsection (2)(a) expires:

1383 (i) each term is four years; and

1384 (ii) each board member is eligible for reappointment.

1385 (c) A member of the Compassionate Use Board may serve until a successor is  
1386 appointed.

1387 (3) Four members constitute a quorum of the Compassionate Use Board.

1388 (4) A member of the Compassionate Use Board may receive:

1389 (a) notwithstanding Section [63A-3-106](#), compensation or benefits for the member's

1390 service; and

1391 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the  
1392 Division of Finance in accordance with Section 63A-3-107.

1393 (5) The Compassionate Use Board shall:

1394 (a) review and recommend for department approval a petition to the board regarding an  
1395 individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection  
1396 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis  
1397 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced  
1398 period of validity, if:

1399 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,  
1400 the individual's qualified medical provider is actively treating the individual for an intractable  
1401 condition that:

1402 (A) substantially impairs the individual's quality of life; and

1403 (B) has not, in the qualified medical provider's professional opinion, adequately  
1404 responded to conventional treatments;

1405 (ii) the qualified medical provider:

1406 (A) recommends that the individual or minor be allowed to use medical cannabis; and

1407 (B) provides a letter, relevant treatment history, and notes or copies of progress notes  
1408 describing relevant treatment history including rationale for considering the use of medical  
1409 cannabis; and

1410 (iii) the Compassionate Use Board determines that:

1411 (A) the recommendation of the individual's qualified medical provider is justified; and

1412 (B) based on available information, it may be in the best interests of the individual to  
1413 allow the use of medical cannabis;

1414 (b) review and approve or deny the use of a medical cannabis device for an individual  
1415 described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection  
1416 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the  
1417 individual or minor be allowed to use a medical cannabis device to vaporize the medical  
1418 cannabis treatment;

1419 (c) unless no petitions are pending:

1420 (i) meet to receive or review compassionate use petitions at least quarterly; and

1421 (ii) if there are more petitions than the board can receive or review during the board's  
1422 regular schedule, as often as necessary;

1423 (d) except as provided in Subsection (6), complete a review of each petition and  
1424 recommend to the department approval or denial of the applicant for qualification for a medical  
1425 cannabis card within 90 days after the day on which the board received the petition;

1426 (e) consult with the department regarding the criteria described in Subsection (6); and

1427 (f) report, before November 1 of each year, to the Health and Human Services Interim  
1428 Committee:

1429 (i) the number of compassionate use recommendations the board issued during the past  
1430 year; and

1431 (ii) the types of conditions for which the board recommended compassionate use.

1432 (6) The department shall make rules, in consultation with the Compassionate Use  
1433 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to  
1434 establish a process and criteria for a petition to the board to automatically qualify for expedited  
1435 final review and approval or denial by the department in cases where, in the determination of  
1436 the department and the board:

1437 (a) time is of the essence;

1438 (b) engaging the full review process would be unreasonable in light of the petitioner's  
1439 physical condition; and

1440 (c) sufficient factors are present regarding the petitioner's safety.

1441 (7) (a) (i) The department shall review:

1442 (A) any compassionate use for which the Compassionate Use Board recommends  
1443 approval under Subsection (5)(d) to determine whether the board properly exercised the board's  
1444 discretion under this section; and

1445 (B) any expedited petitions the department receives under the process described in  
1446 Subsection (6).

1447 (ii) If the department determines that the Compassionate Use Board properly exercised  
1448 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited  
1449 petition merits approval based on the criteria established in accordance with Subsection (6), the  
1450 department shall:

1451 (A) issue the relevant medical cannabis card; and

1452 (B) provide for the renewal of the medical cannabis card in accordance with the  
1453 recommendation of the qualified medical provider described in Subsection (5)(a).

1454 (b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d),  
1455 the individual seeking to obtain a medical cannabis card may petition the department to review  
1456 the board's decision.

1457 (ii) If the department determines that the Compassionate Use Board's recommendation  
1458 for denial under Subsection (5)(d) was arbitrary or capricious:

1459 (A) the department shall notify the Compassionate Use Board of the department's  
1460 determination; and

1461 (B) the board shall reconsider the Compassionate Use Board's refusal to recommend  
1462 approval under this section.

1463 (c) In reviewing the Compassionate Use Board's recommendation for approval or  
1464 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall  
1465 presume the board properly exercised the board's discretion unless the department determines  
1466 that the board's recommendation was arbitrary or capricious.

1467 (8) Any individually identifiable health information contained in a petition that the  
1468 Compassionate Use Board or department receives under this section is a protected record in  
1469 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

1470 (9) The Compassionate Use Board shall annually report the board's activity to the  
1471 Cannabinoid Product Board [~~created in Section 26-61-201~~].

1472 Section 17. Section **26-61a-106** is amended to read:

1473 **26-61a-106. Qualified medical provider registration -- Continuing education --**  
1474 **Treatment recommendation.**

1475 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a  
1476 medical cannabis treatment unless the department registers the individual as a qualified  
1477 medical provider in accordance with this section.

1478 (b) An individual who meets the qualifications in Subsections **26-61a-106(2)(a)(iii)**  
1479 and (iv) may recommend a medical cannabis treatment without registering under Subsection  
1480 (1)(a) until January 1, 2021.

1481 (2) (a) The department shall, within 15 days after the day on which the department  
1482 receives an application from an individual, register and issue a qualified medical provider



1483 registration card to the individual if the individual:

1484 (i) provides to the department the individual's name and address;

1485 (ii) provides to the department a report detailing the individual's completion of the

1486 applicable continuing education requirement described in Subsection (3);

1487 (iii) provides to the department evidence that the individual:

1488 (A) has the authority to write a prescription;

1489 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah

1490 Controlled Substances Act; and

1491 (C) possesses the authority, in accordance with the individual's scope of practice, to

1492 prescribe a Schedule II controlled substance;

1493 (iv) provides to the department evidence that the individual is:

1494 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

1495 Practice Act;

1496 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

1497 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1498 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant

1499 Act, whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),

1500 includes the recommending of medical cannabis, and whose supervising physician is a

1501 qualified medical provider; and

1502 (v) pays the department a fee in an amount that:

1503 (A) the department sets, in accordance with Section [63J-1-504](#); and

1504 (B) does not exceed \$300 for an initial registration.

1505 (b) The department may not register an individual as a qualified medical provider if the

1506 individual is:

1507 (i) a pharmacy medical provider; or

1508 (ii) an owner, officer, director, board member, employee, or agent of a cannabis

1509 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

1510 (3) (a) An individual shall complete the continuing education described in this

1511 Subsection (3) in the following amounts:

1512 (i) for an individual as a condition precedent to registration, four hours; and

1513 (ii) for a qualified medical provider as a condition precedent to renewal, four hours

1514 every two years.

1515 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1516 (i) complete continuing education:

1517 (A) regarding the topics described in Subsection (3)(d); and

1518 (B) offered by the department under Subsection (3)(c) or an accredited or approved  
1519 continuing education provider that the department recognizes as offering continuing education  
1520 appropriate for the recommendation of cannabis to patients; and

1521 (ii) make a continuing education report to the department in accordance with a process  
1522 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah  
1523 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and  
1524 Professional Licensing and:

1525 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,  
1526 Nurse Practice Act, the Board of Nursing;

1527 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical  
1528 Practice Act, the Physicians Licensing Board;

1529 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah  
1530 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;  
1531 and

1532 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
1533 Assistant Act, the Physician Assistant Licensing Board.

1534 (c) The department may, in consultation with the Division of Occupational and  
1535 Professional Licensing, develop the continuing education described in this Subsection (3).

1536 (d) The continuing education described in this Subsection (3) may discuss:

1537 (i) the provisions of this chapter;

1538 (ii) general information about medical cannabis under federal and state law;

1539 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,  
1540 including risks and benefits;

1541 (iv) recommendations for medical cannabis as it relates to the continuing care of a  
1542 patient in pain management, risk management, potential addiction, or palliative care; and

1543 (v) best practices for recommending the form and dosage of medical cannabis products  
1544 based on the qualifying condition underlying a medical cannabis recommendation.

1545 (4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not  
1546 recommend a medical cannabis treatment to more than 275 of the qualified medical provider's  
1547 patients at the same time, as determined by the number of medical cannabis cards under the  
1548 qualified medical provider's name in the state electronic verification system.

1549 (b) A qualified medical provider may recommend a medical cannabis treatment to up to  
1550 600 of the qualified medical provider's patients at any given time, as determined by the number  
1551 of medical cannabis cards under the qualified medical provider's name in the state electronic  
1552 verification system, if:

1553 (i) the appropriate American medical board has certified the qualified medical provider  
1554 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and  
1555 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or  
1556 psychiatry; or

1557 (ii) a licensed business employs or contracts with the qualified medical provider for the  
1558 specific purpose of providing hospice and palliative care.

1559 (5) A qualified medical provider may recommend medical cannabis to an individual  
1560 under this chapter only in the course of a qualified medical provider-patient relationship after  
1561 the qualifying medical provider has completed and documented in the patient's medical record  
1562 a thorough assessment of the patient's condition and medical history based on the appropriate  
1563 standard of care for the patient's condition.

1564 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the  
1565 individual recommends medical cannabis treatment in accordance with this chapter.

1566 (b) For purposes of Subsection (6)(a), the communication of the following, through a  
1567 website, by an individual described in Subsection (6)(c), does not constitute advertising:

1568 (i) a green cross;

1569 (ii) a qualifying condition that the ~~[qualified medical provider]~~ individual treats; ~~[or]~~

1570 (iii) the individual's registration as a qualified medical provider; or

1571 ~~[(iii)]~~ (iv) a scientific study regarding medical cannabis use.

1572 (c) The following are subject to Subsection (6)(b):

1573 (i) before the department begins registering qualified medical providers:

1574 (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

1575 (B) a physician described in Subsection (2)(a)(iv)(B); or

1576 (C) a physician assistant described in Subsection (2)(a)(iv)(C); and  
1577 (ii) after the department begins registering qualified medical providers, a qualified  
1578 medical provider.

1579 (7) (a) A qualified medical provider registration card expires two years after the day on  
1580 which the department issues the card.

1581 (b) The department shall renew a qualified medical provider's registration card if the  
1582 provider:

1583 (i) applies for renewal;  
1584 (ii) is eligible for a qualified medical provider registration card under this section,  
1585 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);  
1586 (iii) certifies to the department in a renewal application that the information in  
1587 Subsection (2)(a) is accurate or updates the information;  
1588 (iv) submits a report detailing the completion of the continuing education requirement  
1589 described in Subsection (3); and  
1590 (v) pays the department a fee in an amount that:

1591 (A) the department sets, in accordance with Section 63J-1-504; and  
1592 (B) does not exceed \$50 for a registration renewal.

1593 (8) The department may revoke the registration of a qualified medical provider who  
1594 fails to maintain compliance with the requirements of this section.

1595 (9) A qualified medical provider may not receive any compensation or benefit for the  
1596 qualified medical provider's medical cannabis treatment recommendation from:

1597 (a) a cannabis production establishment or an owner, officer, director, board member,  
1598 employee, or agent of a cannabis production establishment;  
1599 (b) a medical cannabis pharmacy or an owner, officer, director, board member,  
1600 employee, or agent of a medical cannabis pharmacy; or  
1601 (c) a qualified medical provider or pharmacy medical provider.

1602 Section 18. Section **26-61a-201** is amended to read:

1603 **26-61a-201. Medical cannabis patient card -- Provisional patient card -- Medical**  
1604 **cannabis guardian card application -- Application -- Fees -- Studies.**

1605 (1) On or before March 1, 2020, the department shall, within 15 days after the day on  
1606 which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202

1607 submits an application in accordance with this section or Section 26-61a-202:

1608 (a) issue a medical cannabis patient card to an individual described in Subsection

1609 (2)(a);

1610 (b) issue a medical cannabis guardian card to an individual described in Subsection

1611 (2)(b);

1612 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1613 (d) issue a medical cannabis caregiver card to an individual described in Subsection

1614 26-61a-202(4).

1615 (2) (a) An individual is eligible for a medical cannabis patient card if:

1616 (i) (A) the individual is at least 21 years old; or

1617 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate

1618 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends

1619 department approval of the petition;

1620 (ii) the individual is a Utah resident;

1621 (iii) the individual's qualified medical provider recommends treatment with medical

1622 cannabis in accordance with Subsection (4);

1623 (iv) the individual signs an acknowledgment stating that the individual received the

1624 information described in Subsection (8); and

1625 (v) the individual pays to the department a fee in an amount that, subject to Subsection

1626 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

1627 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1628 (A) is at least 18 years old;

1629 (B) is a Utah resident;

1630 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical

1631 provider recommends a medical cannabis treatment, the individual petitions the Compassionate

1632 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends

1633 department approval of the petition;

1634 (D) the individual signs an acknowledgment stating that the individual received the

1635 information described in Subsection (8);

1636 (E) pays to the department a fee in an amount that, subject to Subsection

1637 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the

1638 criminal background check described in Section 26-61a-203; and

1639 (F) the individual has not been convicted of a misdemeanor or felony drug distribution  
1640 offense under either state or federal law, unless the individual completed any imposed sentence  
1641 six months or more before the day on which the individual applies for a medical cannabis  
1642 guardian card.

1643 (ii) The department shall notify the Department of Public Safety of each individual that  
1644 the department registers for a medical cannabis guardian card.

1645 (c) (i) A minor is eligible for a provisional patient card if:

1646 (A) the minor has a qualifying condition;

1647 (B) the minor's qualified medical provider recommends a medical cannabis treatment  
1648 to address the minor's qualifying condition;

1649 (C) ~~[the minor's parent or legal guardian]~~ one of the minor's parents or legal guardians  
1650 petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use  
1651 Board recommends department approval of the petition; and

1652 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card  
1653 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a  
1654 medical cannabis caregiver card under Section 26-61a-202.

1655 (ii) The department shall automatically issue a provisional patient card to the minor  
1656 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis  
1657 guardian card to the minor's parent or legal guardian.

1658 (d) Beginning on the earlier of January 1, 2021, or the date on which the electronic  
1659 verification system is functionally capable of servicing the designation, if the parent or legal  
1660 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a  
1661 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may  
1662 designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that  
1663 the minor has adequate and safe access to the recommended medical cannabis treatment.

1664 (3) (a) An individual who is eligible for a medical cannabis card described in  
1665 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the  
1666 department:

1667 (i) through an electronic application connected to the state electronic verification  
1668 system;

- 1669 (ii) with the recommending qualified medical provider; and  
1670 (iii) with information including:  
1671 (A) the applicant's name, gender, age, and address;  
1672 (B) the number of the applicant's valid form of photo identification;  
1673 (C) for a medical cannabis guardian card, the name, gender, and age of the minor  
1674 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;  
1675 and  
1676 (D) for a provisional patient card, the name of the minor's parent or legal guardian who  
1677 holds the associated medical cannabis guardian card.
- 1678 (b) The department shall ensure that a medical cannabis card the department issues  
1679 under this section contains the information described in Subsection (3)(a)(iii).
- 1680 (c) (i) If a qualified medical provider determines that, because of age, illness, or  
1681 disability, a medical cannabis patient cardholder requires assistance in administering the  
1682 medical cannabis treatment that the qualified medical provider recommends, the qualified  
1683 medical provider may indicate the cardholder's need in the state electronic verification system.
- 1684 (ii) If a qualified medical provider makes the indication described in Subsection  
1685 (3)(c)(i):
- 1686 (A) the department shall add a label to the relevant medical cannabis patient card  
1687 indicating the cardholder's need for assistance; and  
1688 (B) any adult who is 18 years old or older and who is physically present with the  
1689 cardholder at the time the cardholder needs to use the recommended medical cannabis  
1690 treatment may handle the medical cannabis treatment and any associated medical cannabis  
1691 device as needed to assist the cardholder in administering the recommended medical cannabis  
1692 treatment; and  
1693 (C) an individual of any age who is physically present with the cardholder in the event  
1694 of an emergency medical condition, as that term is defined in Section [31A-22-627](#), may handle  
1695 the medical cannabis treatment and any associated medical cannabis device as needed to assist  
1696 the cardholder in administering the recommended medical cannabis treatment.
- 1697 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:  
1698 (A) ingest or inhale medical cannabis;  
1699 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside

1700 of the immediate area where the cardholder is present or with an intent other than to provide  
1701 assistance to the cardholder; or

1702 (C) possess, transport, or handle medical cannabis or a medical cannabis device when  
1703 the cardholder is not in the process of being dosed with medical cannabis.

1704 (4) To recommend a medical cannabis treatment to a patient or to renew a  
1705 recommendation, a qualified medical provider shall:

1706 (a) before recommending or renewing a recommendation for medical cannabis in a  
1707 medicinal dosage form or a cannabis product in a medicinal dosage form:

1708 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal  
1709 guardian's valid form of identification described in Subsection (3)(a);

1710 (ii) review any record related to the patient and, for a minor patient, the patient's parent  
1711 or legal guardian in:

1712 (A) the state electronic verification system; and

1713 (B) the controlled substance database created in Section [58-37f-201](#); and

1714 (iii) consider the recommendation in light of the patient's qualifying condition and  
1715 history of medical cannabis and controlled substance use during an initial face-to-face visit  
1716 with the patient; and

1717 (b) state in the qualified medical provider's recommendation that the patient:

1718 (i) suffers from a qualifying condition, including the type of qualifying condition; and

1719 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis  
1720 product in a medicinal dosage form.

1721 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the  
1722 department issues under this section is valid for the lesser of:

1723 (i) an amount of time that the qualified medical provider determines; or

1724 (ii) (A) for the first issuance, 90 days;

1725 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or

1726 (C) for a renewal, one year if, after at least one year following the issuance of the  
1727 original medical cannabis card, the qualified medical provider determines that the patient has  
1728 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

1729 (b) (i) A medical cannabis card that the department issues in relation to a terminal  
1730 illness described in Section [26-61a-104](#) does not expire.



1731 (ii) The recommending qualified medical provider may revoke a recommendation that  
1732 the provider made in relation to a terminal illness described in Section 26-61a-104 if the  
1733 medical cannabis cardholder no longer has the terminal illness.

1734 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is  
1735 renewable if:

1736 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or  
1737 (b); or

1738 (ii) the cardholder received the medical cannabis card through the recommendation of  
1739 the Compassionate Use Board under Section 26-61a-105.

1740 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

1741 (i) using the application process described in Subsection (3); or

1742 (ii) through phone or video conference with the qualified medical provider who made  
1743 the recommendation underlying the card, at the qualifying medical provider's discretion.

1744 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall  
1745 pay to the department a renewal fee in an amount that:

1746 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section  
1747 63J-1-504; and

1748 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in  
1749 comparison to the original application process.

1750 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional  
1751 patient card renews automatically at the time the minor's parent or legal guardian renews the  
1752 parent or legal guardian's associated medical cannabis guardian card.

1753 ~~[(e) The department may revoke a medical cannabis guardian card if the cardholder  
1754 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense  
1755 under either state or federal law.]~~

1756 (7) (a) A cardholder under this section shall carry the cardholder's valid medical  
1757 cannabis card with the patient's name.

1758 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may  
1759 purchase, in accordance with this chapter and the recommendation underlying the card,  
1760 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a  
1761 medical cannabis device.

1762 (ii) A cardholder under this section may possess or transport, in accordance with this  
1763 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a  
1764 cannabis product in a medicinal dosage form, or a medical cannabis device.

1765 (iii) To address the qualifying condition underlying the medical cannabis treatment  
1766 recommendation:

1767 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use  
1768 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,  
1769 or a medical cannabis device; and

1770 (B) a medical cannabis guardian cardholder may assist the associated provisional  
1771 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis  
1772 product in a medicinal dosage form, or a medical cannabis device.

1773 (c) If a licensed medical cannabis pharmacy is not operating within the state after  
1774 January 1, 2021, a cardholder under this section:

1775 (i) may possess:

1776 (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

1777 (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

1778 (C) marijuana drug paraphernalia; and

1779 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

1780 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,  
1781 Utah Administrative Rulemaking Act, a process to provide information regarding the following  
1782 to an individual receiving a medical cannabis card:

1783 (a) risks associated with medical cannabis treatment;

1784 (b) the fact that a condition's listing as a qualifying condition does not suggest that  
1785 medical cannabis treatment is an effective treatment or cure for that condition, as described in  
1786 Subsection [26-61a-104\(1\)](#); and

1787 (c) other relevant warnings and safety information that the department determines.

1788 (9) The department may establish procedures by rule, in accordance with Title 63G,  
1789 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance  
1790 provisions of this section.

1791 (10) (a) On or before January 1, 2021, the department shall establish by rule, in  
1792 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow

1793 an individual from another state to register with the Department of Health in order to purchase  
1794 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the  
1795 individual is visiting the state.

1796 (b) The department may only provide the registration process described in Subsection  
1797 (10)(a):

1798 (i) to a nonresident patient; and

1799 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days  
1800 per visitation period.

1801 (11) (a) A person may submit to the department a request to conduct a research study  
1802 using medical cannabis cardholder data that the state electronic verification system contains.

1803 (b) The department shall review a request described in Subsection (11)(a) to determine  
1804 whether an institutional review board, as that term is defined in Section 26-61-102, could  
1805 approve the research study.

1806 (c) At the time an individual applies for a medical cannabis card, the department shall  
1807 notify the individual:

1808 (i) of how the individual's information will be used as a cardholder;

1809 (ii) that by applying for a medical cannabis card, unless the individual withdraws  
1810 consent under Subsection (11)(d), the individual consents to the use of the individual's  
1811 information for external research; and

1812 (iii) that the individual may withdraw consent for the use of the individual's  
1813 information for external research at any time, including at the time of application.

1814 (d) An applicant may, through the medical cannabis card application, and a medical  
1815 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or  
1816 cardholder's consent to participate in external research at any time.

1817 (e) The department may release, for the purposes of a study described in this  
1818 Subsection (11), information about a cardholder under this section who consents to participate  
1819 under Subsection (11)(c).

1820 (f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of  
1821 consent:

1822 (i) applies to external research that is initiated after the withdrawal of consent; and

1823 (ii) does not apply to research that was initiated before the withdrawal of consent.

1824 (g) The department may establish standards for a medical research study's validity, by  
1825 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1826 (12) The department shall record the issuance or revocation of a medical cannabis card  
1827 under this section in the controlled substance database.

1828 Section 19. Section **26-61a-202** is amended to read:

1829 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**  
1830 **Revocation.**

1831 (1) (a) A cardholder described in Section **26-61a-201** may designate, through the state  
1832 central patient portal, up to two individuals, or an individual and a facility in accordance with  
1833 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical  
1834 provider notates in the electronic verification system that the provider determines that, due to  
1835 physical difficulty or undue hardship, including concerns of distance to a medical cannabis  
1836 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the  
1837 qualified medical provider recommends.

1838 (b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic  
1839 verification system is functionally capable of servicing the designation, a cardholder described  
1840 in Section **26-61a-201** who is a patient in one of the following types of facilities may designate  
1841 the facility as one of the caregivers described in Subsection (1)(a):

1842 (A) an assisted living facility, as that term is defined in Section **26-21-2**;

1843 (B) a nursing care facility, as that term is defined in Section **26-21-2**; or

1844 (C) a general acute hospital, as that term is defined in Section **26-21-2**.

1845 (ii) A facility may assign one or more employees to assist patients with medical  
1846 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1847 (iii) The department shall make rules to regulate the practice of facilities and facility  
1848 employees serving as designated caregivers under this Subsection (1)(b).

1849 (c) A parent or legal guardian described in Subsection **26-61a-201(2)(d)**, in  
1850 consultation with the minor and the minor's qualified medical provider, may designate, through  
1851 the state central patient portal, up to two individuals to serve as a designated caregiver for the  
1852 minor, if the department determines that the parent or legal guardian is not eligible for a  
1853 medical cannabis guardian card under Section **26-61a-201**.

1854 (2) An individual that the department registers as a designated caregiver under this

1855 section and a facility described in Subsection (1)(b):

1856 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver  
1857 card;

1858 (b) in accordance with this chapter, may purchase, possess, transport, or assist the  
1859 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal  
1860 dosage form, or a medical cannabis device on behalf of the designating medical cannabis  
1861 cardholder;

1862 (c) may not charge a fee to an individual to act as the individual's designated caregiver  
1863 or for a service that the designated caregiver provides in relation to the role as a designated  
1864 caregiver;

1865 (d) may accept reimbursement from the designating medical cannabis cardholder for  
1866 direct costs the designated caregiver incurs for assisting with the designating cardholder's  
1867 medicinal use of cannabis; and

1868 (e) if a licensed medical cannabis pharmacy is not operating within the state after  
1869 January 1, 2021:

1870 (i) may possess up to the legal dosage limit of:

1871 (A) unprocessed medical cannabis in a medicinal dosage form;

1872 (B) a cannabis product in a medicinal dosage form; and

1873 (ii) may possess marijuana drug paraphernalia; and

1874 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

1875 (3) (a) The department shall:

1876 (i) within 15 days after the day on which an individual submits an application in  
1877 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1878 (A) is designated as a caregiver under Subsection (1);

1879 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1880 (C) complies with this section; and

1881 (ii) notify the Department of Public Safety of each individual that the department  
1882 registers as a designated caregiver.

1883 (b) The department shall ensure that a medical cannabis caregiver card contains the  
1884 information described in Subsection (5)(b).

1885 (4) An individual is eligible for a medical cannabis caregiver card if the individual:

- 1886 (a) is at least 21 years old;
- 1887 (b) is a Utah resident;
- 1888 (c) pays to the department a fee in an amount that, subject to Subsection
- 1889 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
- 1890 criminal background check described in Section 26-61a-203;
- 1891 (d) signs an acknowledgment stating that the applicant received the information
- 1892 described in Subsection 26-61a-201(8); and
- 1893 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
- 1894 a felony under either state or federal law, unless the individual completes any imposed sentence
- 1895 two or more years before the day on which the individual submits the application.
- 1896 (5) An eligible applicant for a medical cannabis caregiver card shall:
- 1897 (a) submit an application for a medical cannabis caregiver card to the department
- 1898 through an electronic application connected to the state electronic verification system; and
- 1899 (b) submit the following information in the application described in Subsection (5)(a):
- 1900 (i) the applicant's name, gender, age, and address;
- 1901 (ii) the name, gender, age, and address of the cardholder described in Section
- 1902 26-61a-201 who designated the applicant; and
- 1903 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
- 1904 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
- 1905 cannabis guardian cardholder.
- 1906 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
- 1907 department issues under this section is valid for the lesser of:
- 1908 (a) an amount of time that the cardholder described in Section 26-61a-201 who
- 1909 designated the caregiver determines; or
- 1910 (b) the amount of time remaining before the card of the cardholder described in Section
- 1911 26-61a-201 expires.
- 1912 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
- 1913 designated caregiver's medical cannabis caregiver card renews automatically at the time the
- 1914 cardholder described in Section 26-61a-201 who designated the caregiver:
- 1915 (i) renews the cardholder's card; and
- 1916 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1917 (b) The department shall provide a method in the card renewal process to allow a  
1918 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1919 (i) signify that the cardholder renews the caregiver's designation;

1920 (ii) remove a caregiver's designation; or

1921 (iii) designate a new caregiver.

1922 (8) The department may revoke a medical cannabis caregiver card if the designated  
1923 caregiver:

1924 (a) violates this chapter; or

1925 (b) is convicted under state or federal law of:

1926 (i) a felony drug distribution offense; or

1927 (ii) after December 3, 2018, a misdemeanor [~~for~~] drug distribution offense.

1928 (9) The department shall record the issuance or revocation of a medical cannabis card  
1929 under this section in the controlled substance database.

1930 Section 20. Section 26-61a-204 is amended to read:

1931 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**  
1932 **requirements -- Rebuttable presumption.**

1933 (1) (a) A medical cannabis cardholder who possesses medical cannabis that the  
1934 cardholder purchased under this chapter:

1935 (i) shall carry:

1936 (A) at all times the cardholder's medical cannabis card; and

1937 (B) after the earlier of January 1, 2021, or the day on which the individual purchases  
1938 any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label  
1939 that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy  
1940 and includes an identification number that links the medical cannabis to the inventory control  
1941 system; and

1942 (ii) may possess up to the legal dosage limit of:

1943 (A) unprocessed cannabis in medicinal dosage form; and

1944 (B) a cannabis product in medicinal dosage form; [~~and~~]

1945 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii)[~~];~~;

1946 (iv) may only possess the medical cannabis in the container in which the cardholder  
1947 received the medical cannabis from the medical cannabis pharmacy; and

1948           (v) may not alter or remove any label described in Section [4-41a-602](#) from the  
1949 container described in Subsection (1)(a)(iv).

1950           (b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who  
1951 possesses medical cannabis in violation of Subsection (1)(a) is:

1952           (i) guilty of an infraction; and  
1953           (ii) subject to a \$100 fine.

1954           (c) A medical cannabis cardholder or a nonresident patient who possesses medical  
1955 cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice  
1956 the legal dosage limit is:

1957           (i) for a first offense:  
1958           (A) guilty of an infraction; and  
1959           (B) subject to a fine of up to \$100; and  
1960           (ii) for a second or subsequent offense:  
1961           (A) guilty of a class B misdemeanor; and  
1962           (B) subject to a fine of \$1,000.

1963           (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is  
1964 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the  
1965 conduct underlying the penalty described in Subsection (1)(b) or (c).

1966           (e) A nonresident patient who possesses medical cannabis that is not in a medicinal  
1967 dosage form is:

1968           (i) for a first offense:  
1969           (A) guilty of an infraction; and  
1970           (B) subject to a fine of up to \$100; and  
1971           (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,  
1972 Chapter 37, Utah Controlled Substances Act.

1973           (f) A medical cannabis cardholder or a nonresident patient who possesses medical  
1974 cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties  
1975 described in Title 58, Chapter 37, Utah Controlled Substances Act.

1976           (2) (a) As used in this Subsection (2), "emergency medical condition" means the same  
1977 as that term is defined in Section [31A-22-627](#).

1978           (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a



1979 provisional patient cardholder, or a nonresident patient may not use, in public view, medical  
1980 cannabis or a cannabis product.

1981 (c) In the event of an emergency medical condition, an individual described in  
1982 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical  
1983 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a  
1984 medicinal dosage form or a cannabis product in a medicinal dosage form.

1985 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

1986 (i) for a first offense:

1987 (A) guilty of an infraction; and

1988 (B) subject to a fine of up to \$100; and

1989 (ii) for a second or subsequent offense:

1990 (A) guilty of a class B misdemeanor; and

1991 (B) subject to a fine of \$1,000.

1992 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis  
1993 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a  
1994 medical cannabis device that corresponds with the cannabis or cannabis product:

1995 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,  
1996 cannabis product, or medical cannabis device legally; and

1997 (b) there is no probable cause, based solely on the cardholder's possession of the  
1998 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical  
1999 cannabis device, to believe that the cardholder is engaging in illegal activity.

2000 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a  
2001 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis  
2002 device, and the individual represents to the law enforcement officer that the individual holds a  
2003 valid medical cannabis card, but the individual does not have the medical cannabis card in the  
2004 individual's possession at the time of the stop by the law enforcement officer, the law  
2005 enforcement officer shall attempt to access the state electronic verification system to determine  
2006 whether the individual holds a valid medical cannabis card.

2007 (b) If the law enforcement officer is able to verify that the individual described in  
2008 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

2009 (i) may not arrest or take the individual into custody for the sole reason that the

2010 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a  
2011 medicinal dosage form, or a medical cannabis device; and

2012 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

2013 Section 21. Section **26-61a-301** is amended to read:

2014 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

2015 (1) A person may not operate as a medical cannabis pharmacy without a license that  
2016 the department issues under this part.

2017 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department  
2018 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,  
2019 Chapter 6a, Utah Procurement Code.

2020 (ii) The department may not issue a license to operate a medical cannabis pharmacy to  
2021 an applicant who is not eligible for a license under this section.

2022 (b) An applicant is eligible for a license under this section if the applicant submits to  
2023 the department:

2024 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will  
2025 operate the medical cannabis pharmacy;

2026 (ii) the name and address of an individual who:

2027 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in  
2028 the proposed medical cannabis pharmacy;

2029 (B) for a privately held company, a financial or voting interest in the proposed medical  
2030 cannabis pharmacy; or

2031 (C) has the power to direct or cause the management or control of a proposed medical  
2032 cannabis pharmacy;

2033 (iii) a statement that the applicant will obtain and maintain a performance bond that a  
2034 surety authorized to transact surety business in the state issues in an amount of at least  
2035 \$125,000 for each application that the applicant submits to the department;

2036 (iv) an operating plan that:

2037 (A) complies with Section **26-61a-304**;

2038 (B) includes operating procedures to comply with the operating requirements for a  
2039 medical cannabis pharmacy described in this chapter and with a relevant municipal or county  
2040 law that is consistent with Section **26-61a-507**; and

2041 (C) the department approves;

2042 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the

2043 department sets in accordance with Section 63J-1-504; and

2044 (vi) a description of any investigation or adverse action taken by any licensing

2045 jurisdiction, government agency, law enforcement agency, or court in any state for any

2046 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations

2047 or businesses.

2048 (c) (i) A person may not locate a medical cannabis pharmacy:

2049 (A) within 200 feet of a community location; or

2050 (B) in or within 600 feet of a district that the relevant municipality or county has zoned

2051 as primarily residential.

2052 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured

2053 from the nearest entrance to the medical cannabis pharmacy establishment by following the

2054 shortest route of ordinary pedestrian travel to the property boundary of the community location

2055 or residential area.

2056 (iii) The department may grant a waiver to reduce the proximity requirements in

2057 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible

2058 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

2059 (iv) An applicant for a license under this section shall provide evidence of compliance

2060 with the proximity requirements described in Subsection (2)(c)(i).

2061 (d) The department may not issue a license to an eligible applicant that the department

2062 has selected to receive a license until the selected eligible applicant obtains the performance

2063 bond described in Subsection (2)(b)(iii).

2064 (e) If the department receives more than one application for a medical cannabis

2065 pharmacy within the same city or town, the department shall consult with the local land use

2066 authority before approving any of the applications pertaining to that city or town.

2067 (3) If the department selects an applicant for a medical cannabis pharmacy license

2068 under this section, the department shall:

2069 (a) charge the applicant an initial license fee in an amount that, subject to Subsection

2070 26-61a-109(5), the department sets in accordance with Section 63J-1-504; [and]

2071 (b) notify the Department of Public Safety of the license approval and the names of

2072 each individual described in Subsection (2)(b)(ii)~~[-]~~; and

2073 (c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5),  
2074 the department sets in accordance with Section 63J-1-504, for any change in location,  
2075 ownership, or company structure.

2076 (4) The department may not issue a license to operate a medical cannabis pharmacy to  
2077 an applicant if an individual described in Subsection (2)(b)(ii):

2078 (a) has been convicted under state or federal law of:

2079 (i) a felony; or

2080 (ii) after December 3, 2018, a misdemeanor for drug distribution;

2081 (b) is younger than 21 years old; or

2082 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

2083 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds  
2084 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give  
2085 preference to the applicant based on the applicant's status as a holder of the license.

2086 (b) If an applicant for a medical cannabis pharmacy license under this section holds a  
2087 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis  
2088 Production Establishments, the department:

2089 (i) shall consult with the Department of Agriculture and Food regarding the applicant;  
2090 and

2091 (ii) may give consideration to the applicant based on the applicant's status as a holder  
2092 of a license to operate a cannabis cultivation facility if:

2093 (A) the applicant demonstrates that a decrease in costs to patients is more likely to  
2094 result from the applicant's vertical integration than from a more competitive marketplace; and

2095 (B) the department finds multiple other factors, in addition to the existing license, that  
2096 support granting the new license.

2097 (6) ~~(a)~~ The department may revoke a license under this part:

2098 ~~[(a)]~~ (i) if the medical cannabis pharmacy does not begin operations within one year  
2099 after the day on which the department issues the initial license;

2100 ~~[(b)]~~ (ii) after the third the same violation of this chapter in any of the licensee's  
2101 licensed cannabis production establishments or medical cannabis pharmacies;

2102 ~~[(c)]~~ (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the

2103 license is active, under state or federal law of:

2104        ~~[(†)]~~ (A) a felony; or

2105        ~~[(††)]~~ (B) after December 3, 2018, a misdemeanor for drug distribution;

2106        ~~[(††)]~~ (iv) if the licensee fails to provide the information described in Subsection

2107 (2)(b)(vi) at the time of application, or fails to supplement the information described in

2108 Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission

2109 of the application within 14 calendar days after the licensee receives notice of the investigation

2110 or adverse action; or

2111        ~~[(††)]~~ (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard

2112 for the requirements of this chapter or the rules the department makes in accordance with this

2113 chapter.

2114        (b) The department shall rescind a notice of an intent to issue a license under this part

2115 to an applicant or revoke a license issued under this part if the associated medical cannabis

2116 pharmacy does not begin operation on or before June 1, 2021.

2117        (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,

2118 if the municipality or county where the licensed medical cannabis pharmacy will be located

2119 requires a local land use permit, shall submit to the department a copy of the licensee's

2120 approved application for the land use permit within 120 days after the day on which the

2121 department issues the license.

2122        (b) If a licensee fails to submit to the department a copy the licensee's approved land

2123 use permit application in accordance with Subsection (7)(a), the department may revoke the

2124 licensee's license.

2125        (8) The department shall deposit the proceeds of a fee imposed by this section ~~[(††)]~~ into

2126 the Qualified Patient Enterprise Fund.

2127        (9) The department shall begin accepting applications under this part on or before

2128 March 1, 2020.

2129        (10) (a) The department's authority to issue a license under this section is plenary and is

2130 not subject to review.

2131        (b) Notwithstanding Subsection (2), the decision of the department to award a license

2132 to an applicant is not subject to:

2133        (i) Title 63G, Chapter 6a, Part 16, Protests; or

2134 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2135 Section 22. Section **26-61a-305** is amended to read:

2136 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**  
2137 **pharmacies.**

2138 (1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of  
2139 applicants apply, the department shall issue [~~14~~] up to 15 medical cannabis pharmacy licenses  
2140 in accordance with this section.

2141 (b) If [~~fewer than 14~~] an insufficient number of qualified applicants apply [~~for a~~] for  
2142 the available number of medical cannabis pharmacy [~~license~~] licenses, the department shall  
2143 issue a medical cannabis pharmacy license to each qualified applicant.

2144 (c) The department may issue the licenses described in Subsection (1)(a) [~~in two~~  
2145 phases] in accordance with this Subsection (1)(c).

2146 (i) Using one procurement process, the department may issue eight licenses to an initial  
2147 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis  
2148 pharmacies.

2149 (ii) If the department issues licenses in two phases in accordance with [~~this~~] Subsection  
2150 (1)(c)(i), the department shall:

2151 (A) divide the state into no less than four geographic regions;

2152 (B) issue at least one license in each geographic region during each phase of issuing  
2153 licenses; and

2154 (C) complete the process of issuing medical cannabis pharmacy licenses no later than  
2155 July 1, 2020.

2156 (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the  
2157 license recipient will locate the medical cannabis pharmacy within a county of the fourth, fifth,  
2158 or sixth class, or a county of the third class that does not border a county of the first or second  
2159 class, in the eastern or southern geographic regions that the department identifies under  
2160 Subsection (1)(c)(ii).

2161 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in  
2162 addition to the licenses described in Subsection (1)(a) if the department determines, in  
2163 consultation with the Department of Agriculture and Food and after an annual or more frequent  
2164 analysis of the current and anticipated market for medical cannabis, that each additional license

2165 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical  
2166 cannabis cardholders.

2167 (ii) The department shall:

2168 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2169 make rules to establish criteria and processes for the consultation, analysis, and application for  
2170 a license described in Subsection (1)(d)(i);

2171 (B) before November 30, 2020, report on the rules described in Subsection  
2172 (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

2173 (C) report to the Executive Appropriations Committee of the Legislature before each  
2174 time the department issues an additional license under Subsection (1)(d)(i) regarding the results  
2175 of the consultation and analysis described in Subsection (1)(d)(i) and the application of the  
2176 criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

2177 (2) (a) If there are more qualified applicants than there are available licenses for  
2178 medical cannabis pharmacies, the department shall:

2179 (i) evaluate each applicant and award the license to the applicant that best  
2180 demonstrates:

2181 (A) experience with establishing and successfully operating a business that involves  
2182 complying with a regulatory environment, tracking inventory, and training, evaluating, and  
2183 monitoring employees;

2184 (B) an operating plan that will best ensure the safety and security of patrons and the  
2185 community;

2186 (C) positive connections to the local community;

2187 (D) the suitability of the proposed location and the location's accessibility for  
2188 qualifying patients;

2189 (E) the extent to which the applicant can increase efficiency and reduce the cost of  
2190 medical cannabis for patients; and

2191 (F) a strategic plan described in Subsection [26-61a-304\(7\)](#) that has a comparatively  
2192 high likelihood of success; and

2193 (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably  
2194 maximize access to the largest number of medical cannabis cardholders.

2195 (b) In making the evaluation described in Subsection (2)(a), the department may give

2196 increased consideration to applicants who indicate a willingness to:

2197 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic  
2198 medical cannabis orders that the state central patient portal facilitates; and

2199 (ii) accept payments through:

2200 (A) a payment provider that the Division of Finance approves, in consultation with the  
2201 state treasurer, in accordance with Section 26-61a-603; or

2202 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2203 (3) The department may conduct a face-to-face interview with an applicant for a  
2204 license that the department evaluates under Subsection (2).

2205 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery  
2206 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's  
2207 operating plan demonstrates the functional and technical ability to:

2208 (i) safely conduct transactions for medical cannabis shipments;

2209 (ii) accept electronic medical cannabis orders that the state central patient portal  
2210 facilitates; and

2211 (iii) accept payments through:

2212 (A) a payment provider that the Division of Finance approves, in consultation with the  
2213 state treasurer, in accordance with Section 26-61a-603; or

2214 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2215 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy  
2216 shall identify in the applicant's operating plan any information relevant to the department's  
2217 evaluation described in Subsection (4)(a), including:

2218 (i) the name and contact information of the payment provider;

2219 (ii) the nature of the relationship between the prospective licensee and the payment  
2220 provider;

2221 (iii) the processes of the following to safely and reliably conduct transactions for  
2222 medical cannabis shipments:

2223 (A) the prospective licensee; and

2224 (B) the electronic payment provider or the financial institution described in Subsection  
2225 (4)(a)(iii); and

2226 (iv) the ability of the licensee to comply with the department's rules regarding the



2227 secure transportation and delivery of medical cannabis or medical cannabis product to a  
2228 medical cannabis cardholder.

2229 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy  
2230 that the department designates as a home delivery medical cannabis pharmacy may deliver  
2231 medical cannabis shipments in accordance with this chapter.

2232 Section 23. Section **26-61a-403** is amended to read:

2233 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

2234 (1) (a) A medical cannabis pharmacy:

2235 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy  
2236 Practice Act, as a pharmacy medical provider;

2237 (ii) may employ a physician who has the authority to write a prescription and is  
2238 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah  
2239 Osteopathic Medical Practice Act, as a pharmacy medical provider;

2240 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)  
2241 works onsite during all business hours; and

2242 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as  
2243 the pharmacist-in-charge to oversee the operation of and generally supervise the medical  
2244 cannabis pharmacy.

2245 (b) An individual may not serve as a pharmacy medical provider unless the department  
2246 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

2247 (2) (a) The department shall, within 15 days after the day on which the department  
2248 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy  
2249 medical provider, register and issue a pharmacy medical provider registration card to the  
2250 prospective pharmacy medical provider if the medical cannabis pharmacy:

2251 (i) provides to the department:

2252 (A) the prospective pharmacy medical provider's name and address;

2253 (B) the name and location of the licensed medical cannabis pharmacy where the  
2254 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

2255 (C) a report detailing the completion of the continuing education requirement described  
2256 in Subsection (3); and

2257 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is

2258 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the  
2259 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical  
2260 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and  
2261 (ii) pays a fee to the department in an amount that, subject to Subsection  
2262 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).  
2263 (b) The department may not register a qualified medical provider or a state central  
2264 patient portal medical provider as a pharmacy medical provider.  
2265 (3) (a) A pharmacy medical provider shall complete the continuing education described  
2266 in this Subsection (3) in the following amounts:  
2267 (i) as a condition precedent to registration, four hours; and  
2268 (ii) as a condition precedent to renewal of the registration, four hours every two years.  
2269 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:  
2270 (i) complete continuing education:  
2271 (A) regarding the topics described in Subsection (3)(d); and  
2272 (B) offered by the department under Subsection (3)(c) or an accredited or approved  
2273 continuing education provider that the department recognizes as offering continuing education  
2274 appropriate for the medical cannabis pharmacy practice; and  
2275 (ii) make a continuing education report to the department in accordance with a process  
2276 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah  
2277 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and  
2278 Professional Licensing and:  
2279 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,  
2280 Pharmacy Practice Act, the Board of Pharmacy;  
2281 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical  
2282 Practice Act, the Physicians Licensing Board; and  
2283 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah  
2284 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.  
2285 (c) The department may, in consultation with the Division of Occupational and  
2286 Professional Licensing, develop the continuing education described in this Subsection (3).  
2287 (d) The continuing education described in this Subsection (3) may discuss:  
2288 (i) the provisions of this chapter;

- 2289 (ii) general information about medical cannabis under federal and state law;
- 2290 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
- 2291 including risks and benefits;
- 2292 (iv) recommendations for medical cannabis as it relates to the continuing care of a
- 2293 patient in pain management, risk management, potential addiction, and palliative care; or
- 2294 (v) best practices for recommending the form and dosage of a medical cannabis
- 2295 product based on the qualifying condition underlying a medical cannabis recommendation.
- 2296 (4) (a) A pharmacy medical provider registration card expires two years after the day
- 2297 on which the department issues or renews the card.
- 2298 (b) A pharmacy medical provider may renew the provider's registration card if the
- 2299 provider:
- 2300 (i) is eligible for a pharmacy medical provider registration card under this section;
- 2301 (ii) certifies to the department in a renewal application that the information in
- 2302 Subsection (2)(a) is accurate or updates the information;
- 2303 (iii) submits a report detailing the completion of the continuing education requirement
- 2304 described in Subsection (3); and
- 2305 (iv) pays to the department a renewal fee in an amount that:
- 2306 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
- 2307 Section 63J-1-504; and
- 2308 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
- 2309 comparison to the original application process.
- 2310 (5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the
- 2311 individual dispenses medical cannabis.
- 2312 (b) For purposes of this Subsection (5), the communication of the following, through a
- 2313 website, by a pharmacy medical provider, does not constitute advertising:
- 2314 (i) a green cross;
- 2315 (ii) the individual's registration as a pharmacy medical provider; or
- 2316 (iii) a scientific study regarding medical cannabis use.
- 2317 Section 24. Section 26-61a-501 is amended to read:
- 2318 **26-61a-501. Operating requirements -- General.**
- 2319 (1) (a) A medical cannabis pharmacy shall operate:

2320 (i) at the physical address provided to the department under Section 26-61a-301; and  
2321 (ii) in accordance with the operating plan provided to the department under Section  
2322 26-61a-301 and, if applicable, 26-61a-304.

2323 (b) A medical cannabis pharmacy shall notify the department before a change in the  
2324 medical cannabis pharmacy's physical address or operating plan.

2325 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

2326 (a) is at least 18 years old or is an emancipated minor under Section 78A-6-805; and

2327 (b) except as provided in Subsection (5)[~~7~~]:

2328 (i) possesses a valid:

2329 [(i)] (A) medical cannabis pharmacy agent registration card;

2330 [(ii)] (B) pharmacy medical provider registration card; or

2331 [(iii)] (C) medical cannabis card[~~7~~];

2332 (ii) is an employee of the department or the Department of Agriculture and Food  
2333 performing an inspection under Section 26-61a-504; or

2334 (iii) is another individual as the department provides.

2335 (3) A medical cannabis pharmacy may not employ an individual who is younger than  
2336 21 years old.

2337 (4) A medical cannabis pharmacy may not employ an individual who has been  
2338 convicted of a felony under state or federal law.

2339 (5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an  
2340 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to  
2341 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors  
2342 the individual at all times while the individual is at the medical cannabis pharmacy and  
2343 maintains a record of the individual's access.

2344 (6) A medical cannabis pharmacy shall operate in a facility that has:

2345 (a) a single, secure public entrance;

2346 (b) a security system with a backup power source that:

2347 (i) detects and records entry into the medical cannabis pharmacy; and

2348 (ii) provides notice of an unauthorized entry to law enforcement when the medical  
2349 cannabis pharmacy is closed; and

2350 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a

2351 cannabis product.

2352 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the  
2353 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection  
2354 [26-61a-502\(2\)](#).

2355 (8) ~~[A]~~ Except for an emergency situation described in Subsection [26-61a-201\(3\)\(c\)](#), a  
2356 medical cannabis pharmacy may not allow any individual to consume cannabis on the property  
2357 or premises of the medical cannabis pharmacy.

2358 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without  
2359 first indicating on the cannabis or cannabis product label the name of the medical cannabis  
2360 pharmacy.

2361 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the  
2362 following information regarding each recommendation underlying a transaction:

2363 (i) the qualified medical provider's name, address, and telephone number;

2364 (ii) the patient's name and address;

2365 (iii) the date of issuance;

2366 (iv) directions of use and dosing guidelines or an indication that the qualified medical  
2367 provider did not recommend specific directions of use or dosing guidelines; and

2368 (v) if the patient did not complete the transaction, the name of the medical cannabis  
2369 cardholder who completed the transaction.

2370 (b) (i) Except as provided in Subsection ~~[(10)(b)(ii)]~~ (10)(b)(iii), a medical cannabis  
2371 pharmacy may not sell medical cannabis unless the medical cannabis has a label securely  
2372 affixed to the container indicating the following minimum information:

2373 (A) the name, address, and telephone number of the medical cannabis pharmacy;

2374 (B) the unique identification number that the medical cannabis pharmacy assigns;

2375 (C) the date of the sale;

2376 (D) the name of the patient;

2377 (E) the name of the qualified medical provider who recommended the medical  
2378 cannabis treatment;

2379 (F) directions for use and cautionary statements, if any;

2380 (G) the amount dispensed and the cannabinoid content;

2381 (H) the suggested use date;

2382 (I) for unprocessed cannabis flower, the legal use termination date; and  
2383 (J) any other requirements that the department determines, in consultation with the  
2384 Division of Occupational and Professional Licensing and the Board of Pharmacy.

2385 (ii) A medical cannabis pharmacy is exempt from the following labeling requirements  
2386 if the information is already provided on the product label that a cannabis production  
2387 establishment affixes:

2388 (A) Subsection (10)(b)(i)(B) regarding a unique identification number;

2389 (B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;

2390 (C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and

2391 (D) Subsection (10)(b)(i)(H) regarding a suggested use date.

2392 ~~(ii)~~ (iii) A medical cannabis pharmacy may sell medical cannabis to another medical  
2393 cannabis pharmacy without a label described in Subsection (10)(b)(i).

2394 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

2395 (a) unless the medical cannabis cardholder has had a consultation under Subsection  
2396 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of  
2397 cannabis, a cannabis product, or a medical cannabis device, personal counseling with the  
2398 pharmacy medical provider; and

2399 (b) provide a telephone number or website by which the cardholder may contact a  
2400 pharmacy medical provider for counseling.

2401 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program  
2402 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a  
2403 medical cannabis device, or medical cannabis product in a locked box or other secure  
2404 receptacle within the medical cannabis pharmacy.

2405 (b) A medical cannabis pharmacy with a disposal program described in Subsection  
2406 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider  
2407 can access deposited medical cannabis or medical cannabis products.

2408 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or  
2409 medical cannabis products by:

2410 (i) rendering the deposited medical cannabis or medical cannabis products unusable  
2411 and unrecognizable before transporting deposited medical cannabis or medical cannabis  
2412 products from the medical cannabis pharmacy; and

2413 (ii) disposing of the deposited medical cannabis or medical cannabis products in  
2414 accordance with:

- 2415 (A) federal and state law, rules, and regulations related to hazardous waste;
- 2416 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
- 2417 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
- 2418 (D) other regulations that the department makes in accordance with Title 63G, Chapter  
2419 3, Utah Administrative Rulemaking Act.

2420 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,  
2421 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products  
2422 by a medical cannabis pharmacy.

2423 Section 25. Section **26-61a-502** is amended to read:

2424 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**  
2425 **Reporting -- Form of cannabis or cannabis product.**

2426 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this  
2427 chapter:

2428 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired  
2429 from another medical cannabis pharmacy or a cannabis processing facility that is licensed  
2430 under Section 4-41a-201;

2431 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy  
2432 acquired from another medical cannabis pharmacy or a cannabis processing facility that is  
2433 licensed under Section 4-41a-201;

2434 (iii) a medical cannabis device; or

2435 (iv) educational material related to the medical use of cannabis.

2436 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to  
2437 an individual with:

2438 (i) (A) a medical cannabis card; or

2439 (B) a department registration described in Subsection [~~26-61a-202(10)~~]

2440 26-61a-201(10); [~~or~~] and

2441 [~~(C) until December 31, 2020, a letter from a medical provider in accordance with~~  
2442 ~~Subsection (10), and]~~

2443 (ii) a corresponding valid form of photo identification.

2444 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a  
2445 cannabis-based drug that the United States Food and Drug Administration has approved.

2446 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a  
2447 medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a  
2448 minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the  
2449 approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

2450 (2) A medical cannabis pharmacy:

2451 (a) may dispense to a medical cannabis cardholder [~~or to an individual described in~~  
2452 ~~Subsection (10)(b)]~~, in any one 28-day period, up to the legal dosage limit of:

2453 (i) unprocessed cannabis that:

2454 (A) is in a medicinal dosage form; and

2455 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and  
2456 cannabidiol in the cannabis; and

2457 (ii) a cannabis product that is in a medicinal dosage form; and

2458 (b) may not dispense:

2459 (i) more medical cannabis than described in Subsection (2)(a); or

2460 (ii) to an individual whose qualified medical provider~~[, or for an individual described~~  
2461 ~~in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i),]~~ did not  
2462 recommend directions of use and dosing guidelines, until the individual consults with the  
2463 pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

2464 (3) An individual with a medical cannabis card [~~or an individual described in~~  
2465 ~~Subsection (10)(a)]~~:

2466 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:

2467 (i) unprocessed cannabis in a medicinal dosage form; and

2468 (ii) a cannabis product in a medicinal dosage form;

2469 (b) may not purchase:

2470 (i) more medical cannabis than described in Subsection (3)(a); or

2471 (ii) if the relevant qualified medical provider did not recommend directions of use and  
2472 dosing guidelines, until the individual consults with the pharmacy medical provider in  
2473 accordance with Subsection (4), any medical cannabis; and

2474 (c) may not use a route of administration that the relevant qualified medical provider or



2475 the pharmacy medical provider, in accordance with Subsection (4) or (5), has not  
2476 recommended.

2477 (4) If a qualified medical provider recommends treatment with medical cannabis but  
2478 ~~[does not provide]~~ wishes for the pharmacy medical provider to determine directions of use and  
2479 dosing guidelines:

2480 (a) the qualified medical provider shall ~~[document in the recommendation]~~ provide to  
2481 the pharmacy medical provider any of the following information that the qualified medical  
2482 provider feels would be needed to provide appropriate directions of use and dosing guidelines:

2483 (i) ~~[an evaluation of]~~ information regarding the qualifying condition underlying the  
2484 recommendation;

2485 (ii) information regarding prior treatment attempts with medical cannabis; and

2486 (iii) portions of the patient's current medication list; and

2487 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the  
2488 pharmacy medical provider shall:

2489 (i) review pertinent medical records, including the qualified medical provider  
2490 documentation described in Subsection (4)(a); and

2491 (ii) unless the pertinent medical records show directions of use and dosing guidelines  
2492 from a state central patient portal medical provider in accordance with Subsection (5), after  
2493 completing the review described in Subsection (4)(b)(i) and consulting with the recommending  
2494 qualified medical provider as needed, determine the best course of treatment through  
2495 consultation with the cardholder regarding:

2496 (A) the patient's qualifying condition underlying the recommendation from the  
2497 qualified medical provider;

2498 (B) indications for available treatments;

2499 (C) directions of use and dosing guidelines; and

2500 (D) potential adverse reactions.

2501 (5) (a) A state central patient portal medical provider may provide the consultation and  
2502 make the determination described in Subsection (4)(b) for a medical cannabis patient  
2503 cardholder regarding an electronic order that the state central patient portal facilitates.

2504 (b) The state central patient portal medical provider described in Subsection (5)(a)  
2505 shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)

2506 in the pertinent medical records.

2507 (6) (a) A medical cannabis pharmacy shall:

2508 ~~[(a)(i)]~~ (i) (A) access the state electronic verification system before dispensing  
2509 cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the  
2510 cardholder or, where applicable, the associated patient has met the maximum amount of  
2511 medical cannabis described in Subsection (2); and

2512 ~~[(i)]~~ (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met  
2513 the maximum amount described in Subsection (2)~~[-(A)]~~, decline the sale~~[-];~~ and ~~[(B)]~~ notify the  
2514 qualified medical provider who made the underlying recommendation;

2515 ~~[(b)]~~ (ii) submit a record to the state electronic verification system each time the  
2516 medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

2517 (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews  
2518 each medical cannabis transaction before dispensing the medical cannabis to the cardholder in  
2519 accordance with pharmacy practice standards;

2520 ~~[(c)]~~ (iv) package any medical cannabis that is in a container that:

2521 ~~[(i)]~~ (A) complies with Subsection 4-41a-602(2) or, if applicable,

2522 26-61a-102~~[(32)]~~(39)(a)(ii);

2523 ~~[(i)]~~ (B) is tamper-resistant and tamper-evident; and

2524 ~~[(iii) opaque; and]~~

2525 (C) provides an opaque bag for the medical cannabis cardholder's use in transporting  
2526 the container in public; and

2527 ~~[(d)]~~ (v) for a product that is a cube that is designed for ingestion through chewing or  
2528 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks  
2529 of over-consumption.

2530 (b) A medical cannabis cardholder transporting or possessing the container described  
2531 in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag that the  
2532 medical cannabis pharmacist provides.

2533 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not  
2534 sell medical cannabis in the form of a cigarette or a medical cannabis device that is  
2535 intentionally designed or constructed to resemble a cigarette.

2536 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms

2537 cannabis material into a vapor without the use of a flame and that delivers cannabis to an  
2538 individual's respiratory system.

2539 (8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the  
2540 medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

2541 (b) A medical cannabis pharmacy may give, at no cost, educational material related to  
2542 the medical use of cannabis.

2543 (9) The department may impose a uniform fee on each medical cannabis transaction in  
2544 a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the  
2545 department sets in accordance with Section 63J-1-504.

2546 [~~(10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an~~  
2547 ~~individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from~~  
2548 ~~a licensed medical cannabis pharmacy if:]~~

2549 [~~(i) the individual presents to the medical cannabis pharmacy a letter from the medical~~  
2550 ~~professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical~~  
2551 ~~professional's medical cannabis recommendation for the individual;]~~

2552 [~~(ii) the medical cannabis pharmacy receives independent confirmation from the~~  
2553 ~~medical professional described in Subsection (10)(a)(i) or an employee of the medical~~  
2554 ~~professional that the letter is valid;]~~

2555 [~~(iii) the medical cannabis pharmacy:]~~

2556 [~~(A) scans or photocopies the individual's letter and the individual's valid form of~~  
2557 ~~photo identification;]~~

2558 [~~(B) creates a record of the transaction, including the documents described in~~  
2559 ~~Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis~~  
2560 ~~the individual purchased; and]~~

2561 [~~(C) provides information to the individual about obtaining a medical cannabis card;~~  
2562 ~~and]~~

2563 [~~(iv) unless the medical professional recommends specific directions of using and~~  
2564 ~~dosing guidelines in the letter, the pharmacy medical provider determines the best course of~~  
2565 ~~treatment through consultation with the individual regarding:]~~

2566 [~~(A) the individual's qualifying condition underlying the recommendation from the~~  
2567 ~~medical professional;]~~

2568 ~~[(B) indications for available treatments;]~~

2569 ~~[(C) directions of use and dosing guidelines; and]~~

2570 ~~[(D) potential adverse reactions.]~~

2571 ~~[(b) (i) An individual who purchases medical cannabis from a medical cannabis~~  
2572 ~~pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different~~  
2573 ~~medical cannabis pharmacy under Subsection (10)(a).]~~

2574 ~~[(ii) If the department notifies a medical cannabis pharmacy, in accordance with~~  
2575 ~~Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a)~~  
2576 ~~from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an~~  
2577 ~~item listed in Subsection (1)(a) to the individual under Subsection (10)(a).]~~

2578 ~~[(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the~~  
2579 ~~individual is a medical cannabis cardholder.]~~

2580 ~~[(c) (i) Until December 31, 2020, on or before the first day of each month, each~~  
2581 ~~medical cannabis pharmacy shall provide to the department, in a secure manner, information~~  
2582 ~~identifying each individual who has purchased medical cannabis from the medical cannabis~~  
2583 ~~pharmacy under Subsection (10)(a).]~~

2584 ~~[(ii) The department shall review information the department receives under~~  
2585 ~~Subsection (10)(c)(i) to identify any individuals who:]~~

2586 ~~[(A) have purchased medical cannabis under Subsection (10)(a) from more than one~~  
2587 ~~pharmacy; or]~~

2588 ~~[(B) hold a medical cannabis card.]~~

2589 ~~[(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the~~  
2590 ~~department shall notify each medical cannabis pharmacy regarding:]~~

2591 ~~[(A) the identification of the individual; and]~~

2592 ~~[(B) the individual's ineligibility to purchase medical cannabis for a reason described in~~  
2593 ~~Subsection (10)(b).]~~

2594 ~~[(H)]~~ (10) A medical cannabis pharmacy may purchase and store medical cannabis  
2595 devices regardless of whether the seller has a cannabis-related license under this title or Title 4,  
2596 Chapter 41a, Cannabis Production Establishments.

2597 Section 26. Section **26-61a-504** is amended to read:

2598 **26-61a-504. Inspections.**

2599 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis  
2600 treatment recommendation files and other records in accordance with this chapter, department  
2601 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.  
2602 104-191, 110 Stat. 1936, as amended.

2603 (2) The department or the Department of Agriculture and Food may inspect the  
2604 records, facility, and inventory of a medical cannabis pharmacy at any time during business  
2605 hours in order to determine if the medical cannabis pharmacy complies with this chapter and  
2606 Title 4, Chapter 41a, Cannabis Production Establishments.

2607 (3) An inspection under this section may include:

2608 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other  
2609 physical or electronic information, or any combination of the above;

2610 (b) questioning of any relevant individual;

2611 (c) inspection of equipment, an instrument, a tool, or machinery, including a container  
2612 or label;

2613 (d) random sampling of medical cannabis by the Department of Agriculture and Food  
2614 [~~to make the determinations described in Subsection 4-41a-701(2)~~] in accordance with rules  
2615 described in Section 4-41a-701; or

2616 (e) seizure of medical cannabis, medical cannabis devices, or educational material as  
2617 evidence in a department investigation or inspection or in instances of compliance failure.

2618 (4) In making an inspection under this section, the department or the Department of  
2619 Agriculture and Food may freely access any area and review and make copies of a book,  
2620 record, paper, document, data, or other physical or electronic information, including financial  
2621 data, sales data, shipping data, pricing data, and employee data.

2622 (5) Failure to provide the department, the Department of Agriculture and Food, or the  
2623 authorized agents of the department or the Department of Agriculture and Food immediate  
2624 access to records and facilities during business hours in accordance with this section may result  
2625 in:

2626 (a) the imposition of a civil monetary penalty that the department sets in accordance  
2627 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2628 (b) license or registration suspension or revocation; or

2629 (c) an immediate cessation of operations under a cease and desist order that the

2630 department issues.

2631 (6) Notwithstanding any other provision of law, the department may temporarily store  
2632 in any department facility the items the department seizes under Subsection (3)(e) until the  
2633 department:

2634 (a) determines that sufficient compliance justifies the return of the seized items; or

2635 (b) disposes of the items in the same manner as a cannabis production establishment in  
2636 accordance with Section [4-41a-405](#).

2637 Section 27. Section **26-61a-505** is amended to read:

2638 **26-61a-505. Advertising.**

2639 (1) Except as provided in this section, a medical cannabis pharmacy may not advertise  
2640 in any medium.

2641 (2) A medical cannabis pharmacy may advertise an employment opportunity at the  
2642 medical cannabis pharmacy.

2643 (3) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a  
2644 medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy  
2645 that:

2646 ~~[(a)]~~ (i) includes only:

2647 ~~[(i)]~~ (A) in accordance with Subsection (3)(b), the medical cannabis pharmacy's name,  
2648 logo, and hours of operation; and

2649 ~~[(ii)]~~ (B) a green cross; and

2650 ~~[(b)]~~ (ii) complies with local ordinances regulating signage.

2651 (b) The department shall define standards for a medical cannabis pharmacy's name and  
2652 logo to ensure a medical rather than recreational disposition.

2653 (4) (a) A medical cannabis pharmacy may maintain a website that includes information  
2654 about:

2655 (i) the location and hours of operation of the medical cannabis pharmacy;

2656 (ii) a product or service available at the medical cannabis pharmacy;

2657 (iii) personnel affiliated with the medical cannabis pharmacy;

2658 (iv) best practices that the medical cannabis pharmacy upholds; and

2659 (v) educational material related to the medical use of cannabis, as defined by the  
2660 department.

2661 (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2662 Administrative Rulemaking Act, to define the educational material described in Subsection  
2663 (4)(a).

2664 (5) (a) A medical cannabis pharmacy may hold an educational event for the public or  
2665 medical providers in accordance with this Subsection (5) and the rules described in Subsection  
2666 (5)(c).

2667 (b) A medical cannabis pharmacy may not include in an educational event described in  
2668 Subsection (5)(a):

2669 (i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis  
2670 Production Establishments;

2671 (ii) any gift items or merchandise other than educational materials, as those terms are  
2672 defined by the department;

2673 (iii) any marketing for a specific product from the medical cannabis pharmacy or any  
2674 other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic  
2675 Act, 21 U.S.C. Sec. 301, et seq.; or

2676 (iv) a presenter other than the following:

2677 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

2678 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse  
2679 Practice Act;

2680 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
2681 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2682 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician  
2683 Assistant Act; ~~or~~

2684 (E) a medical practitioner, similar to the practitioners described in this Subsection  
2685 (5)(b)(iv), who is licensed in another state or country;

2686 ~~(F)~~ (F) a state employee[-]; or

2687 (G) if the presentation relates to a cannabis topic other than medical treatment or  
2688 medical conditions, an individual whom the department approves based on the individual's  
2689 background and credentials in the presented topic.

2690 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2691 Administrative Rulemaking Act, to define the elements of and restrictions on the educational

2692 event described in Subsection (5)(a), including:

2693 (i) a minimum age of 21 years old for attendees[-]; and

2694 (ii) an exception to the minimum age for a medical cannabis patient cardholder who is  
2695 at least 18 years old.

2696 Section 28. Section **26-61a-605** is amended to read:

2697 **26-61a-605. Medical cannabis shipment transportation.**

2698 (1) The department shall ensure that each home delivery medical cannabis pharmacy is  
2699 capable of delivering, directly or through a medical cannabis courier, medical cannabis  
2700 shipments in a secure manner.

2701 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed  
2702 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical  
2703 cannabis orders that the state central patient portal facilitates.

2704 (b) If a home delivery medical cannabis pharmacy enters into a contract described in  
2705 Subsection (2)(a), the pharmacy shall:

2706 (i) impose security and personnel requirements on the medical cannabis courier  
2707 sufficient to ensure the security and safety of medical cannabis shipments; and

2708 (ii) provide regular oversight of the medical cannabis courier.

2709 (3) Except for an individual with a valid medical cannabis card who transports a  
2710 shipment the individual receives, an individual may not transport a medical cannabis shipment  
2711 unless the individual is:

2712 (a) a registered pharmacy medical provider;

2713 (b) a registered medical cannabis pharmacy agent; or

2714 (c) a registered agent of the medical cannabis courier described in Subsection (2).

2715 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall  
2716 possess a physical or electronic transportation manifest that:

2717 (a) includes a unique identifier that links the medical cannabis shipment to a relevant  
2718 inventory control system;

2719 (b) includes origin and destination information for the medical cannabis shipment the  
2720 individual is transporting; and

2721 (c) indicates the departure and estimated arrival times and locations of the individual  
2722 transporting the medical cannabis shipment.



2723 (5) In addition to the requirements in Subsections (3) and (4), the department may  
2724 establish by rule, in collaboration with the Division of Occupational and Professional Licensing  
2725 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative  
2726 Rulemaking Act, requirements for transporting medical cannabis shipments that are related to  
2727 safety for human consumption of cannabis or a cannabis product.

2728 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a  
2729 manifest that does not meet the requirements of Subsection (4).

2730 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection  
2731 (6)(a) is:

2732 (i) guilty of an infraction; and

2733 (ii) subject to a \$100 fine.

2734 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not  
2735 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct  
2736 underlying the violation described in Subsection (6)(b).

2737 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,  
2738 cannabis product, or medical cannabis devices than the manifest identifies, except for a de  
2739 minimis administrative error:

2740 (i) this chapter does not apply; and

2741 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled  
2742 Substances Act.

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 Section 31. Section **58-37-3.7** is amended to read:

2895 **58-37-3.7. Medical cannabis decriminalization.**

2896 (1) As used in this section:

2897 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

2898 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

2899 (c) "Legal dosage limit" means the same as that term is defined in Section [26-61a-102](#).

2900 (d) "Medical cannabis card" means the same as that term is defined in Section  
2901 [26-61a-102](#).

2902 (e) "Medical cannabis device" means the same as that term is defined in Section  
2903 [26-61a-102](#).

2904 (f) "Medicinal dosage form" means the same as that term is defined in Section  
2905 [26-61a-102](#).

2906 (g) "Nonresident patient" means the same as that term is defined in Section  
2907 [26-61a-102](#).

2908 (h) "Qualifying condition" means the same as that term is defined in Section

2909 26-61a-102.

2910 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section

2911 58-37-3.9.

2912 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or  
2913 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

2914 (a) at the time of the arrest or citation, the individual:

2915 (i) (A) had been diagnosed with a qualifying condition; and

2916 (B) had a pre-existing provider-patient relationship with an advanced practice  
2917 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed  
2918 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,  
2919 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under  
2920 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness  
2921 described in Subsection (2)(a)(i)(A) could benefit from the use in question;

2922 (ii) for possession, was:

2923 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who  
2924 is a minor; or

2925 (B) the spouse of an individual described in Subsection (2)(a)(i); or

2926 (iii) (A) for possession, was a medical cannabis cardholder; or

2927 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying  
2928 condition under the supervision of a medical cannabis guardian cardholder; and

2929 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or  
2930 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal  
2931 dosage limit:

2932 (A) unprocessed cannabis in a medicinal dosage form; or

2933 (B) a cannabis product in a medicinal dosage form; and

2934 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a  
2935 medical cannabis device.

2936 (3) A nonresident patient is not guilty under this chapter for the use or possession of  
2937 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

2938 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or  
2939 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal

2940 dosage limit:

2941 (i) unprocessed cannabis in a medicinal dosage form; or

2942 (ii) a cannabis product in a medicinal dosage form; and

2943 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a  
2944 medical cannabis device.

2945 (4) (a) There is a rebuttable presumption against an allegation of use or possession of  
2946 marijuana or tetrahydrocannabinol if:

2947 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the  
2948 sample; and

2949 (ii) the individual provides evidence that the individual possessed or used cannabidiol  
2950 or a cannabidiol product.

2951 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that  
2952 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized  
2953 under:

2954 (i) Section 4-41-402; or

2955 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

2956 (5) (a) An individual is not guilty under this chapter for the use or possession of  
2957 marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

2958 (b) Nothing in this section prohibits a person, either within the state or outside the  
2959 state, from selling a medical cannabis device within the state.

2960 (c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis  
2961 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for  
2962 the protections of this section to sell a medical cannabis device.

2963 Section 32. Section 58-37-3.9 is amended to read:

2964 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**  
2965 **illness.**

2966 (1) As used in this section:

2967 (a) "Cannabis" means marijuana.

2968 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

2969 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

2970 (d) "Medical cannabis cardholder" means the same as that term is defined in Section



2971 26-61a-102.

2972 (e) "Medical cannabis device" means the same as that term is defined in Section  
2973 26-61a-102.

2974 (f) " Medicinal dosage form" means the same as that term is defined in Section  
2975 26-61a-102.

2976 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic  
2977 description as described in Subsection 58-37-4(2)(a)(iii)(AA).

2978 (2) Notwithstanding any other provision of law, except as otherwise provided in this  
2979 section:

2980 (a) an individual is not guilty of a violation of this title for the following conduct if the  
2981 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis  
2982 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

2983 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,  
2984 selling, or offering to sell cannabis or a cannabis product; or

2985 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct  
2986 described in Subsection (2)(a)(i); and

2987 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if  
2988 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,  
2989 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

2990 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis  
2991 device; or

2992 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct  
2993 described in Subsection (2)(b)(i).

2994 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or  
2995 heating of medical cannabis.

2996 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical  
2997 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking  
2998 or combustion of cannabis.

2999 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or  
3000 engages in any other conduct described in Subsection (3)(b):

3001 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah

3002 Medical Cannabis Act; and

3003 (ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug  
3004 paraphernalia for the conduct described in Subsection (3)(b):

3005 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

3006 (B) for a second or subsequent offense, subject to charges under this chapter.

3007 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,

3008 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical

3009 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a

3010 penalty described in this chapter for:

3011 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis

3012 product; or

3013 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3014 (5) (a) Nothing in this section prohibits a person, either within the state or outside the  
3015 state, from selling a medical cannabis device within the state.

3016 (b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis  
3017 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for  
3018 the protections of this section to sell a medical cannabis device.

3019 Section 33. **Effective date.**

3020 If approved by two-thirds of all the members elected to each house, this bill takes effect  
3021 upon approval by the governor, or the day following the constitutional time limit of Utah  
3022 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
3023 the date of veto override.

3024 Section 34. **Coordinating S.B. 192 with S.B. 170 -- Substantive amendments.**

3025 If this S.B. 192 and S.B. 170, Consumer Protection for Cannabis Patients, both pass and  
3026 become law, it is the intent of the Legislature that the Office of Legislative Research and  
3027 General Counsel shall prepare the Utah Code database for publication by amending Subsection  
3028 26-61a-502(4)(a) to read:

3029 "(4) If a [~~qualified~~] recommending medical provider recommends treatment with  
3030 medical cannabis but [~~does not provide~~] wishes for the pharmacy medical provider to  
3031 determine directions of use and dosing guidelines:

3032 (a) the [~~qualified~~] recommending medical provider shall [~~document in the~~]

3033 ~~recommendation]~~ provide to the pharmacy medical provider, either through the state electronic  
3034 verification system or through a medical cannabis pharmacy's recording of a recommendation  
3035 under the order of a limited medical provider, any of the following information that the  
3036 recommending medical provider feels would be needed to provide appropriate directions of use  
3037 and dosing guidelines:

3038 (i) ~~[an evaluation of]~~ information regarding the qualifying condition underlying the  
3039 recommendation;

3040 (ii) information regarding prior treatment attempts with medical cannabis; and

3041 (iii) portions of the patient's current medication list; and".