

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

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;
- ▶ prohibits a cannabis cultivation facility from producing more than a certain amount



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

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

76 **Money Appropriated in this Bill:**

77 None

78 **Other Special Clauses:**

79 This bill provides a special effective date.

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

82 **Utah Code Sections Affected:**

83 AMENDS:

84 **4-41a-102**, 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-201**, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
87 by Coordination Clause, Laws of Utah 2020, Chapter 148

- 88 [4-41a-203](#), as last amended by Laws of Utah 2020, Chapter 12
- 89 [4-41a-204](#), as last amended by Laws of Utah 2020, Chapter 12
- 90 [4-41a-301](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 91 [4-41a-403](#), as last amended by Laws of Utah 2020, Chapters 12 and 148
- 92 [4-41a-501](#), as last amended by Laws of Utah 2020, Chapter 148
- 93 [4-41a-602](#), as last amended by Laws of Utah 2020, Chapter 12
- 94 [4-41a-603](#), as last amended by Laws of Utah 2020, Chapter 12
- 95 [4-41a-701](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 96 [4-41a-702](#), as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 97 Chapter 1
- 98 [4-41a-901](#), as enacted by Laws of Utah 2019, First Special Session, Chapter 5
- 99 [26-61a-102](#), as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 100 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 101 [26-61a-103](#), as last amended by Laws of Utah 2020, Chapter 12
- 102 [26-61a-105](#), as last amended by Laws of Utah 2020, Chapter 12
- 103 [26-61a-106](#), as last amended by Laws of Utah 2020, Chapter 12
- 104 [26-61a-201](#), as last amended by Laws of Utah 2020, Chapters 12 and 148
- 105 [26-61a-202](#), as last amended by Laws of Utah 2020, Chapter 12
- 106 [26-61a-204](#), as last amended by Laws of Utah 2020, Chapter 12
- 107 [26-61a-301](#), as last amended by Laws of Utah 2020, Chapters 12, 148, 354 and last
- 108 amended by Coordination Clause, Laws of Utah 2020, Chapter 148
- 109 [26-61a-305](#), as last amended by Laws of Utah 2020, Chapter 12
- 110 [26-61a-403](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 111 [26-61a-501](#), as last amended by Laws of Utah 2020, Chapter 12
- 112 [26-61a-502](#), as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
- 113 by Coordination Clause, Laws of Utah 2020, Chapter 148
- 114 [26-61a-504](#), as last amended by Laws of Utah 2020, Chapter 12
- 115 [26-61a-505](#), as last amended by Laws of Utah 2020, Chapters 12 and 148
- 116 [26-61a-605](#), as last amended by Laws of Utah 2020, Chapter 12
- 117 [26-61a-606](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 118 [26-61a-607](#), as last amended by Laws of Utah 2019, First Special Session, Chapter 5

119 [58-37-3.7](#), as last amended by Laws of Utah 2020, Chapter 12

120 [58-37-3.9](#), as last amended by Laws of Utah 2020, Chapter 12

121 ENACTS:

122 [4-41a-201.1](#), Utah Code Annotated 1953

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

124 [26-61a-502](#), as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended
125 by Coordination Clause, Laws of Utah 2020, Chapter 148

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

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

129 **[4-41a-102](#). Definitions.**

130 As used in this chapter:

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

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

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

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

143 ~~[(2)]~~ (3) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

144 (4) "Cannabis concentrate" means:

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

149 (5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not

150 intended to be sold as a cannabis plant product.

151 [~~3~~] (6) "Cannabis cultivation facility" means a person that:

152 (a) possesses cannabis;

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

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

156 [~~4~~] (7) "Cannabis cultivation facility agent" means an individual who:

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

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

159 (8) "Cannabis derivative product" means a product made using cannabis concentrate.

160 (9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold
161 in a form that is recognizable as a portion of a cannabis plant.

162 [~~5~~] (10) "Cannabis processing facility" means a person that:

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

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

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

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

169 [~~6~~] (11) "Cannabis processing facility agent" means an individual who:

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

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

172 [~~7~~] (12) "Cannabis product" means the same as that term is defined in Section
173 [26-61a-102](#).

174 [~~8~~] (13) "Cannabis production establishment" means a cannabis cultivation facility, a
175 cannabis processing facility, or an independent cannabis testing laboratory.

176 [~~9~~] (14) "Cannabis production establishment agent" means a cannabis cultivation
177 facility agent, a cannabis processing facility agent, or an independent cannabis testing
178 laboratory agent.

179 [~~10~~] (15) "Cannabis production establishment agent registration card" means a
180 registration card that the department issues that:

181 (a) authorizes an individual to act as a cannabis production establishment agent; and
182 (b) designates the type of cannabis production establishment for which an individual is
183 authorized to act as an agent.

184 ~~[(11)]~~ (16) "Community location" means a public or private elementary or secondary
185 school, a church, a public library, a public playground, or a public park.

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

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

192 ~~[(13)]~~ (19) "Department" means the Department of Agriculture and Food.

193 (20) "Derivative cannabinoid" means any cannabinoid that has been intentionally
194 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

195 ~~[(14)]~~ (21) "Family member" means a parent, step-parent, spouse, child, sibling,
196 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
197 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

198 ~~[(15)]~~ (22) (a) "Independent cannabis testing laboratory" means a person that:

- 199 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
200 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to
201 conduct a chemical or other analysis of the cannabis or cannabis product.

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

204 ~~[(16)]~~ (23) "Independent cannabis testing laboratory agent" means an individual who:

- 205 (a) is an employee of an independent cannabis testing laboratory; and
206 (b) holds a valid cannabis production establishment agent registration card.

207 (24) "Industrial hemp waste" means:

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

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

212 [~~(17)~~] (25) "Inventory control system" means a system described in Section [4-41a-103](#).

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

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

215 [~~(18)~~] (27) "Medical cannabis" means the same as that term is defined in Section
216 [26-61a-102](#).

217 [~~(19)~~] (28) "Medical cannabis card" means the same as that term is defined in Section
218 [26-61a-102](#).

219 [~~(20)~~] (29) "Medical cannabis pharmacy" means the same as that term is defined in
220 Section [26-61a-102](#).

221 [~~(21)~~] (30) "Medical cannabis pharmacy agent" means the same as that term is defined
222 in Section [26-61a-102](#).

223 [~~(22)~~] (31) "Medical cannabis research license" means a license that the department
224 issues to a research university for the purpose of obtaining and possessing medical cannabis for
225 academic research.

226 [~~(23)~~] (32) "Medical cannabis research licensee" means a research university that the
227 department licenses to obtain and possess medical cannabis for academic research, in
228 accordance with Section [4-41a-901](#).

229 [~~(24)~~] (33) "Medical cannabis treatment" means the same as that term is defined in
230 Section [26-61a-102](#).

231 [~~(25)~~] (34) "Medicinal dosage form" means the same as that term is defined in Section
232 [26-61a-102](#).

233 [~~(26)~~] (35) "Qualified medical provider" means the same as that term is defined in
234 Section [26-61a-102](#).

235 [~~(27)~~] (36) "Qualified Production Enterprise Fund" means the fund created in Section
236 [4-41a-104](#).

237 [~~(28)~~] (37) "Research university" means the same as that term is defined in Section
238 [53B-7-702](#) and a private, nonprofit college or university in the state that:

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

240 (b) grants doctoral degrees; and

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

242 substance described in Section [58-37-4](#).

243 ~~[(29)]~~ (38) "State electronic verification system" means the system described in Section
244 [26-61a-103](#).

245 (39) "Synthetic cannabinoid" means any cannabinoid that:

246 (a) was chemically synthesized from starting materials other than a naturally occurring
247 cannabinoid; and

248 (b) is not a derivative cannabinoid.

249 ~~[(30)]~~ (40) "Tetrahydrocannabinol" means a substance derived from cannabis or a
250 synthetic equivalent as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

251 ~~[(31)]~~ (41) "Total composite tetrahydrocannabinol" means all detectable forms of
252 tetrahydrocannabinol.

253 (42) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined
254 amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC =
255 delta-9-THC + (THCA x 0.877)."

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

257 **4-41a-201. Cannabis production establishment -- License.**

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

260 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section [4-41a-205](#)~~[:]~~, for
261 a licensing process that the department initiates after the effective date of this bill, the
262 department, through the licensing board, shall issue licenses in accordance with Section
263 [4-41a-201.1](#).

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

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

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

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

- 274 (A) solicit applications for a license under this section;
- 275 (B) allow for comments and questions in the development of applications;
- 276 (C) timely and objectively evaluate applications;
- 277 (D) hold public hearings that the department deems appropriate; and
- 278 (E) select applicants to receive a license.
- 279 (iii) The department may not issue a license to operate a cannabis production
- 280 establishment to an applicant who is not eligible for a license under this section.
- 281 (b) An applicant is eligible for a license under this section if the applicant submits to
- 282 the ~~[department]~~ licensing board:
- 283 (i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis
- 284 cultivation facility, addresses of no more than two facility locations, located in a zone described
- 285 in Subsection ~~4-41a-406~~(2)(a) or (b), where the applicant will operate the cannabis production
- 286 establishment;
- 287 (ii) the name and address of any individual who has:
- 288 (A) for a publicly traded company, a financial or voting interest of 2% or greater in the
- 289 proposed cannabis production establishment;
- 290 (B) for a privately held company, a financial or voting interest in the proposed cannabis
- 291 production establishment; or
- 292 (C) the power to direct or cause the management or control of a proposed cannabis
- 293 production establishment;
- 294 (iii) an operating plan that:
- 295 (A) complies with Section ~~4-41a-204~~;
- 296 (B) includes operating procedures that comply with this chapter and any law the
- 297 municipality or county in which the person is located adopts that is consistent with Section
- 298 ~~4-41a-406~~; and
- 299 (C) the department or licensing board approves;
- 300 (iv) a statement that the applicant will obtain and maintain a performance bond that a
- 301 surety authorized to transact surety business in the state issues in an amount of at least:
- 302 (A) ~~[\$250,000]~~ \$100,000 for each cannabis cultivation facility for which the applicant
- 303 applies; or
- 304 (B) \$50,000 for each cannabis processing facility or independent cannabis testing

305 laboratory for which the applicant applies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

338 ~~[(B) Except as provided in Subsection (3)(b)(i)(C), the department may not renew the~~
339 ~~120-day limited license.]~~

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

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

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

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

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

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

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

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

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

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

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

366 (7) The ~~[department]~~ licensing board may not issue a license to operate a cannabis

367 production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

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

369 (i) a felony; or

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

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

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

373 (8) (a) If an applicant for a cannabis production establishment license under this

374 section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the [department]

375 licensing board may not give preference to the applicant based on the applicant's status as a

376 holder of the license.

377 (b) If an applicant for a license to operate a cannabis cultivation facility under this

378 section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a,

379 Utah Medical Cannabis Act, the [department] licensing board:

380 (i) shall consult with the Department of Health regarding the applicant; and

381 (ii) may give consideration to the applicant based on the applicant's status as a holder
382 of a medical cannabis pharmacy license if:

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

385 (B) the [department] licensing board finds multiple other factors, in addition to the
386 existing license, that support granting the new license.

387 (9) The [department] licensing board may revoke a license under this part:

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

389 operations within one year after the day on which the [department] licensing board issues the
390 initial license;

391 (b) after the third of the same violation of this chapter in any of the licensee's licensed
392 cannabis production establishments or medical cannabis pharmacies;

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

395 (i) a felony; or

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

397 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at

398 the time of application, or fails to supplement the information described in Subsection
399 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
400 application within 14 calendar days after the licensee receives notice of the investigation or
401 adverse action; or

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

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

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

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

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

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

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

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

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

423 (14) Notwithstanding this section, the department:

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

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

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

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

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

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

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

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

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

440 **4-41a-201.1. Cannabis Production Establishment Licensing Advisory Board --**

441 **Composition -- Duties.**

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

444 (2) The commissioner shall:

445 (a) appoint the members of the board;

446 (b) submit the name of each individual that the commissioner appoints under
447 Subsection (2)(a) to the governor for confirmation or rejection; and

448 (c) if the governor rejects an appointee that the commissioner submits under
449 Subsection (2)(b), appoint another individual in accordance with this Subsection (2).

450 (3) (a) Except as provided in Subsection (3)(c), the board shall consist of the following
451 six members:

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

453 (A) one member of the public;

454 (B) one member with knowledge and experience in the pharmaceutical or nutraceutical
455 manufacturing industry;

456 (C) one member representing law enforcement;

457 (D) one member whom an organization representing medical cannabis patients
458 recommends; and

459 (E) a chemist who has experience with cannabis and who is associated with a research

460 university; and

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

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

465 (c) The commissioner or the commissioner's designee shall serve as the chair of the
466 board.

467 (d) An individual is not eligible for appointment to be a member of the board if the
468 individual:

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

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

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

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

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

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

482 (i) the board member is eligible for reappointment; and

483 (ii) the commissioner shall make an appointment, in accordance with Subsection (2),
484 for the new term before the end of the member's term.

485 (d) When a vacancy occurs on the board for any reason other than the expiration of a
486 board member's term, the commissioner shall appoint a replacement to the vacant position, in
487 accordance with Subsection (2), for the unexpired term.

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

490 (f) The commissioner may remove a board member for cause, neglect of duty,

491 inefficiency, or malfeasance.

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

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

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

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

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

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

500 (iii) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
501 [63A-3-107](#).

502 (6) The board shall:

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

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

506 (i) this chapter; and

507 (ii) department rules;

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

509 (d) approve the department's license application forms and checklists; and

510 (e) make a determination on each license application.

511 (7) The board shall hold a public hearing to review a cannabis production
512 establishment's license if the establishment:

513 (a) changes ownership by an interest of 20% or more;

514 (b) changes or adds a location;

515 (c) upgrades to a different licensing tier under department rule;

516 (d) changes extraction or formulation standard operating procedures;

517 (e) adds an industrial hemp processing or cultivation license to the same location as the
518 cannabis production establishment's processing facility; or

519 (f) as necessary based on the recommendation of the department.

520 (8) (a) The board shall meet annually in December to consider cannabis production
521 establishment license renewal applications.

522 (b) During the meeting described in Subsection (8)(a):
523 (i) a representative from each applicant for renewal shall:
524 (A) attend in person or electronically; or
525 (B) submit information before the meeting, as the board may require, for the board's
526 consideration; and
527 (ii) the board shall consider, for each cannabis cultivation facility seeking renewal,
528 information including:
529 (A) the amount of biomass the licensee produced during the current calendar year;
530 (B) the amount of biomass the licensee projects to produce during the following year;
531 (C) the amount of hemp waste the licensee currently holds;
532 (D) the current square footage or acres of growing area the licensee uses; and
533 (E) the square footage or acres of growing area the licensee projects to use in the
534 following year; and
535 (iii) the board shall consider, for each cannabis processing facility seeking renewal,
536 information including:
537 (A) methods and procedures for extraction;
538 (B) standard operating procedures; and
539 (C) a complete listing of the medical dosage forms that the licensee produces.
540 (c) The information a licensee or license applicant provides to the board for a license
541 determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the
542 applicant or licensee provides the board with the information regarding business confidentiality
543 required in Section 63G-2-309.

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

545 **4-41a-203. Renewal.**

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

- 550 (1) the licensee meets the requirements of Section 4-41a-201 at the time of renewal;
- 551 (2) the board does not identify:
- 552 (a) a significant failure of compliance with this chapter or department rules in the

553 review described in Section 4-41a-201.1; or

554 (b) grounds for revocation described in Subsections 4-41a-201(9)(b) through (e);

555 ~~[(2)]~~ (3) the licensee pays the department a license renewal fee in an amount that,

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

557 and

558 ~~[(3)]~~ (4) if the cannabis production establishment changes the operating plan described

559 in Section 4-41a-204 that the department or licensing board approved under Subsection

560 4-41a-201(2)(b)(iii), the department approves the new operating plan.

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

562 **4-41a-204. Operating plan.**

563 (1) A person applying for a cannabis production establishment license or license

564 renewal shall submit to the department for the department's review a proposed operating plan

565 that complies with this section and that includes:

566 (a) a description of the physical characteristics of the proposed facility or, for a

567 cannabis cultivation facility, no more than two facility locations, including a floor plan and an

568 architectural elevation;

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

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

571 establishment; and

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

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

574 (d) a security plan;

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

576 including a description of how the inventory control system is compatible with the state

577 electronic verification system described in Section 26-61a-103;

578 (f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a

579 manner that is sanitary and preserves the integrity of the cannabis;

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

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

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

583 Subsection (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

630 (a) offered variety of cannabis product;

631 (b) cannabinoid extraction method;

632 (c) cannabinoid extraction equipment;

633 (d) processing equipment;

634 (e) processing techniques; and

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

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

638 (a) cannabis and cannabis product testing capability;

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

640 (c) testing methods, standards, practices, and procedures for testing cannabis and
641 cannabis products.

642 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
643 establishment is subject to land use regulations, as defined in Sections [10-9a-103](#) and
644 [17-27a-103](#), regarding the availability of outdoor cultivation in an industrial zone.

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

646 **4-41a-301. Cannabis production establishment agent -- Registration.**

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

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

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

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

657 (c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
658 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

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

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

664 (4) (a) The department shall, within 15 business days after the day on which the
665 department receives a complete application from a cannabis production establishment on
666 behalf of a prospective cannabis production establishment agent, register and issue a cannabis
667 production establishment agent registration card to the prospective agent if the cannabis
668 production establishment:

669 (i) provides to the department:

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

671 (B) the name and location of a licensed cannabis production establishment where the
672 prospective agent will act as the cannabis production establishment's agent; and

673 (C) the submission required under Subsection (4)(b); and

674 (ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5),
675 the department sets in accordance with Section 63J-1-504.

676 (b) Except for an applicant reapplying for a cannabis production establishment agent

677 registration card within less than one year after the expiration of the applicant's previous
678 cannabis production establishment agent registration card, each prospective agent described in
679 Subsection (4)(a) shall:

680 (i) submit to the department:

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

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

685 (ii) consent to a fingerprint background check by:

686 (A) the Bureau of Criminal Identification; and

687 (B) the Federal Bureau of Investigation.

688 (c) The Bureau of Criminal Identification shall:

689 (i) check the fingerprints the prospective agent submits under Subsection (4)(b) against
690 the applicable state, regional, and national criminal records databases, including the Federal
691 Bureau of Investigation Next Generation Identification System;

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

693 (iii) maintain a separate file of fingerprints that prospective agents submit under
694 Subsection (4)(b) for search by future submissions to the local and regional criminal records
695 databases, including latent prints;

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

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

703 (d) The department shall:

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

707 (ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal

708 Identification.

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

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

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

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

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

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

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

720 (i) in Utah medical cannabis law;

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

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

724 (iv) for an independent cannabis testing laboratory agent, in cannabis testing best
725 practices.

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

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

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

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

734 (i) a felony; or

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

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

738 (b) A cannabis production establishment agent may renew the agent's registration card

739 if the agent:

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

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

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

745 (A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section
746 63J-1-504; and

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

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

750 **4-41a-403. Advertising.**

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

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

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

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

757 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
758 devices.

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

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

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

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

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

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

769 (5) (a) A cannabis production establishment may hold an educational event for the

770 public or medical providers in accordance with this Subsection (5) and the rules described in
771 Subsection (5)(c).

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

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

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

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

781 (iv) a presenter other than the following:

782 (A) a cannabis production establishment agent;

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

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

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

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

790 (F) a state employee.

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

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

795 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

796 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
797 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation
798 facility perimeter.

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

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

803 (b) each unique harvest of cannabis plants;

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

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

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

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

813 (4) A cannabis cultivation facility shall either:

814 (a) ensure that a cannabis processing facility chemically or physically process cannabis
815 cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis
816 derivative products; or

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

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

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

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

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

829 (c) A cannabis cultivation facility may not produce more than 120 kilograms of
830 cannabis concentrate from industrial hemp waste in a single license year.

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

832 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

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

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

840 (iii) has a unique identification number that:

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

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

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

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

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

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

852 (i) is tamper evident and tamper resistant;

853 (ii) does not appeal to children;

854 (iii) does not mimic a candy container;

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

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

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

862 (2) For any cannabis or cannabis product that the cannabis processing facility processes

863 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
864 cuboid shape, the facility shall:

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

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

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

872 [~~(3)~~] (4) The department shall make rules in accordance with Title 63G, Chapter 3,
873 Utah Administrative Rulemaking Act to establish:

874 (a) a standard labeling format that:

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

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

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

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

880 **4-41a-603. Cannabis product -- Product quality.**

881 (1) A cannabis processing facility:

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

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

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

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

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

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

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

894 ~~[(3)]~~ (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3,
895 Utah Administrative Rulemaking Act, human safety standards for the manufacturing of
896 cannabis products that are consistent with best practices for the use of cannabis.

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

898 **4-41a-701. Cannabis and cannabis product testing.**

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

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

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

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

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

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

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

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

921 (a) determine required adulterant tests for a cannabis plant product, cannabis
922 concentrate, or cannabis product;

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

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

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

930 ~~[(4)]~~ (2) The department may require testing for a toxin if:

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

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

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

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

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

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

944 ~~[(5)]~~ (4) The department shall establish by rule, in accordance with Title 63G, Chapter
945 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
946 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

947 ~~[(6)]~~ (5) The department may require an independent cannabis testing laboratory to
948 participate in a proficiency evaluation that the department conducts or that an organization that
949 the department approves conducts.

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

951 **4-41a-702. Reporting -- Inspections -- Seizure by the department.**

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

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

956 ~~[(A)]~~ (i) the department; and
957 ~~[(B)]~~ (ii) the cannabis production establishment that prepared the cannabis or cannabis
958 product batch; ~~[and]~~
959 ~~[(ii) retain possession of the cannabis or cannabis product batch for two weeks in order~~
960 ~~to investigate the cause of the defective batch and to make a determination; and]~~
961 (b) the department shall place a hold on the cannabis or cannabis product batch to:
962 (i) investigate the cause of the defective batch; and
963 (ii) make a determination; and
964 ~~[(b)]~~ (c) the cannabis production establishment that prepared the cannabis or cannabis
965 product batch may appeal the determination described in Subsection (1)(a)(ii) to the
966 department.

967 (2) If the department determines, under Subsection (1)~~[(a)]~~(b)(ii) or following an
968 appeal under Subsection (1)~~[(b)]~~(c), that a cannabis or cannabis product prepared by a cannabis
969 production establishment is unsafe for human consumption, the department may seize,
970 embargo, or destroy, in the same manner as a cannabis production establishment under Section
971 [4-41a-405](#), the cannabis or cannabis product batch.

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

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

978 **4-41a-901. Academic medical cannabis research -- License.**

979 (1) A medical cannabis research licensee may, subject to department rules described in
980 Subsection (4), obtain from a cannabis production establishment or a medical cannabis
981 pharmacy, and possess[;] cannabis for academic medical cannabis research.

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

- 985 (a) the location where the research university intends to conduct the research;
- 986 (b) the research university's research plan; and

987 (c) the name of the ~~[employee]~~ principal investigator of the research university who
988 will:

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

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

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

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

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

995 Administrative Rulemaking Act, to:

996 (a) establish requirements for a licensee to:

997 (i) participate in academic medical cannabis research;

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

999 academic medical cannabis research; and

1000 (b) set sampling and testing procedures.

1001 (5) A medical cannabis research licensee shall provide to the department written

1002 consent allowing a representative of the department and local law enforcement to enter all

1003 premises where the licensee possesses or stores cannabis for the purpose of:

1004 (a) conducting a physical inspection; or

1005 (b) ensuring compliance with the requirements of this chapter.

1006 (6) An individual who has been convicted of a drug related felony within the last 10

1007 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis

1008 research licensee's license under this part.

1009 (7) The department may set a fee, in accordance with Subsection [4-2-103\(2\)](#), for the

1010 application for a medical cannabis research license.

1011 Section 14. Section **26-61a-102** is amended to read:

1012 **26-61a-102. Definitions.**

1013 As used in this chapter:

1014 (1) "Active tetrahydrocannabinol" means Delta-8-THC, Delta-9-THC, and

1015 tetrahydrocannabinolic acid.

1016 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in

1017 Section [26-61-201](#).

1018 [~~1~~] (3) "Cannabis" means marijuana.

1019 [~~2~~] (4) "Cannabis cultivation facility" means the same as that term is defined in

1020 Section [4-41a-102](#).

1021 [~~3~~] (5) "Cannabis processing facility" means the same as that term is defined in

1022 Section [4-41a-102](#).

1023 [~~4~~] (6) "Cannabis product" means a product that:

1024 (a) is intended for human use; and

1025 (b) contains cannabis or tetrahydrocannabinol.

1026 [~~5~~] (7) "Cannabis production establishment" means the same as that term is defined

1027 in Section [4-41a-102](#).

1028 [~~6~~] (8) "Cannabis production establishment agent" means the same as that term is

1029 defined in Section [4-41a-102](#).

1030 [~~7~~] (9) "Cannabis production establishment agent registration card" means the same

1031 as that term is defined in Section [4-41a-102](#).

1032 [~~8~~] (10) "Community location" means a public or private elementary or secondary

1033 school, a church, a public library, a public playground, or a public park.

1034 (11) "Controlled substance database" means the controlled substance database created

1035 in Section [58-37f-201](#).

1036 (12) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:

1037 (a) is similar to Delta-9-THC with a lower psychotropic potency; and

1038 (b) interacts with the CB1 receptor of the nervous system.

1039 (13) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic

1040 cannabinoid in cannabis.

1041 [~~9~~] (14) "Department" means the Department of Health.

1042 [~~10~~] (15) "Designated caregiver" means:

1043 (a) an individual:

1044 (i) whom an individual with a medical cannabis patient card or a medical cannabis

1045 guardian card designates as the patient's caregiver; and

1046 (ii) who registers with the department under Section [26-61a-202](#); or

1047 (b) (i) a facility that an individual designates as a designated caregiver in accordance

1048 with Subsection [26-61a-202](#)(1)(b); or

1049 (ii) an assigned employee of the facility described in Subsection [26-61a-202\(1\)\(b\)\(ii\)](#).

1050 ~~[(11)]~~ [\(16\)](#) "Directions of use" means recommended routes of administration for a
1051 medical cannabis treatment and suggested usage guidelines.

1052 ~~[(12)]~~ [\(17\)](#) "Dosing guidelines" means a quantity range and frequency of administration
1053 for a recommended treatment of medical cannabis.

1054 ~~[(13)]~~ [\(18\)](#) "Financial institution" means a bank, trust company, savings institution, or
1055 credit union, chartered and supervised under state or federal law.

1056 ~~[(14)]~~ [\(19\)](#) "Home delivery medical cannabis pharmacy" means a medical cannabis
1057 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
1058 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
1059 that the state central patient portal facilitates.

1060 ~~[(15)]~~ [\(20\)](#) "Inventory control system" means the system described in Section
1061 [4-41a-103](#).

1062 ~~[(16)]~~ [\(21\)](#) "Legal dosage limit" means an amount that:

1063 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
1064 relevant qualified medical provider or the state central patient portal or pharmacy medical
1065 provider, in accordance with Subsection ~~[[26-61a-201\(4\)](#)]~~ [26-61a-502\(4\)](#) or (5), recommends;
1066 and

1067 (b) may not exceed:

1068 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

1069 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
1070 greater than 20 grams of active tetrahydrocannabinol.

1071 ~~[(17)]~~ [\(22\)](#) "Legal use termination date" means a date on the label of a container of
1072 unprocessed cannabis flower:

1073 (a) that is 60 days after the date of purchase of the cannabis; and

1074 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the
1075 primary residence of the relevant medical cannabis patient cardholder.

1076 ~~[(18)]~~ [\(23\)](#) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

1077 ~~[(19)]~~ [\(24\)](#) "Medical cannabis" means cannabis in a medicinal dosage form or a
1078 cannabis product in a medicinal dosage form.

1079 ~~[(20)]~~ [\(25\)](#) "Medical cannabis card" means a medical cannabis patient card, a medical

1080 cannabis guardian card, or a medical cannabis caregiver card.

1081 ~~[(21)]~~ (26) "Medical cannabis cardholder" means:

1082 (a) a holder of a medical cannabis card; or

1083 (b) a facility or assigned employee, described in Subsection ~~[(10)]~~ (15)(b), only:

1084 (i) within the scope of the facility's or assigned employee's performance of the role of a

1085 medical cannabis patient cardholder's caregiver designation under Subsection

1086 [26-61a-202\(1\)\(b\)](#); and

1087 (ii) while in possession of documentation that establishes:

1088 (A) a caregiver designation described in Subsection [26-61a-202\(1\)\(b\)](#);

1089 (B) the identity of the individual presenting the documentation; and

1090 (C) the relation of the individual presenting the documentation to the caregiver

1091 designation.

1092 ~~[(22)]~~ (27) "Medical cannabis caregiver card" means an electronic document that a

1093 cardholder may print or store on an electronic device or a physical card or document that:

1094 (a) the department issues to an individual whom a medical cannabis patient cardholder

1095 or a medical cannabis guardian cardholder designates as a designated caregiver; and

1096 (b) is connected to the electronic verification system.

1097 ~~[(23)]~~ (28) "Medical cannabis courier" means a courier that:

1098 (a) the department licenses in accordance with Section [26-61a-604](#); and

1099 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical

1100 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

1101 (29) "Medical cannabis courier agent" means an individual who:

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

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

1104 ~~[(24)]~~ (30) (a) "Medical cannabis device" means a device that an individual uses to

1105 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal

1106 dosage form.

1107 (b) "Medical cannabis device" does not include a device that:

1108 (i) facilitates cannabis combustion; or

1109 (ii) an individual uses to ingest substances other than cannabis.

1110 ~~[(25)]~~ (31) "Medical cannabis guardian card" means an electronic document that a

1111 cardholder may print or store on an electronic device or a physical card or document that:

1112 (a) the department issues to the parent or legal guardian of a minor with a qualifying
1113 condition; and

1114 (b) is connected to the electronic verification system.

1115 ~~[(26)]~~ (32) "Medical cannabis patient card" means an electronic document that a
1116 cardholder may print or store on an electronic device or a physical card or document that:

1117 (a) the department issues to an individual with a qualifying condition; and

1118 (b) is connected to the electronic verification system.

1119 ~~[(27)]~~ (33) "Medical cannabis pharmacy" means a person that:

1120 (a) (i) acquires or intends to acquire~~[(A) cannabis in a medicinal dosage form]~~

1121 medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing
1122 facility~~;~~ or another medical cannabis pharmacy or ~~[(B)]~~ a medical cannabis device; or

1123 (ii) possesses ~~[cannabis in a medicinal dosage form, a cannabis product in a medicinal~~
1124 ~~dosage form;]~~ medical cannabis or a medical cannabis device; and

1125 (b) sells or intends to sell ~~[cannabis in a medicinal dosage form, a cannabis product in a~~
1126 ~~medicinal dosage form;]~~ medical cannabis or a medical cannabis device to a medical cannabis
1127 cardholder.

1128 ~~[(28)]~~ (34) "Medical cannabis pharmacy agent" means an individual who:

1129 (a) is an employee of a medical cannabis pharmacy; and

1130 (b) who holds a valid medical cannabis pharmacy agent registration card.

1131 ~~[(29)]~~ (35) "Medical cannabis pharmacy agent registration card" means a registration
1132 card issued by the department that authorizes an individual to act as a medical cannabis
1133 pharmacy agent.

1134 ~~[(30)]~~ (36) "Medical cannabis shipment" means a shipment of medical cannabis or a
1135 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
1136 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
1137 electronic medical cannabis order that the state central patient portal facilitates.

1138 ~~[(31)]~~ (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
1139 cannabis product in a medicinal dosage form, or a medical cannabis device.

1140 ~~[(32)]~~ (38) (a) "Medicinal dosage form" means:

1141 (i) for processed medical cannabis or a medical cannabis product, the following with a

1142 specific and consistent cannabinoid content:

1143 (A) a tablet;

1144 (B) a capsule;

1145 (C) a concentrated liquid or viscous oil;

1146 (D) a liquid suspension;

1147 (E) a topical preparation;

1148 (F) a transdermal preparation;

1149 (G) a sublingual preparation;

1150 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or

1151 rectangular cuboid shape; or

1152 (I) a resin or wax;

1153 (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

1154 (A) contains cannabis flowers in a quantity that varies by no more than 10% from the
1155 stated weight at the time of packaging;

1156 (B) at any time the medical cannabis cardholder transports or possesses the container in
1157 public, is contained within an opaque~~[, child-resistant]~~ bag that the medical cannabis pharmacy
1158 provides; and

1159 (C) is labeled with the container's content and weight, the date of purchase, the legal
1160 use termination date, and after December 31, 2020, a barcode that provides information
1161 connected to an inventory control system; and

1162 (iii) a form measured in grams, milligrams, or milliliters.

1163 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

1164 (i) the medical cannabis cardholder has recently removed from the container described
1165 in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii) for use; and

1166 (ii) does not exceed the quantity described in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii).

1167 (c) "Medicinal dosage form" does not include:

1168 (i) any unprocessed cannabis flower outside of the container described in Subsection
1169 [~~(32)(a)(ii)~~] (38)(a)(ii), except as provided in Subsection [~~(32)~~] (38)(b);

1170 (ii) any unprocessed cannabis flower in a container described in Subsection
1171 [~~(32)(a)(ii)~~] (38)(a)(ii) after the legal use termination date; or

1172 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis

1173 on a nail or other metal object that is heated by a flame, including a blowtorch.

1174 [~~(33)~~] (39) "Nonresident patient" means an individual who:

1175 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

1176 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
1177 card under the laws of another state, district, territory, commonwealth, or insular possession of
1178 the United States; and

1179 (c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

1180 [~~(34)~~] (40) "Payment provider" means an entity that contracts with a cannabis
1181 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
1182 the establishment or pharmacy and other businesses or individuals.

1183 [~~(35)~~] (41) "Pharmacy medical provider" means the medical provider required to be on
1184 site at a medical cannabis pharmacy under Section 26-61a-403.

1185 [~~(36)~~] (42) "Provisional patient card" means a card that:

1186 (a) the department issues to a minor with a qualifying condition for whom:

1187 (i) a qualified medical provider has recommended a medical cannabis treatment; and

1188 (ii) the department issues a medical cannabis guardian card to the minor's parent or
1189 legal guardian; and

1190 (b) is connected to the electronic verification system.

1191 [~~(37)~~] (43) "Qualified medical provider" means an individual who is qualified to
1192 recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

1193 [~~(38)~~] (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in
1194 Section 26-61a-109.

1195 [~~(39)~~] (45) "Qualifying condition" means a condition described in Section 26-61a-104.

1196 [~~(40)~~] (46) "Recommend" or "recommendation" means, for a qualified medical
1197 provider, the act of suggesting the use of medical cannabis treatment, which:

1198 (a) certifies the patient's eligibility for a medical cannabis card; and

1199 (b) may include, at the qualified medical provider's discretion, directions of use, with
1200 or without dosing guidelines.

1201 [~~(41)~~] (47) "State central patient portal" means the website the department creates, in
1202 accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic
1203 medical cannabis order.

1204 [~~(42)~~] (48) "State central patient portal medical provider" means a physician or
1205 pharmacist that the department employs in relation to the state central patient portal to consult
1206 with medical cannabis cardholders in accordance with Section [26-61a-602](#).

1207 [~~(43)~~] (49) "State electronic verification system" means the system described in Section
1208 [26-61a-103](#).

1209 (50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a
1210 synthetic equivalent as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

1211 [~~(44)~~] (51) "Valid form of photo identification" means a valid United States federal- or
1212 state-issued photo identification, including:

- 1213 (a) a driver license;
- 1214 (b) a United States passport;
- 1215 (c) a United States passport card; or
- 1216 (d) a United States military identification card.

1217 Section 15. Section **26-61a-103** is amended to read:

1218 **26-61a-103. Electronic verification system.**

1219 (1) The Department of Agriculture and Food, the department, the Department of Public
1220 Safety, and the Department of Technology Services shall:

1221 (a) enter into a memorandum of understanding in order to determine the function and
1222 operation of the state electronic verification system in accordance with Subsection (2);

1223 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1224 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1225 maintain the state electronic verification system in coordination with the Department of
1226 Technology Services; and

1227 (c) select a third-party provider who:

1228 (i) meets the requirements contained in the request for proposals issued under
1229 Subsection (1)(b); and

1230 (ii) may not have any commercial or ownership interest in a cannabis production
1231 establishment or a medical cannabis pharmacy.

1232 (2) The Department of Agriculture and Food, the department, the Department of Public
1233 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
1234 2020, the state electronic verification system described in Subsection (1):

1235 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
1236 medical cannabis guardian card, provided that the card may not become active until the
1237 relevant qualified medical provider completes the associated medical cannabis
1238 recommendation;

1239 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1240 cannabis guardian card in accordance with Section 26-61a-201;

1241 (c) allows a qualified medical provider, or an employee described in Subsection (3)
1242 acting on behalf of the qualified medical provider, to:

1243 (i) access dispensing and card status information regarding a patient:

1244 (A) with whom the qualified medical provider has a provider-patient relationship; and

1245 (B) for whom the qualified medical provider has recommended or is considering
1246 recommending a medical cannabis card;

1247 (ii) electronically recommend, after an initial face-to-face visit with a patient described
1248 in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a
1249 cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

1250 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1251 medical cannabis guardian cardholder:

1252 (A) using telehealth services, for the qualified medical provider who originally
1253 recommended a medical cannabis treatment during a face-to-face visit with the patient; or

1254 (B) during a face-to-face visit with the patient, for a qualified medical provider who
1255 did not originally recommend the medical cannabis treatment during a face-to-face visit; and

1256 (iv) notate a determination of physical difficulty or undue hardship, described in
1257 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

1258 (d) connects with:

1259 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1260 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1261 medicinal dosage form, or a medical cannabis device, including:

1262 (A) the time and date of each purchase;

1263 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1264 purchased;

1265 (C) any cannabis production establishment, any medical cannabis pharmacy, or any

1266 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1267 device; and

1268 (D) the personally identifiable information of the medical cannabis cardholder who
1269 made the purchase; and

1270 (ii) any commercially available inventory control system that a cannabis production
1271 establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of
1272 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1273 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1274 track and confirm compliance;

1275 (e) provides access to:

1276 (i) the department to the extent necessary to carry out the department's functions and
1277 responsibilities under this chapter;

1278 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
1279 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1280 41a, Cannabis Production Establishments; and

1281 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
1282 carry out the functions and responsibilities related to the participation of the following in the
1283 recommendation and dispensing of medical cannabis:

1284 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1285 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1286 Practice Act;

1287 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1288 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1289 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1290 Assistant Act;

1291 (f) provides access to and interaction with the state central patient portal;

1292 (g) communicates dispensing information from a record that a medical cannabis
1293 pharmacy submits to the state electronic verification system under Subsection
1294 26-61a-502(6)(a)(ii) to the controlled substance database;

1295 [~~g~~] (h) provides access to state or local law enforcement:

1296 (i) during a law enforcement encounter, without a warrant, using the individual's driver

1297 license or state ID, only for the purpose of determining if the individual subject to the law
1298 enforcement encounter has a valid medical cannabis card; or

1299 (ii) after obtaining a warrant; and

1300 ~~[(h)]~~ (i) creates a record each time a person accesses the ~~[database]~~ system that
1301 identifies the person who accesses the ~~[database]~~ system and the individual whose records the
1302 person accesses.

1303 (3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1304 verification system is functionally capable of allowing employee access under this Subsection
1305 (3), an employee of a qualified medical provider may access the electronic verification system
1306 for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

1307 (i) the qualified medical provider has designated the employee as an individual
1308 authorized to access the electronic verification system on behalf of the qualified medical
1309 provider;

1310 (ii) the qualified medical provider provides written notice to the department of the
1311 employee's identity and the designation described in Subsection (3)(a)(i); and

1312 (iii) the department grants to the employee access to the electronic verification system.

1313 (b) An employee of a business that employs a qualified medical provider may access
1314 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1315 qualified medical provider if:

1316 (i) the qualified medical provider has designated the employee as an individual
1317 authorized to access the electronic verification system on behalf of the qualified medical
1318 provider;

1319 (ii) the qualified medical provider and the employing business jointly provide written
1320 notice to the department of the employee's identity and the designation described in Subsection
1321 (3)(b)(i); and

1322 (iii) the department grants to the employee access to the electronic verification system.

1323 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1324 (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1325 Practice Act;

1326 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
1327 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

- 1328 (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1329 Assistant Act.
- 1330 (b) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1331 verification system is functionally capable of allowing provider access under this Subsection
1332 (4), a prescribing provider may access information in the electronic verification system
1333 regarding a patient the prescribing provider treats.
- 1334 (5) The department may release limited data that the system collects for the purpose of:
- 1335 (a) conducting medical and other department approved research;
- 1336 (b) providing the report required by Section 26-61a-703; and
- 1337 (c) other official department purposes.
- 1338 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1339 Administrative Rulemaking Act, to establish:
- 1340 (a) the limitations on access to the data in the state electronic verification system as
1341 described in this section; and
- 1342 (b) standards and procedures to ensure accurate identification of an individual
1343 requesting information or receiving information in this section.
- 1344 (7) (a) Any person who knowingly and intentionally releases any information in the
1345 state electronic verification system in violation of this section is guilty of a third degree felony.
- 1346 (b) Any person who negligently or recklessly releases any information in the state
1347 electronic verification system in violation of this section is guilty of a class C misdemeanor.
- 1348 (8) (a) Any person who obtains or attempts to obtain information from the state
1349 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
- 1350 (b) Any person who obtains or attempts to obtain information from the state electronic
1351 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1352 degree felony.
- 1353 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1354 intentionally use, release, publish, or otherwise make available to any other person information
1355 obtained from the state electronic verification system for any purpose other than a purpose
1356 specified in this section.
- 1357 (b) Each separate violation of this Subsection (9) is:
- 1358 (i) a third degree felony; and

1359 (ii) subject to a civil penalty not to exceed \$5,000.

1360 (c) The department shall determine a civil violation of this Subsection (9) in
1361 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1362 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
1363 General Fund.

1364 (e) This Subsection (9) does not prohibit a person who obtains information from the
1365 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1366 (i) including the information in the person's medical chart or file for access by a person
1367 authorized to review the medical chart or file;

1368 (ii) providing the information to a person in accordance with the requirements of the
1369 Health Insurance Portability and Accountability Act of 1996; or

1370 (iii) discussing or sharing that information about the patient with the patient.

1371 Section 16. Section **26-61a-105** is amended to read:

1372 **26-61a-105. Compassionate Use Board.**

1373 (1) (a) The department shall establish a Compassionate Use Board consisting of:

1374 (i) seven qualified medical providers that the executive director appoints and the
1375 Senate confirms:

1376 (A) who are knowledgeable about the medicinal use of cannabis;

1377 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
1378 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1379 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
1380 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
1381 pediatrics, or gastroenterology; and

1382 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the
1383 executive director or the director's designee.

1384 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
1385 the executive director shall ensure that at least two have a board certification in pediatrics.

1386 (2) (a) Of the members of the Compassionate Use Board that the executive director
1387 first appoints:

1388 (i) three shall serve an initial term of two years; and

1389 (ii) the remaining members shall serve an initial term of four years.

- 1390 (b) After an initial term described in Subsection (2)(a) expires:
- 1391 (i) each term is four years; and
- 1392 (ii) each board member is eligible for reappointment.
- 1393 (c) A member of the Compassionate Use Board may serve until a successor is
- 1394 appointed.
- 1395 (3) Four members constitute a quorum of the Compassionate Use Board.
- 1396 (4) A member of the Compassionate Use Board may receive:
- 1397 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
- 1398 service; and
- 1399 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the
- 1400 Division of Finance in accordance with Section 63A-3-107.
- 1401 (5) The Compassionate Use Board shall:
- 1402 (a) review and recommend for department approval a petition to the board regarding an
- 1403 individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection
- 1404 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
- 1405 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced
- 1406 period of validity, if:
- 1407 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
- 1408 the individual's qualified medical provider is actively treating the individual for an intractable
- 1409 condition that:
- 1410 (A) substantially impairs the individual's quality of life; and
- 1411 (B) has not, in the qualified medical provider's professional opinion, adequately
- 1412 responded to conventional treatments;
- 1413 (ii) the qualified medical provider:
- 1414 (A) recommends that the individual or minor be allowed to use medical cannabis; and
- 1415 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
- 1416 describing relevant treatment history including rationale for considering the use of medical
- 1417 cannabis; and
- 1418 (iii) the Compassionate Use Board determines that:
- 1419 (A) the recommendation of the individual's qualified medical provider is justified; and
- 1420 (B) based on available information, it may be in the best interests of the individual to

1421 allow the use of medical cannabis;

1422 (b) review and approve or deny the use of a medical cannabis device for an individual
1423 described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection
1424 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the
1425 individual or minor be allowed to use a medical cannabis device to vaporize the medical
1426 cannabis treatment;

1427 (c) unless no petitions are pending:

1428 (i) meet to receive or review compassionate use petitions at least quarterly; and

1429 (ii) if there are more petitions than the board can receive or review during the board's
1430 regular schedule, as often as necessary;

1431 (d) except as provided in Subsection (6), complete a review of each petition and
1432 recommend to the department approval or denial of the applicant for qualification for a medical
1433 cannabis card within 90 days after the day on which the board received the petition;

1434 (e) consult with the department regarding the criteria described in Subsection (6); and

1435 (f) report, before November 1 of each year, to the Health and Human Services Interim
1436 Committee:

1437 (i) the number of compassionate use recommendations the board issued during the past
1438 year; and

1439 (ii) the types of conditions for which the board recommended compassionate use.

1440 (6) The department shall make rules, in consultation with the Compassionate Use
1441 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
1442 establish a process and criteria for a petition to the board to automatically qualify for expedited
1443 final review and approval or denial by the department in cases where, in the determination of
1444 the department and the board:

1445 (a) time is of the essence;

1446 (b) engaging the full review process would be unreasonable in light of the petitioner's
1447 physical condition; and

1448 (c) sufficient factors are present regarding the petitioner's safety.

1449 (7) (a) (i) The department shall review:

1450 (A) any compassionate use for which the Compassionate Use Board recommends

1451 approval under Subsection (5)(d) to determine whether the board properly exercised the board's

1452 discretion under this section; and

1453 (B) any expedited petitions the department receives under the process described in
1454 Subsection (6).

1455 (ii) If the department determines that the Compassionate Use Board properly exercised
1456 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited
1457 petition merits approval based on the criteria established in accordance with Subsection (6), the
1458 department shall:

1459 (A) issue the relevant medical cannabis card; and

1460 (B) provide for the renewal of the medical cannabis card in accordance with the
1461 recommendation of the qualified medical provider described in Subsection (5)(a).

1462 (b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d),
1463 the individual seeking to obtain a medical cannabis card may petition the department to review
1464 the board's decision.

1465 (ii) If the department determines that the Compassionate Use Board's recommendation
1466 for denial under Subsection (5)(d) was arbitrary or capricious:

1467 (A) the department shall notify the Compassionate Use Board of the department's
1468 determination; and

1469 (B) the board shall reconsider the Compassionate Use Board's refusal to recommend
1470 approval under this section.

1471 (c) In reviewing the Compassionate Use Board's recommendation for approval or
1472 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall
1473 presume the board properly exercised the board's discretion unless the department determines
1474 that the board's recommendation was arbitrary or capricious.

1475 (8) Any individually identifiable health information contained in a petition that the
1476 Compassionate Use Board or department receives under this section is a protected record in
1477 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

1478 (9) The Compassionate Use Board shall annually report the board's activity to the
1479 Cannabinoid Product Board [~~created in Section 26-61-201~~].

1480 Section 17. Section **26-61a-106** is amended to read:

1481 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1482 **Treatment recommendation.**

1483 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a
1484 medical cannabis treatment unless the department registers the individual as a qualified
1485 medical provider in accordance with this section.

1486 (b) An individual who meets the qualifications in Subsections [26-61a-106\(2\)\(a\)\(iii\)](#)
1487 and (iv) may recommend a medical cannabis treatment without registering under Subsection
1488 (1)(a) until January 1, 2021.

1489 (2) (a) The department shall, within 15 days after the day on which the department
1490 receives an application from an individual, register and issue a qualified medical provider
1491 registration card to the individual if the individual:

1492 (i) provides to the department the individual's name and address;

1493 (ii) provides to the department a report detailing the individual's completion of the
1494 applicable continuing education requirement described in Subsection (3);

1495 (iii) provides to the department evidence that the individual:

1496 (A) has the authority to write a prescription;

1497 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1498 Controlled Substances Act; and

1499 (C) possesses the authority, in accordance with the individual's scope of practice, to
1500 prescribe a Schedule II controlled substance;

1501 (iv) provides to the department evidence that the individual is:

1502 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1503 Practice Act;

1504 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1505 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1506 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1507 Act, whose declaration of services agreement, as that term is defined in Section [58-70a-102](#),
1508 includes the recommending of medical cannabis, and whose supervising physician is a
1509 qualified medical provider; and

1510 (v) pays the department a fee in an amount that:

1511 (A) the department sets, in accordance with Section [63J-1-504](#); and

1512 (B) does not exceed \$300 for an initial registration.

1513 (b) The department may not register an individual as a qualified medical provider if the

1514 individual is:

1515 (i) a pharmacy medical provider; or

1516 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1517 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

1518 (3) (a) An individual shall complete the continuing education described in this
1519 Subsection (3) in the following amounts:

1520 (i) for an individual as a condition precedent to registration, four hours; and

1521 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1522 every two years.

1523 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1524 (i) complete continuing education:

1525 (A) regarding the topics described in Subsection (3)(d); and

1526 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1527 continuing education provider that the department recognizes as offering continuing education
1528 appropriate for the recommendation of cannabis to patients; and

1529 (ii) make a continuing education report to the department in accordance with a process
1530 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1531 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1532 Professional Licensing and:

1533 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1534 Nurse Practice Act, the Board of Nursing;

1535 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1536 Practice Act, the Physicians Licensing Board;

1537 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1538 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1539 and

1540 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1541 Assistant Act, the Physician Assistant Licensing Board.

1542 (c) The department may, in consultation with the Division of Occupational and
1543 Professional Licensing, develop the continuing education described in this Subsection (3).

1544 (d) The continuing education described in this Subsection (3) may discuss:

1545 (i) the provisions of this chapter;
1546 (ii) general information about medical cannabis under federal and state law;
1547 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1548 including risks and benefits;

1549 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1550 patient in pain management, risk management, potential addiction, or palliative care; and

1551 (v) best practices for recommending the form and dosage of medical cannabis products
1552 based on the qualifying condition underlying a medical cannabis recommendation.

1553 (4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not
1554 recommend a medical cannabis treatment to more than 275 of the qualified medical provider's
1555 patients at the same time, as determined by the number of medical cannabis cards under the
1556 qualified medical provider's name in the state electronic verification system.

1557 (b) A qualified medical provider may recommend a medical cannabis treatment to up to
1558 600 of the qualified medical provider's patients at any given time, as determined by the number
1559 of medical cannabis cards under the qualified medical provider's name in the state electronic
1560 verification system, if:

1561 (i) the appropriate American medical board has certified the qualified medical provider
1562 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and
1563 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1564 psychiatry; or

1565 (ii) a licensed business employs or contracts with the qualified medical provider for the
1566 specific purpose of providing hospice and palliative care.

1567 (5) A qualified medical provider may recommend medical cannabis to an individual
1568 under this chapter only in the course of a qualified medical provider-patient relationship after
1569 the qualifying medical provider has completed and documented in the patient's medical record
1570 a thorough assessment of the patient's condition and medical history based on the appropriate
1571 standard of care for the patient's condition.

1572 (6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the
1573 individual recommends medical cannabis treatment in accordance with this chapter.

1574 (b) For purposes of Subsection (6)(a), the communication of the following, through a
1575 website, by an individual described in Subsection (6)(c), does not constitute advertising:

- 1576 (i) a green cross;
- 1577 (ii) a qualifying condition that the [~~qualified medical provider~~] individual treats; [~~or~~]
- 1578 (iii) the individual's registration as a qualified medical provider; or
- 1579 [~~(iii)~~] (iv) a scientific study regarding medical cannabis use.
- 1580 (c) The following are subject to Subsection (6)(b):
- 1581 (i) before the department begins registering qualified medical providers:
- 1582 (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);
- 1583 (B) a physician described in Subsection (2)(a)(iv)(B); or
- 1584 (C) a physician assistant described in Subsection (2)(a)(iv)(C); and
- 1585 (ii) after the department begins registering qualified medical providers, a qualified
- 1586 medical provider.
- 1587 (7) (a) A qualified medical provider registration card expires two years after the day on
- 1588 which the department issues the card.
- 1589 (b) The department shall renew a qualified medical provider's registration card if the
- 1590 provider:
- 1591 (i) applies for renewal;
- 1592 (ii) is eligible for a qualified medical provider registration card under this section,
- 1593 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);
- 1594 (iii) certifies to the department in a renewal application that the information in
- 1595 Subsection (2)(a) is accurate or updates the information;
- 1596 (iv) submits a report detailing the completion of the continuing education requirement
- 1597 described in Subsection (3); and
- 1598 (v) pays the department a fee in an amount that:
- 1599 (A) the department sets, in accordance with Section [63J-1-504](#); and
- 1600 (B) does not exceed \$50 for a registration renewal.
- 1601 (8) The department may revoke the registration of a qualified medical provider who
- 1602 fails to maintain compliance with the requirements of this section.
- 1603 (9) A qualified medical provider may not receive any compensation or benefit for the
- 1604 qualified medical provider's medical cannabis treatment recommendation from:
- 1605 (a) a cannabis production establishment or an owner, officer, director, board member,
- 1606 employee, or agent of a cannabis production establishment;

1607 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1608 employee, or agent of a medical cannabis pharmacy; or

1609 (c) a qualified medical provider or pharmacy medical provider.

1610 Section 18. Section **26-61a-201** is amended to read:

1611 **26-61a-201. Medical cannabis patient card -- Provisional patient card -- Medical**
1612 **cannabis guardian card application -- Application -- Fees -- Studies.**

1613 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
1614 which an individual who satisfies the eligibility criteria in this section or Section **26-61a-202**
1615 submits an application in accordance with this section or Section **26-61a-202**:

1616 (a) issue a medical cannabis patient card to an individual described in Subsection

1617 (2)(a);

1618 (b) issue a medical cannabis guardian card to an individual described in Subsection

1619 (2)(b);

1620 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and

1621 (d) issue a medical cannabis caregiver card to an individual described in Subsection

1622 **26-61a-202(4).**

1623 (2) (a) An individual is eligible for a medical cannabis patient card if:

1624 (i) (A) the individual is at least 21 years old; or

1625 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate

1626 Use Board under Section **26-61a-105**, and the Compassionate Use Board recommends

1627 department approval of the petition;

1628 (ii) the individual is a Utah resident;

1629 (iii) the individual's qualified medical provider recommends treatment with medical

1630 cannabis in accordance with Subsection (4);

1631 (iv) the individual signs an acknowledgment stating that the individual received the

1632 information described in Subsection (8); and

1633 (v) the individual pays to the department a fee in an amount that, subject to Subsection

1634 **26-61a-109(5)**, the department sets in accordance with Section **63J-1-504**.

1635 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1636 (A) is at least 18 years old;

1637 (B) is a Utah resident;

1638 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
1639 provider recommends a medical cannabis treatment, the individual petitions the Compassionate
1640 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends
1641 department approval of the petition;

1642 (D) the individual signs an acknowledgment stating that the individual received the
1643 information described in Subsection (8);

1644 (E) pays to the department a fee in an amount that, subject to Subsection
1645 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1646 criminal background check described in Section 26-61a-203; and

1647 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
1648 offense under either state or federal law, unless the individual completed any imposed sentence
1649 six months or more before the day on which the individual applies for a medical cannabis
1650 guardian card.

1651 (ii) The department shall notify the Department of Public Safety of each individual that
1652 the department registers for a medical cannabis guardian card.

1653 (c) (i) A minor is eligible for a provisional patient card if:

1654 (A) the minor has a qualifying condition;

1655 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1656 to address the minor's qualifying condition;

1657 (C) ~~[the minor's parent or legal guardian]~~ one of the minor's parents or legal guardians
1658 petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use
1659 Board recommends department approval of the petition; and

1660 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1661 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1662 medical cannabis caregiver card under Section 26-61a-202.

1663 (ii) The department shall automatically issue a provisional patient card to the minor
1664 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1665 guardian card to the minor's parent or legal guardian.

1666 (d) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1667 verification system is functionally capable of servicing the designation, if the parent or legal
1668 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a

1669 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1670 designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that
1671 the minor has adequate and safe access to the recommended medical cannabis treatment.

1672 (3) (a) An individual who is eligible for a medical cannabis card described in
1673 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
1674 department:

1675 (i) through an electronic application connected to the state electronic verification
1676 system;

1677 (ii) with the recommending qualified medical provider; and

1678 (iii) with information including:

1679 (A) the applicant's name, gender, age, and address;

1680 (B) the number of the applicant's valid form of photo identification;

1681 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1682 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1683 and

1684 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1685 holds the associated medical cannabis guardian card.

1686 (b) The department shall ensure that a medical cannabis card the department issues
1687 under this section contains the information described in Subsection (3)(a)(iii).

1688 (c) (i) If a qualified medical provider determines that, because of age, illness, or
1689 disability, a medical cannabis patient cardholder requires assistance in administering the
1690 medical cannabis treatment that the qualified medical provider recommends, the qualified
1691 medical provider may indicate the cardholder's need in the state electronic verification system.

1692 (ii) If a qualified medical provider makes the indication described in Subsection
1693 (3)(c)(i):

1694 (A) the department shall add a label to the relevant medical cannabis patient card
1695 indicating the cardholder's need for assistance; and

1696 (B) any adult who is 18 years old or older and who is physically present with the
1697 cardholder at the time the cardholder needs to use the recommended medical cannabis
1698 treatment may handle the medical cannabis treatment and any associated medical cannabis
1699 device as needed to assist the cardholder in administering the recommended medical cannabis

1700 treatment; and

1701 (C) an individual of any age who is physically present with the cardholder in the event
1702 of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle
1703 the medical cannabis treatment and any associated medical cannabis device as needed to assist
1704 the cardholder in administering the recommended medical cannabis treatment.

1705 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

1706 (A) ingest or inhale medical cannabis;

1707 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1708 of the immediate area where the cardholder is present or with an intent other than to provide
1709 assistance to the cardholder; or

1710 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1711 the cardholder is not in the process of being dosed with medical cannabis.

1712 (4) To recommend a medical cannabis treatment to a patient or to renew a
1713 recommendation, a qualified medical provider shall:

1714 (a) before recommending or renewing a recommendation for medical cannabis in a
1715 medicinal dosage form or a cannabis product in a medicinal dosage form:

1716 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1717 guardian's valid form of identification described in Subsection (3)(a);

1718 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1719 or legal guardian in:

1720 (A) the state electronic verification system; and

1721 (B) the controlled substance database created in Section 58-37f-201; and

1722 (iii) consider the recommendation in light of the patient's qualifying condition and
1723 history of medical cannabis and controlled substance use during an initial face-to-face visit
1724 with the patient; and

1725 (b) state in the qualified medical provider's recommendation that the patient:

1726 (i) suffers from a qualifying condition, including the type of qualifying condition; and

1727 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1728 product in a medicinal dosage form.

1729 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1730 department issues under this section is valid for the lesser of:

- 1731 (i) an amount of time that the qualified medical provider determines; or
1732 (ii) (A) for the first issuance, 90 days;
1733 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or
1734 (C) for a renewal, one year if, after at least one year following the issuance of the
1735 original medical cannabis card, the qualified medical provider determines that the patient has
1736 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.
- 1737 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1738 illness described in Section 26-61a-104 does not expire.
- 1739 (ii) The recommending qualified medical provider may revoke a recommendation that
1740 the provider made in relation to a terminal illness described in Section 26-61a-104 if the
1741 medical cannabis cardholder no longer has the terminal illness.
- 1742 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1743 renewable if:
- 1744 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1745 (b); or
- 1746 (ii) the cardholder received the medical cannabis card through the recommendation of
1747 the Compassionate Use Board under Section 26-61a-105.
- 1748 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:
- 1749 (i) using the application process described in Subsection (3); or
1750 (ii) through phone or video conference with the qualified medical provider who made
1751 the recommendation underlying the card, at the qualifying medical provider's discretion.
- 1752 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1753 pay to the department a renewal fee in an amount that:
- 1754 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1755 63J-1-504; and
- 1756 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1757 comparison to the original application process.
- 1758 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1759 patient card renews automatically at the time the minor's parent or legal guardian renews the
1760 parent or legal guardian's associated medical cannabis guardian card.
- 1761 ~~(e) The department may revoke a medical cannabis guardian card if the cardholder~~

1762 ~~under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense~~
1763 ~~under either state or federal law.]~~

1764 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1765 cannabis card with the patient's name.

1766 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1767 purchase, in accordance with this chapter and the recommendation underlying the card,
1768 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1769 medical cannabis device.

1770 (ii) A cardholder under this section may possess or transport, in accordance with this
1771 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1772 cannabis product in a medicinal dosage form, or a medical cannabis device.

1773 (iii) To address the qualifying condition underlying the medical cannabis treatment
1774 recommendation:

1775 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1776 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1777 or a medical cannabis device; and

1778 (B) a medical cannabis guardian cardholder may assist the associated provisional
1779 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1780 product in a medicinal dosage form, or a medical cannabis device.

1781 (c) If a licensed medical cannabis pharmacy is not operating within the state after
1782 January 1, 2021, a cardholder under this section:

1783 (i) may possess:

1784 (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

1785 (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

1786 (C) marijuana drug paraphernalia; and

1787 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

1788 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1789 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1790 to an individual receiving a medical cannabis card:

1791 (a) risks associated with medical cannabis treatment;

1792 (b) the fact that a condition's listing as a qualifying condition does not suggest that

1793 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1794 Subsection 26-61a-104(1); and

1795 (c) other relevant warnings and safety information that the department determines.

1796 (9) The department may establish procedures by rule, in accordance with Title 63G,
1797 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1798 provisions of this section.

1799 (10) (a) On or before January 1, 2021, the department shall establish by rule, in
1800 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1801 an individual from another state to register with the Department of Health in order to purchase
1802 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
1803 individual is visiting the state.

1804 (b) The department may only provide the registration process described in Subsection
1805 (10)(a):

1806 (i) to a nonresident patient; and

1807 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
1808 per visitation period.

1809 (11) (a) A person may submit to the department a request to conduct a research study
1810 using medical cannabis cardholder data that the state electronic verification system contains.

1811 (b) The department shall review a request described in Subsection (11)(a) to determine
1812 whether an institutional review board, as that term is defined in Section 26-61-102, could
1813 approve the research study.

1814 (c) At the time an individual applies for a medical cannabis card, the department shall
1815 notify the individual:

1816 (i) of how the individual's information will be used as a cardholder;

1817 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1818 consent under Subsection (11)(d), the individual consents to the use of the individual's
1819 information for external research; and

1820 (iii) that the individual may withdraw consent for the use of the individual's
1821 information for external research at any time, including at the time of application.

1822 (d) An applicant may, through the medical cannabis card application, and a medical
1823 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or

1824 cardholder's consent to participate in external research at any time.

1825 (e) The department may release, for the purposes of a study described in this
1826 Subsection (11), information about a cardholder under this section who consents to participate
1827 under Subsection (11)(c).

1828 (f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of
1829 consent:

1830 (i) applies to external research that is initiated after the withdrawal of consent; and

1831 (ii) does not apply to research that was initiated before the withdrawal of consent.

1832 (g) The department may establish standards for a medical research study's validity, by
1833 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1834 (12) The department shall record the issuance or revocation of a medical cannabis card
1835 under this section in the controlled substance database.

1836 Section 19. Section **26-61a-202** is amended to read:

1837 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**

1838 **Revocation.**

1839 (1) (a) A cardholder described in Section **26-61a-201** may designate, through the state
1840 central patient portal, up to two individuals, or an individual and a facility in accordance with
1841 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical
1842 provider notates in the electronic verification system that the provider determines that, due to
1843 physical difficulty or undue hardship, including concerns of distance to a medical cannabis
1844 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the
1845 qualified medical provider recommends.

1846 (b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1847 verification system is functionally capable of servicing the designation, a cardholder described
1848 in Section **26-61a-201** who is a patient in one of the following types of facilities may designate
1849 the facility as one of the caregivers described in Subsection (1)(a):

1850 (A) an assisted living facility, as that term is defined in Section **26-21-2**;

1851 (B) a nursing care facility, as that term is defined in Section **26-21-2**; or

1852 (C) a general acute hospital, as that term is defined in Section **26-21-2**.

1853 (ii) A facility may assign one or more employees to assist patients with medical
1854 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1855 (iii) The department shall make rules to regulate the practice of facilities and facility
1856 employees serving as designated caregivers under this Subsection (1)(b).

1857 (c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in
1858 consultation with the minor and the minor's qualified medical provider, may designate, through
1859 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1860 minor, if the department determines that the parent or legal guardian is not eligible for a
1861 medical cannabis guardian card under Section 26-61a-201.

1862 (2) An individual that the department registers as a designated caregiver under this
1863 section and a facility described in Subsection (1)(b):

1864 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
1865 card;

1866 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1867 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1868 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1869 cardholder;

1870 (c) may not charge a fee to an individual to act as the individual's designated caregiver
1871 or for a service that the designated caregiver provides in relation to the role as a designated
1872 caregiver;

1873 (d) may accept reimbursement from the designating medical cannabis cardholder for
1874 direct costs the designated caregiver incurs for assisting with the designating cardholder's
1875 medicinal use of cannabis; and

1876 (e) if a licensed medical cannabis pharmacy is not operating within the state after
1877 January 1, 2021:

1878 (i) may possess up to the legal dosage limit of:

1879 (A) unprocessed medical cannabis in a medicinal dosage form;

1880 (B) a cannabis product in a medicinal dosage form; and

1881 (ii) may possess marijuana drug paraphernalia; and

1882 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

1883 (3) (a) The department shall:

1884 (i) within 15 days after the day on which an individual submits an application in
1885 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

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

1917 designated the caregiver determines; or

1918 (b) the amount of time remaining before the card of the cardholder described in Section
1919 **26-61a-201** expires.

1920 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1921 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1922 cardholder described in Section **26-61a-201** who designated the caregiver:

1923 (i) renews the cardholder's card; and

1924 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1925 (b) The department shall provide a method in the card renewal process to allow a
1926 cardholder described in Section **26-61a-201** who has designated a caregiver to:

1927 (i) signify that the cardholder renews the caregiver's designation;

1928 (ii) remove a caregiver's designation; or

1929 (iii) designate a new caregiver.

1930 (8) The department may revoke a medical cannabis caregiver card if the designated
1931 caregiver:

1932 (a) violates this chapter; or

1933 (b) is convicted under state or federal law of:

1934 (i) a felony drug distribution offense; or

1935 (ii) after December 3, 2018, a misdemeanor [for] drug distribution offense.

1936 (9) The department shall record the issuance or revocation of a medical cannabis card
1937 under this section in the controlled substance database.

1938 Section 20. Section **26-61a-204** is amended to read:

1939 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**
1940 **requirements -- Rebuttable presumption.**

1941 (1) (a) A medical cannabis cardholder who possesses medical cannabis that the
1942 cardholder purchased under this chapter:

1943 (i) shall carry:

1944 (A) at all times the cardholder's medical cannabis card; and

1945 (B) after the earlier of January 1, 2021, or the day on which the individual purchases
1946 any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label
1947 that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy

1948 and includes an identification number that links the medical cannabis to the inventory control
1949 system; and

1950 (ii) may possess up to the legal dosage limit of:

1951 (A) unprocessed cannabis in medicinal dosage form; and

1952 (B) a cannabis product in medicinal dosage form; [~~and~~]

1953 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii)[~~];~~];

1954 (iv) may only possess the medical cannabis in the container in which the cardholder
1955 received the medical cannabis from the medical cannabis pharmacy; and

1956 (v) may not alter or remove any label described in Section [4-41a-602](#) from the
1957 container described in Subsection (1)(a)(iv).

1958 (b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who
1959 possesses medical cannabis in violation of Subsection (1)(a) is:

1960 (i) guilty of an infraction; and

1961 (ii) subject to a \$100 fine.

1962 (c) A medical cannabis cardholder or a nonresident patient who possesses medical
1963 cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice
1964 the legal dosage limit is:

1965 (i) for a first offense:

1966 (A) guilty of an infraction; and

1967 (B) subject to a fine of up to \$100; and

1968 (ii) for a second or subsequent offense:

1969 (A) guilty of a class B misdemeanor; and

1970 (B) subject to a fine of \$1,000.

1971 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
1972 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
1973 conduct underlying the penalty described in Subsection (1)(b) or (c).

1974 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
1975 dosage form is:

1976 (i) for a first offense:

1977 (A) guilty of an infraction; and

1978 (B) subject to a fine of up to \$100; and

1979 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,
1980 Chapter 37, Utah Controlled Substances Act.

1981 (f) A medical cannabis cardholder or a nonresident patient who possesses medical
1982 cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties
1983 described in Title 58, Chapter 37, Utah Controlled Substances Act.

1984 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
1985 as that term is defined in Section [31A-22-627](#).

1986 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a
1987 provisional patient cardholder, or a nonresident patient may not use, in public view, medical
1988 cannabis or a cannabis product.

1989 (c) In the event of an emergency medical condition, an individual described in
1990 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
1991 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
1992 medicinal dosage form or a cannabis product in a medicinal dosage form.

1993 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

1994 (i) for a first offense:

1995 (A) guilty of an infraction; and

1996 (B) subject to a fine of up to \$100; and

1997 (ii) for a second or subsequent offense:

1998 (A) guilty of a class B misdemeanor; and

1999 (B) subject to a fine of \$1,000.

2000 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
2001 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
2002 medical cannabis device that corresponds with the cannabis or cannabis product:

2003 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,
2004 cannabis product, or medical cannabis device legally; and

2005 (b) there is no probable cause, based solely on the cardholder's possession of the
2006 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
2007 cannabis device, to believe that the cardholder is engaging in illegal activity.

2008 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
2009 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis

2010 device, and the individual represents to the law enforcement officer that the individual holds a
2011 valid medical cannabis card, but the individual does not have the medical cannabis card in the
2012 individual's possession at the time of the stop by the law enforcement officer, the law
2013 enforcement officer shall attempt to access the state electronic verification system to determine
2014 whether the individual holds a valid medical cannabis card.

2015 (b) If the law enforcement officer is able to verify that the individual described in
2016 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

2017 (i) may not arrest or take the individual into custody for the sole reason that the
2018 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
2019 medicinal dosage form, or a medical cannabis device; and

2020 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

2021 Section 21. Section **26-61a-301** is amended to read:

2022 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

2023 (1) A person may not operate as a medical cannabis pharmacy without a license that
2024 the department issues under this part.

2025 (2) (a) (i) Subject to Subsections (4) and (5) and to Section [26-61a-305](#), the department
2026 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
2027 Chapter 6a, Utah Procurement Code.

2028 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
2029 an applicant who is not eligible for a license under this section.

2030 (b) An applicant is eligible for a license under this section if the applicant submits to
2031 the department:

2032 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
2033 operate the medical cannabis pharmacy;

2034 (ii) the name and address of an individual who:

2035 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in
2036 the proposed medical cannabis pharmacy;

2037 (B) for a privately held company, a financial or voting interest in the proposed medical
2038 cannabis pharmacy; or

2039 (C) has the power to direct or cause the management or control of a proposed medical
2040 cannabis pharmacy;

2041 (iii) a statement that the applicant will obtain and maintain a performance bond that a
2042 surety authorized to transact surety business in the state issues in an amount of at least
2043 \$125,000 for each application that the applicant submits to the department;

2044 (iv) an operating plan that:

2045 (A) complies with Section 26-61a-304;

2046 (B) includes operating procedures to comply with the operating requirements for a
2047 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
2048 law that is consistent with Section 26-61a-507; and

2049 (C) the department approves;

2050 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
2051 department sets in accordance with Section 63J-1-504; and

2052 (vi) a description of any investigation or adverse action taken by any licensing
2053 jurisdiction, government agency, law enforcement agency, or court in any state for any
2054 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
2055 or businesses.

2056 (c) (i) A person may not locate a medical cannabis pharmacy:

2057 (A) within 200 feet of a community location; or

2058 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
2059 as primarily residential.

2060 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
2061 from the nearest entrance to the medical cannabis pharmacy establishment by following the
2062 shortest route of ordinary pedestrian travel to the property boundary of the community location
2063 or residential area.

2064 (iii) The department may grant a waiver to reduce the proximity requirements in
2065 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
2066 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

2067 (iv) An applicant for a license under this section shall provide evidence of compliance
2068 with the proximity requirements described in Subsection (2)(c)(i).

2069 (d) The department may not issue a license to an eligible applicant that the department
2070 has selected to receive a license until the selected eligible applicant obtains the performance
2071 bond described in Subsection (2)(b)(iii).

2072 (e) If the department receives more than one application for a medical cannabis
2073 pharmacy within the same city or town, the department shall consult with the local land use
2074 authority before approving any of the applications pertaining to that city or town.

2075 (3) If the department selects an applicant for a medical cannabis pharmacy license
2076 under this section, the department shall:

2077 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2078 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); ~~and~~

2079 (b) notify the Department of Public Safety of the license approval and the names of
2080 each individual described in Subsection (2)(b)(ii)~~[-]~~; and

2081 (c) charge the licensee a fee in an amount that, subject to Subsection [26-61a-109\(5\)](#),
2082 the department sets in accordance with Section [63J-1-504](#), for any change in location,
2083 ownership, or company structure.

2084 (4) The department may not issue a license to operate a medical cannabis pharmacy to
2085 an applicant if an individual described in Subsection (2)(b)(ii):

2086 (a) has been convicted under state or federal law of:

2087 (i) a felony; or

2088 (ii) after December 3, 2018, a misdemeanor for drug distribution;

2089 (b) is younger than 21 years old; or

2090 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

2091 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
2092 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give
2093 preference to the applicant based on the applicant's status as a holder of the license.

2094 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
2095 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis
2096 Production Establishments, the department:

2097 (i) shall consult with the Department of Agriculture and Food regarding the applicant;
2098 and

2099 (ii) may give consideration to the applicant based on the applicant's status as a holder
2100 of a license to operate a cannabis cultivation facility if:

2101 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
2102 result from the applicant's vertical integration than from a more competitive marketplace; and

2103 (B) the department finds multiple other factors, in addition to the existing license, that
2104 support granting the new license.

2105 (6) (a) The department may revoke a license under this part:

2106 ~~[(a)]~~ (i) if the medical cannabis pharmacy does not begin operations within one year
2107 after the day on which the department issues the initial license;

2108 ~~[(b)]~~ (ii) after the third the same violation of this chapter in any of the licensee's
2109 licensed cannabis production establishments or medical cannabis pharmacies;

2110 ~~[(c)]~~ (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the
2111 license is active, under state or federal law of:

2112 ~~[(i)]~~ (A) a felony; or

2113 ~~[(ii)]~~ (B) after December 3, 2018, a misdemeanor for drug distribution;

2114 ~~[(d)]~~ (iv) if the licensee fails to provide the information described in Subsection
2115 (2)(b)(vi) at the time of application, or fails to supplement the information described in
2116 Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission
2117 of the application within 14 calendar days after the licensee receives notice of the investigation
2118 or adverse action; or

2119 ~~[(e)]~~ (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard
2120 for the requirements of this chapter or the rules the department makes in accordance with this
2121 chapter.

2122 (b) The department shall rescind a notice of an intent to issue a license under this part
2123 to an applicant or revoke a license issued under this part if the associated medical cannabis
2124 pharmacy does not begin operation on or before June 1, 2021.

2125 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
2126 if the municipality or county where the licensed medical cannabis pharmacy will be located
2127 requires a local land use permit, shall submit to the department a copy of the licensee's
2128 approved application for the land use permit within 120 days after the day on which the
2129 department issues the license.

2130 (b) If a licensee fails to submit to the department a copy the licensee's approved land
2131 use permit application in accordance with Subsection (7)(a), the department may revoke the
2132 licensee's license.

2133 (8) The department shall deposit the proceeds of a fee imposed by this section ~~[in]~~ into

2134 the Qualified Patient Enterprise Fund.

2135 (9) The department shall begin accepting applications under this part on or before
2136 March 1, 2020.

2137 (10) (a) The department's authority to issue a license under this section is plenary and is
2138 not subject to review.

2139 (b) Notwithstanding Subsection (2), the decision of the department to award a license
2140 to an applicant is not subject to:

2141 (i) Title 63G, Chapter 6a, Part 16, Protests; or

2142 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2143 Section 22. Section **26-61a-305** is amended to read:

2144 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**
2145 **pharmacies.**

2146 (1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of
2147 applicants apply, the department shall issue [~~14~~] up to 15 medical cannabis pharmacy licenses
2148 in accordance with this section.

2149 (b) If [~~fewer than 14~~] an insufficient number of qualified applicants apply [~~for a~~] for
2150 the available number of medical cannabis pharmacy [~~license~~] licenses, the department shall
2151 issue a medical cannabis pharmacy license to each qualified applicant.

2152 (c) The department may issue the licenses described in Subsection (1)(a) [~~in two~~
2153 ~~phases~~] in accordance with this Subsection (1)(c).

2154 (i) Using one procurement process, the department may issue eight licenses to an initial
2155 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis
2156 pharmacies.

2157 (ii) If the department issues licenses in two phases in accordance with [~~this~~] Subsection
2158 (1)(c)(i), the department shall:

2159 (A) divide the state into no less than four geographic regions;

2160 (B) issue at least one license in each geographic region during each phase of issuing
2161 licenses; and

2162 (C) complete the process of issuing medical cannabis pharmacy licenses no later than
2163 July 1, 2020.

2164 (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the

2165 license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah,
2166 Carbon, Sevier, Emery, Grand, or San Juan County.

2167 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in
2168 addition to the licenses described in Subsection (1)(a) if the department determines, in
2169 consultation with the Department of Agriculture and Food and after an annual or more frequent
2170 analysis of the current and anticipated market for medical cannabis, that each additional license
2171 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical
2172 cannabis cardholders.

2173 (ii) The department shall:

2174 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2175 make rules to establish criteria and processes for the consultation, analysis, and application for
2176 a license described in Subsection (1)(d)(i);

2177 (B) before November 30, 2020, report on the rules described in Subsection
2178 (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

2179 (C) report to the Executive Appropriations Committee of the Legislature before each
2180 time the department issues an additional license under Subsection (1)(d)(i) regarding the results
2181 of the consultation and analysis described in Subsection (1)(d)(i) and the application of the
2182 criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

2183 (2) (a) If there are more qualified applicants than there are available licenses for
2184 medical cannabis pharmacies, the department shall:

2185 (i) evaluate each applicant and award the license to the applicant that best
2186 demonstrates:

2187 (A) experience with establishing and successfully operating a business that involves
2188 complying with a regulatory environment, tracking inventory, and training, evaluating, and
2189 monitoring employees;

2190 (B) an operating plan that will best ensure the safety and security of patrons and the
2191 community;

2192 (C) positive connections to the local community;

2193 (D) the suitability of the proposed location and the location's accessibility for
2194 qualifying patients;

2195 (E) the extent to which the applicant can increase efficiency and reduce the cost of

2196 medical cannabis for patients; and

2197 (F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively
2198 high likelihood of success; and

2199 (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably
2200 maximize access to the largest number of medical cannabis cardholders.

2201 (b) In making the evaluation described in Subsection (2)(a), the department may give
2202 increased consideration to applicants who indicate a willingness to:

2203 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic
2204 medical cannabis orders that the state central patient portal facilitates; and

2205 (ii) accept payments through:

2206 (A) a payment provider that the Division of Finance approves, in consultation with the
2207 state treasurer, in accordance with Section 26-61a-603; or

2208 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2209 (3) The department may conduct a face-to-face interview with an applicant for a
2210 license that the department evaluates under Subsection (2).

2211 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery
2212 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's
2213 operating plan demonstrates the functional and technical ability to:

2214 (i) safely conduct transactions for medical cannabis shipments;

2215 (ii) accept electronic medical cannabis orders that the state central patient portal
2216 facilitates; and

2217 (iii) accept payments through:

2218 (A) a payment provider that the Division of Finance approves, in consultation with the
2219 state treasurer, in accordance with Section 26-61a-603; or

2220 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2221 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy
2222 shall identify in the applicant's operating plan any information relevant to the department's
2223 evaluation described in Subsection (4)(a), including:

2224 (i) the name and contact information of the payment provider;

2225 (ii) the nature of the relationship between the prospective licensee and the payment
2226 provider;

2227 (iii) the processes of the following to safely and reliably conduct transactions for
2228 medical cannabis shipments:

2229 (A) the prospective licensee; and

2230 (B) the electronic payment provider or the financial institution described in Subsection
2231 (4)(a)(iii); and

2232 (iv) the ability of the licensee to comply with the department's rules regarding the
2233 secure transportation and delivery of medical cannabis or medical cannabis product to a
2234 medical cannabis cardholder.

2235 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy
2236 that the department designates as a home delivery medical cannabis pharmacy may deliver
2237 medical cannabis shipments in accordance with this chapter.

2238 Section 23. Section **26-61a-403** is amended to read:

2239 **26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

2240 (1) (a) A medical cannabis pharmacy:

2241 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy
2242 Practice Act, as a pharmacy medical provider;

2243 (ii) may employ a physician who has the authority to write a prescription and is
2244 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
2245 Osteopathic Medical Practice Act, as a pharmacy medical provider;

2246 (iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i)
2247 works onsite during all business hours; and

2248 (iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as
2249 the pharmacist-in-charge to oversee the operation of and generally supervise the medical
2250 cannabis pharmacy.

2251 (b) An individual may not serve as a pharmacy medical provider unless the department
2252 registers the individual as a pharmacy medical provider in accordance with Subsection (2).

2253 (2) (a) The department shall, within 15 days after the day on which the department
2254 receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy
2255 medical provider, register and issue a pharmacy medical provider registration card to the
2256 prospective pharmacy medical provider if the medical cannabis pharmacy:

2257 (i) provides to the department:

- 2258 (A) the prospective pharmacy medical provider's name and address;
- 2259 (B) the name and location of the licensed medical cannabis pharmacy where the
2260 prospective pharmacy medical provider seeks to act as a pharmacy medical provider;
- 2261 (C) a report detailing the completion of the continuing education requirement described
2262 in Subsection (3); and
- 2263 (D) evidence that the prospective pharmacy medical provider is a pharmacist who is
2264 licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the
2265 authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical
2266 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
- 2267 (ii) pays a fee to the department in an amount that, subject to Subsection
2268 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).
- 2269 (b) The department may not register a qualified medical provider or a state central
2270 patient portal medical provider as a pharmacy medical provider.
- 2271 (3) (a) A pharmacy medical provider shall complete the continuing education described
2272 in this Subsection (3) in the following amounts:
- 2273 (i) as a condition precedent to registration, four hours; and
2274 (ii) as a condition precedent to renewal of the registration, four hours every two years.
- 2275 (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:
- 2276 (i) complete continuing education:
- 2277 (A) regarding the topics described in Subsection (3)(d); and
2278 (B) offered by the department under Subsection (3)(c) or an accredited or approved
2279 continuing education provider that the department recognizes as offering continuing education
2280 appropriate for the medical cannabis pharmacy practice; and
- 2281 (ii) make a continuing education report to the department in accordance with a process
2282 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
2283 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
2284 Professional Licensing and:
- 2285 (A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b,
2286 Pharmacy Practice Act, the Board of Pharmacy;
- 2287 (B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical
2288 Practice Act, the Physicians Licensing Board; and

2289 (C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah
2290 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

2291 (c) The department may, in consultation with the Division of Occupational and
2292 Professional Licensing, develop the continuing education described in this Subsection (3).

2293 (d) The continuing education described in this Subsection (3) may discuss:

2294 (i) the provisions of this chapter;

2295 (ii) general information about medical cannabis under federal and state law;

2296 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
2297 including risks and benefits;

2298 (iv) recommendations for medical cannabis as it relates to the continuing care of a
2299 patient in pain management, risk management, potential addiction, and palliative care; or

2300 (v) best practices for recommending the form and dosage of a medical cannabis
2301 product based on the qualifying condition underlying a medical cannabis recommendation.

2302 (4) (a) A pharmacy medical provider registration card expires two years after the day
2303 on which the department issues or renews the card.

2304 (b) A pharmacy medical provider may renew the provider's registration card if the
2305 provider:

2306 (i) is eligible for a pharmacy medical provider registration card under this section;

2307 (ii) certifies to the department in a renewal application that the information in
2308 Subsection (2)(a) is accurate or updates the information;

2309 (iii) submits a report detailing the completion of the continuing education requirement
2310 described in Subsection (3); and

2311 (iv) pays to the department a renewal fee in an amount that:

2312 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2313 Section 63J-1-504; and

2314 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2315 comparison to the original application process.

2316 (5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the
2317 individual dispenses medical cannabis.

2318 (b) For purposes of this Subsection (5), the communication of the following, through a
2319 website, by a pharmacy medical provider, does not constitute advertising:

- 2320 (i) a green cross;
- 2321 (ii) the individual's registration as a pharmacy medical provider; or
- 2322 (iii) a scientific study regarding medical cannabis use.
- 2323 Section 24. Section **26-61a-501** is amended to read:
- 2324 **26-61a-501. Operating requirements -- General.**
- 2325 (1) (a) A medical cannabis pharmacy shall operate:
- 2326 (i) at the physical address provided to the department under Section [26-61a-301](#); and
- 2327 (ii) in accordance with the operating plan provided to the department under Section
- 2328 [26-61a-301](#) and, if applicable, [26-61a-304](#).
- 2329 (b) A medical cannabis pharmacy shall notify the department before a change in the
- 2330 medical cannabis pharmacy's physical address or operating plan.
- 2331 (2) An individual may not enter a medical cannabis pharmacy unless the individual:
- 2332 (a) is at least 18 years old or is an emancipated minor under Section [78A-6-805](#); and
- 2333 (b) except as provided in Subsection (5)~~[-]~~:
- 2334 (i) possesses a valid:
- 2335 ~~[(i)]~~ (A) medical cannabis pharmacy agent registration card;
- 2336 ~~[(ii)]~~ (B) pharmacy medical provider registration card; or
- 2337 ~~[(iii)]~~ (C) medical cannabis card~~[-]~~;
- 2338 (ii) is an employee of the department or the Department of Agriculture and Food
- 2339 performing an inspection under Section [26-61a-504](#); or
- 2340 (iii) is another individual as the department provides.
- 2341 (3) A medical cannabis pharmacy may not employ an individual who is younger than
- 2342 21 years old.
- 2343 (4) A medical cannabis pharmacy may not employ an individual who has been
- 2344 convicted of a felony under state or federal law.
- 2345 (5) Notwithstanding Subsection (2)~~(a)~~, a medical cannabis pharmacy may authorize an
- 2346 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
- 2347 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
- 2348 the individual at all times while the individual is at the medical cannabis pharmacy and
- 2349 maintains a record of the individual's access.
- 2350 (6) A medical cannabis pharmacy shall operate in a facility that has:

- 2351 (a) a single, secure public entrance;
- 2352 (b) a security system with a backup power source that:
- 2353 (i) detects and records entry into the medical cannabis pharmacy; and
- 2354 (ii) provides notice of an unauthorized entry to law enforcement when the medical
- 2355 cannabis pharmacy is closed; and
- 2356 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
- 2357 cannabis product.
- 2358 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
- 2359 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
- 2360 [26-61a-502\(2\)](#).
- 2361 (8) [A] Except for an emergency situation described in Subsection [26-61a-201\(3\)\(c\)](#), a
- 2362 medical cannabis pharmacy may not allow any individual to consume cannabis on the property
- 2363 or premises of the medical cannabis pharmacy.
- 2364 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
- 2365 first indicating on the cannabis or cannabis product label the name of the medical cannabis
- 2366 pharmacy.
- 2367 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
- 2368 following information regarding each recommendation underlying a transaction:
- 2369 (i) the qualified medical provider's name, address, and telephone number;
- 2370 (ii) the patient's name and address;
- 2371 (iii) the date of issuance;
- 2372 (iv) directions of use and dosing guidelines or an indication that the qualified medical
- 2373 provider did not recommend specific directions of use or dosing guidelines; and
- 2374 (v) if the patient did not complete the transaction, the name of the medical cannabis
- 2375 cardholder who completed the transaction.
- 2376 (b) (i) Except as provided in Subsection [~~(10)(b)(ii)~~] (10)(b)(iii), a medical cannabis
- 2377 pharmacy may not sell medical cannabis unless the medical cannabis has a label securely
- 2378 affixed to the container indicating the following minimum information:
- 2379 (A) the name, address, and telephone number of the medical cannabis pharmacy;
- 2380 (B) the unique identification number that the medical cannabis pharmacy assigns;
- 2381 (C) the date of the sale;

- 2382 (D) the name of the patient;
- 2383 (E) the name of the qualified medical provider who recommended the medical
- 2384 cannabis treatment;
- 2385 (F) directions for use and cautionary statements, if any;
- 2386 (G) the amount dispensed and the cannabinoid content;
- 2387 (H) the suggested use date;
- 2388 (I) for unprocessed cannabis flower, the legal use termination date; and
- 2389 (J) any other requirements that the department determines, in consultation with the
- 2390 Division of Occupational and Professional Licensing and the Board of Pharmacy.
- 2391 (ii) A medical cannabis pharmacy is exempt from the following labeling requirements
- 2392 if the information is already provided on the product label that a cannabis production
- 2393 establishment affixes:
- 2394 (A) Subsection (10)(b)(i)(B) regarding a unique identification number;
- 2395 (B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;
- 2396 (C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and
- 2397 (D) Subsection (10)(b)(i)(H) regarding a suggested use date.
- 2398 ~~(ii)~~ (iii) A medical cannabis pharmacy may sell medical cannabis to another medical
- 2399 cannabis pharmacy without a label described in Subsection (10)(b)(i).
- 2400 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:
- 2401 (a) unless the medical cannabis cardholder has had a consultation under Subsection
- 2402 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of
- 2403 cannabis, a cannabis product, or a medical cannabis device, personal counseling with the
- 2404 pharmacy medical provider; and
- 2405 (b) provide a telephone number or website by which the cardholder may contact a
- 2406 pharmacy medical provider for counseling.
- 2407 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
- 2408 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
- 2409 medical cannabis device, or medical cannabis product in a locked box or other secure
- 2410 receptacle within the medical cannabis pharmacy.
- 2411 (b) A medical cannabis pharmacy with a disposal program described in Subsection
- 2412 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider

2413 can access deposited medical cannabis or medical cannabis products.

2414 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2415 medical cannabis products by:

2416 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2417 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2418 products from the medical cannabis pharmacy; and

2419 (ii) disposing of the deposited medical cannabis or medical cannabis products in
2420 accordance with:

2421 (A) federal and state law, rules, and regulations related to hazardous waste;

2422 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

2423 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

2424 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2425 3, Utah Administrative Rulemaking Act.

2426 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
2427 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
2428 by a medical cannabis pharmacy.

2429 Section 25. Section **26-61a-502** is amended to read:

2430 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
2431 **Reporting -- Form of cannabis or cannabis product.**

2432 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
2433 chapter:

2434 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2435 from another medical cannabis pharmacy or a cannabis processing facility that is licensed
2436 under Section [4-41a-201](#);

2437 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2438 acquired from another medical cannabis pharmacy or a cannabis processing facility that is
2439 licensed under Section [4-41a-201](#);

2440 (iii) a medical cannabis device; or

2441 (iv) educational material related to the medical use of cannabis.

2442 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2443 an individual with:

- 2444 (i) (A) a medical cannabis card; or
- 2445 (B) a department registration described in Subsection [~~26-61a-202~~(10)]
- 2446 26-61a-201(10); [~~or~~] and
- 2447 [~~(C) until December 31, 2020, a letter from a medical provider in accordance with~~
- 2448 ~~Subsection (10); and]~~
- 2449 (ii) a corresponding valid form of photo identification.
- 2450 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
- 2451 cannabis-based drug that the United States Food and Drug Administration has approved.
- 2452 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
- 2453 medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a
- 2454 minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the
- 2455 approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).
- 2456 (2) A medical cannabis pharmacy:
- 2457 (a) may dispense to a medical cannabis cardholder [~~or to an individual described in~~
- 2458 ~~Subsection (10)(b)],~~ in any one 28-day period, up to the legal dosage limit of:
- 2459 (i) unprocessed cannabis that:
- 2460 (A) is in a medicinal dosage form; and
- 2461 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
- 2462 cannabidiol in the cannabis; and
- 2463 (ii) a cannabis product that is in a medicinal dosage form; and
- 2464 (b) may not dispense:
- 2465 (i) more medical cannabis than described in Subsection (2)(a); or
- 2466 (ii) to an individual whose qualified medical provider[~~, or for an individual described~~
- 2467 ~~in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i);]~~ did not
- 2468 recommend directions of use and dosing guidelines, until the individual consults with the
- 2469 pharmacy medical provider in accordance with Subsection (4), any medical cannabis.
- 2470 (3) An individual with a medical cannabis card [~~or an individual described in~~
- 2471 ~~Subsection (10)(a)]:~~
- 2472 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
- 2473 (i) unprocessed cannabis in a medicinal dosage form; and
- 2474 (ii) a cannabis product in a medicinal dosage form;

2475 (b) may not purchase:

2476 (i) more medical cannabis than described in Subsection (3)(a); or

2477 (ii) if the relevant qualified medical provider did not recommend directions of use and

2478 dosing guidelines, until the individual consults with the pharmacy medical provider in

2479 accordance with Subsection (4), any medical cannabis; and

2480 (c) may not use a route of administration that the relevant qualified medical provider or

2481 the pharmacy medical provider, in accordance with Subsection (4) or (5), has not

2482 recommended.

2483 (4) If a qualified medical provider recommends treatment with medical cannabis but

2484 [~~does not provide~~] wishes for the pharmacy medical provider to determine directions of use and

2485 dosing guidelines:

2486 (a) the qualified medical provider shall [~~document in the recommendation~~] provide to

2487 the pharmacy medical provider any of the following information that the qualified medical

2488 provider feels would be needed to provide appropriate directions of use and dosing guidelines:

2489 (i) [~~an evaluation of~~] information regarding the qualifying condition underlying the

2490 recommendation;

2491 (ii) information regarding prior treatment attempts with medical cannabis; and

2492 (iii) portions of the patient's current medication list; and

2493 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the

2494 pharmacy medical provider shall:

2495 (i) review pertinent medical records, including the qualified medical provider

2496 documentation described in Subsection (4)(a); and

2497 (ii) unless the pertinent medical records show directions of use and dosing guidelines

2498 from a state central patient portal medical provider in accordance with Subsection (5), after

2499 completing the review described in Subsection (4)(b)(i) and consulting with the recommending

2500 qualified medical provider as needed, determine the best course of treatment through

2501 consultation with the cardholder regarding:

2502 (A) the patient's qualifying condition underlying the recommendation from the

2503 qualified medical provider;

2504 (B) indications for available treatments;

2505 (C) directions of use and dosing guidelines; and

2506 (D) potential adverse reactions.

2507 (5) (a) A state central patient portal medical provider may provide the consultation and
2508 make the determination described in Subsection (4)(b) for a medical cannabis patient
2509 cardholder regarding an electronic order that the state central patient portal facilitates.

2510 (b) The state central patient portal medical provider described in Subsection (5)(a)
2511 shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)
2512 in the pertinent medical records.

2513 (6) (a) A medical cannabis pharmacy shall:

2514 ~~[(a)-(i)]~~ (i) (A) access the state electronic verification system before dispensing
2515 cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the
2516 cardholder or, where applicable, the associated patient has met the maximum amount of
2517 medical cannabis described in Subsection (2); and

2518 ~~[(i)]~~ (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met
2519 the maximum amount described in Subsection (2)~~[(A)]~~, decline the sale~~;~~ and ~~[(B)]~~ notify the
2520 qualified medical provider who made the underlying recommendation;

2521 ~~[(b)]~~ (ii) submit a record to the state electronic verification system each time the
2522 medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

2523 (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews
2524 each medical cannabis transaction before dispensing the medical cannabis to the cardholder in
2525 accordance with pharmacy practice standards;

2526 ~~[(c)]~~ (iv) package any medical cannabis that is in a container that:

2527 ~~[(i)]~~ (A) complies with Subsection 4-41a-602(2) or, if applicable,
2528 26-61a-102~~[(32)]~~(39)(a)(ii);

2529 ~~[(i)]~~ (B) is tamper-resistant and tamper-evident; and

2530 ~~[(iii)]~~ ~~opaque; and~~

2531 (C) provides an opaque bag for the medical cannabis cardholder's use in transporting
2532 the container in public; and

2533 ~~[(d)]~~ (v) for a product that is a cube that is designed for ingestion through chewing or
2534 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2535 of over-consumption.

2536 (b) A medical cannabis cardholder transporting or possessing the container described

2537 in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag that the
2538 medical cannabis pharmacist provides.

2539 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2540 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2541 intentionally designed or constructed to resemble a cigarette.

2542 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2543 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2544 individual's respiratory system.

2545 (8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the
2546 medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

2547 (b) A medical cannabis pharmacy may give, at no cost, educational material related to
2548 the medical use of cannabis.

2549 (9) The department may impose a uniform fee on each medical cannabis transaction in
2550 a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the
2551 department sets in accordance with Section 63J-1-504.

2552 [~~(10)(a) Except as provided in Subsection (10)(b), until December 31, 2020, an~~
2553 ~~individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from~~
2554 ~~a licensed medical cannabis pharmacy if:]~~

2555 [~~(i) the individual presents to the medical cannabis pharmacy a letter from the medical~~
2556 ~~professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical~~
2557 ~~professional's medical cannabis recommendation for the individual;]~~

2558 [~~(ii) the medical cannabis pharmacy receives independent confirmation from the~~
2559 ~~medical professional described in Subsection (10)(a)(i) or an employee of the medical~~
2560 ~~professional that the letter is valid;]~~

2561 [~~(iii) the medical cannabis pharmacy:]~~

2562 [~~(A) scans or photocopies the individual's letter and the individual's valid form of~~
2563 ~~photo identification;]~~

2564 [~~(B) creates a record of the transaction, including the documents described in~~
2565 ~~Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis~~
2566 ~~the individual purchased; and]~~

2567 [~~(C) provides information to the individual about obtaining a medical cannabis card;~~

2568 and]

2569 ~~[(iv) unless the medical professional recommends specific directions of using and~~
2570 ~~dosing guidelines in the letter, the pharmacy medical provider determines the best course of~~
2571 ~~treatment through consultation with the individual regarding:]~~

2572 ~~[(A) the individual's qualifying condition underlying the recommendation from the~~
2573 ~~medical professional;]~~

2574 ~~[(B) indications for available treatments;]~~

2575 ~~[(C) directions of use and dosing guidelines; and]~~

2576 ~~[(D) potential adverse reactions:]~~

2577 ~~[(b) (i) An individual who purchases medical cannabis from a medical cannabis~~
2578 ~~pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different~~
2579 ~~medical cannabis pharmacy under Subsection (10)(a):]~~

2580 ~~[(ii) If the department notifies a medical cannabis pharmacy, in accordance with~~
2581 ~~Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a)~~
2582 ~~from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an~~
2583 ~~item listed in Subsection (1)(a) to the individual under Subsection (10)(a):]~~

2584 ~~[(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the~~
2585 ~~individual is a medical cannabis cardholder:]~~

2586 ~~[(c) (i) Until December 31, 2020, on or before the first day of each month, each~~
2587 ~~medical cannabis pharmacy shall provide to the department, in a secure manner, information~~
2588 ~~identifying each individual who has purchased medical cannabis from the medical cannabis~~
2589 ~~pharmacy under Subsection (10)(a):]~~

2590 ~~[(ii) The department shall review information the department receives under~~
2591 ~~Subsection (10)(c)(i) to identify any individuals who:]~~

2592 ~~[(A) have purchased medical cannabis under Subsection (10)(a) from more than one~~
2593 ~~pharmacy; or]~~

2594 ~~[(B) hold a medical cannabis card:]~~

2595 ~~[(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the~~
2596 ~~department shall notify each medical cannabis pharmacy regarding:]~~

2597 ~~[(A) the identification of the individual; and]~~

2598 ~~[(B) the individual's ineligibility to purchase medical cannabis for a reason described in~~

2599 Subsection (10)(b):]

2600 [(H)] (10) A medical cannabis pharmacy may purchase and store medical cannabis
2601 devices regardless of whether the seller has a cannabis-related license under this title or Title 4,
2602 Chapter 41a, Cannabis Production Establishments.

2603 Section 26. Section **26-61a-504** is amended to read:

2604 **26-61a-504. Inspections.**

2605 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
2606 treatment recommendation files and other records in accordance with this chapter, department
2607 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
2608 104-191, 110 Stat. 1936, as amended.

2609 (2) The department or the Department of Agriculture and Food may inspect the
2610 records, facility, and inventory of a medical cannabis pharmacy at any time during business
2611 hours in order to determine if the medical cannabis pharmacy complies with this chapter and
2612 Title 4, Chapter 41a, Cannabis Production Establishments.

2613 (3) An inspection under this section may include:

2614 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other
2615 physical or electronic information, or any combination of the above;

2616 (b) questioning of any relevant individual;

2617 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
2618 or label;

2619 (d) random sampling of medical cannabis by the Department of Agriculture and Food
2620 [~~to make the determinations described in Subsection 4-41a-701(2)] in accordance with rules
2621 described in Section 4-41a-701; or~~

2622 (e) seizure of medical cannabis, medical cannabis devices, or educational material as
2623 evidence in a department investigation or inspection or in instances of compliance failure.

2624 (4) In making an inspection under this section, the department or the Department of
2625 Agriculture and Food may freely access any area and review and make copies of a book,
2626 record, paper, document, data, or other physical or electronic information, including financial
2627 data, sales data, shipping data, pricing data, and employee data.

2628 (5) Failure to provide the department, the Department of Agriculture and Food, or the
2629 authorized agents of the department or the Department of Agriculture and Food immediate

2630 access to records and facilities during business hours in accordance with this section may result
2631 in:

2632 (a) the imposition of a civil monetary penalty that the department sets in accordance
2633 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2634 (b) license or registration suspension or revocation; or

2635 (c) an immediate cessation of operations under a cease and desist order that the
2636 department issues.

2637 (6) Notwithstanding any other provision of law, the department may temporarily store
2638 in any department facility the items the department seizes under Subsection (3)(e) until the
2639 department:

2640 (a) determines that sufficient compliance justifies the return of the seized items; or

2641 (b) disposes of the items in the same manner as a cannabis production establishment in
2642 accordance with Section 4-41a-405.

2643 Section 27. Section **26-61a-505** is amended to read:

2644 **26-61a-505. Advertising.**

2645 (1) Except as provided in this section, a medical cannabis pharmacy may not advertise
2646 in any medium.

2647 (2) A medical cannabis pharmacy may advertise an employment opportunity at the
2648 medical cannabis pharmacy.

2649 (3) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a
2650 medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy
2651 that:

2652 ~~[(a)]~~ (i) includes only:

2653 ~~[(i)]~~ (A) in accordance with Subsection (3)(b), the medical cannabis pharmacy's name,
2654 logo, and hours of operation; and

2655 ~~[(ii)]~~ (B) a green cross; and

2656 ~~[(b)]~~ (ii) complies with local ordinances regulating signage.

2657 (b) The department shall define standards for a medical cannabis pharmacy's name and
2658 logo to ensure a medical rather than recreational disposition.

2659 (4) (a) A medical cannabis pharmacy may maintain a website that includes information
2660 about:

2661 (i) the location and hours of operation of the medical cannabis pharmacy;
2662 (ii) a product or service available at the medical cannabis pharmacy;
2663 (iii) personnel affiliated with the medical cannabis pharmacy;
2664 (iv) best practices that the medical cannabis pharmacy upholds; and
2665 (v) educational material related to the medical use of cannabis, as defined by the
2666 department.

2667 (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2668 Administrative Rulemaking Act, to define the educational material described in Subsection
2669 (4)(a).

2670 (5) (a) A medical cannabis pharmacy may hold an educational event for the public or
2671 medical providers in accordance with this Subsection (5) and the rules described in Subsection
2672 (5)(c).

2673 (b) A medical cannabis pharmacy may not include in an educational event described in
2674 Subsection (5)(a):

2675 (i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis
2676 Production Establishments;

2677 (ii) any gift items or merchandise other than educational materials, as those terms are
2678 defined by the department;

2679 (iii) any marketing for a specific product from the medical cannabis pharmacy or any
2680 other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic
2681 Act, 21 U.S.C. Sec. 301, et seq.; or

2682 (iv) a presenter other than the following:

2683 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

2684 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
2685 Practice Act;

2686 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
2687 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2688 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
2689 Assistant Act; [or]

2690 (E) a medical practitioner, similar to the practitioners described in this Subsection

2691 (5)(b)(iv), who is licensed in another state or country;

2692 ~~(E)~~ (F) a state employee~~[-];~~ or
2693 (G) if the presentation relates to a cannabis topic other than medical treatment or
2694 medical conditions, an individual whom the department approves based on the individual's
2695 background and credentials in the presented topic.

2696 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2697 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
2698 event described in Subsection (5)(a), including:

- 2699 (i) a minimum age of 21 years old for attendees[-]; and
2700 (ii) an exception to the minimum age for a medical cannabis patient cardholder who is
2701 at least 18 years old.

2702 Section 28. Section **26-61a-605** is amended to read:

2703 **26-61a-605. Medical cannabis shipment transportation.**

2704 (1) The department shall ensure that each home delivery medical cannabis pharmacy is
2705 capable of delivering, directly or through a medical cannabis courier, medical cannabis
2706 shipments in a secure manner.

2707 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed
2708 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
2709 cannabis orders that the state central patient portal facilitates.

2710 (b) If a home delivery medical cannabis pharmacy enters into a contract described in
2711 Subsection (2)(a), the pharmacy shall:

2712 (i) impose security and personnel requirements on the medical cannabis courier
2713 sufficient to ensure the security and safety of medical cannabis shipments; and

2714 (ii) provide regular oversight of the medical cannabis courier.

2715 (3) Except for an individual with a valid medical cannabis card who transports a
2716 shipment the individual receives, an individual may not transport a medical cannabis shipment
2717 unless the individual is:

2718 (a) a registered pharmacy medical provider;

2719 (b) a registered medical cannabis pharmacy agent; or

2720 (c) a registered agent of the medical cannabis courier described in Subsection (2).

2721 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
2722 possess a physical or electronic transportation manifest that:

2723 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
2724 inventory control system;

2725 (b) includes origin and destination information for the medical cannabis shipment the
2726 individual is transporting; and

2727 (c) indicates the departure and estimated arrival times and locations of the individual
2728 transporting the medical cannabis shipment.

2729 (5) In addition to the requirements in Subsections (3) and (4), the department may
2730 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2731 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2732 Rulemaking Act, requirements for transporting medical cannabis shipments that are related to
2733 safety for human consumption of cannabis or a cannabis product.

2734 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
2735 manifest that does not meet the requirements of Subsection (4).

2736 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
2737 (6)(a) is:

2738 (i) guilty of an infraction; and

2739 (ii) subject to a \$100 fine.

2740 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not
2741 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2742 underlying the violation described in Subsection (6)(b).

2743 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
2744 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
2745 minimis administrative error:

2746 (i) this chapter does not apply; and

2747 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2748 Substances Act.

2749 Section 29. Section **26-61a-606** is amended to read:

2750 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
2751 **card -- Rebuttable presumption.**

2752 (1) An individual may not serve as a medical cannabis courier agent unless:

2753 (a) the individual is an employee of a licensed medical cannabis courier; and

2754 (b) the department registers the individual as a medical cannabis courier agent.
2755 (2) (a) The department shall, within 15 days after the day on which the department
2756 receives a complete application from a medical cannabis courier on behalf of a medical
2757 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
2758 the prospective agent if the medical cannabis courier:
2759 (i) provides to the department:
2760 (A) the prospective agent's name and address;
2761 (B) the name and address of the medical cannabis courier;
2762 (C) the name and address of each home delivery medical cannabis pharmacy with
2763 which the medical cannabis courier contracts to deliver medical cannabis shipments; and
2764 (D) the submission required under Subsection (2)(b);
2765 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
2766 law of:
2767 (A) a felony; or
2768 (B) after December 3, 2018, a misdemeanor for drug distribution; and
2769 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),
2770 the department sets in accordance with Section 63J-1-504.
2771 (b) Except for an applicant reapplying for a medical cannabis courier agent registration
2772 card within less than one year after the expiration of the applicant's previous medical cannabis
2773 courier agent registration card, each prospective agent described in Subsection (2)(a) shall:
2774 (i) submit to the department:
2775 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
2776 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
2777 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
2778 Generation Identification System's Rap Back Service; and
2779 (ii) consent to a fingerprint background check by:
2780 (A) the Bureau of Criminal Identification; and
2781 (B) the Federal Bureau of Investigation.
2782 (c) The Bureau of Criminal Identification shall:
2783 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
2784 the applicable state, regional, and national criminal records databases, including the Federal

2785 Bureau of Investigation Next Generation Identification System;

2786 (ii) report the results of the background check to the department;

2787 (iii) maintain a separate file of fingerprints that prospective agents submit under

2788 Subsection (2)(b) for search by future submissions to the local and regional criminal records

2789 databases, including latent prints;

2790 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next

2791 Generation Identification System's Rap Back Service for search by future submissions to

2792 national criminal records databases, including the Next Generation Identification System and

2793 latent prints; and

2794 (v) establish a privacy risk mitigation strategy to ensure that the department only

2795 receives notifications for an individual with whom the department maintains an authorizing

2796 relationship.

2797 (d) The department shall:

2798 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an

2799 amount that the department sets in accordance with Section 63J-1-504 for the services that the

2800 Bureau of Criminal Identification or another authorized agency provides under this section; and

2801 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal

2802 Identification.

2803 (3) The department shall designate on an individual's medical cannabis courier agent

2804 registration card the name of the medical cannabis [~~courier~~] pharmacy where the individual is

2805 registered as an agent and each home delivery medical cannabis courier for which the medical

2806 cannabis courier delivers medical cannabis shipments.

2807 (4) (a) A medical cannabis courier agent shall comply with a certification standard that

2808 the department develops, in collaboration with the Division of Occupational and Professional

2809 Licensing and the Board of Pharmacy, or a third-party certification standard that the department

2810 designates by rule in collaboration with the Division of Occupational and Professional

2811 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

2812 Administrative Rulemaking Act.

2813 (b) The department shall ensure that the certification standard described in Subsection

2814 (4)(a) includes training in:

2815 (i) Utah medical cannabis law;

2816 (ii) the medical cannabis shipment process; and
2817 (iii) medical cannabis courier agent best practices.
2818 (5) (a) A medical cannabis courier agent registration card expires two years after the
2819 day on which the department issues or renews the card.
2820 (b) A medical cannabis courier agent may renew the agent's registration card if the
2821 agent:
2822 (i) is eligible for a medical cannabis courier agent registration card under this section;
2823 (ii) certifies to the department in a renewal application that the information in
2824 Subsection (2)(a) is accurate or updates the information; and
2825 (iii) pays to the department a renewal fee in an amount that:
2826 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2827 Section 63J-1-504; and
2828 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2829 comparison to the original application process.
2830 (6) The department may revoke or refuse to issue or renew the medical cannabis
2831 courier agent registration card of an individual who:
2832 (a) violates the requirements of this chapter; or
2833 (b) is convicted under state or federal law of:
2834 (i) a felony; or
2835 (ii) after December 3, 2018, a misdemeanor for drug distribution.
2836 (7) A medical cannabis courier agent whom the department has registered under this
2837 section shall carry the agent's medical cannabis courier agent registration card with the agent at
2838 all times when:
2839 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
2840 pharmacy, or a medical cannabis cardholder's home address; and
2841 (b) the agent is handling a medical cannabis shipment.
2842 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
2843 the shipment in compliance with Subsection (7):
2844 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
2845 (b) there is no probable cause, based solely on the agent's possession of the medical
2846 cannabis shipment that the agent is engaging in illegal activity.

- 2847 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:
2848 (i) guilty of an infraction; and
2849 (ii) subject to a \$100 fine.
2850 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
2851 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2852 underlying the violation described in Subsection (9)(a).

2853 Section 30. Section **26-61a-607** is amended to read:

2854 **26-61a-607. Home delivery of medical cannabis shipments.**

2855 (1) An individual may not receive and a medical cannabis pharmacy agent or a medical
2856 cannabis courier agent may not deliver a medical cannabis shipment from a home delivery
2857 medical cannabis pharmacy unless:

2858 (a) the individual receiving the shipment presents:

- 2859 (i) a valid form of photo identification; and
2860 (ii) a valid medical cannabis card under the same name that appears on the valid form
2861 of photo identification; and

2862 (b) the delivery occurs at the medical cannabis cardholder's home address that is on file
2863 in the state electronic verification system.

2864 (2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent
2865 distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

- 2866 (a) verify the shipment information using the state electronic verification system;
2867 (b) ensure that the individual satisfies the identification requirements in Subsection (1);
2868 (c) verify that payment is complete; and

2869 (d) record the completion of the shipment transaction in a manner such that the
2870 delivery of the shipment will later be recorded within a reasonable period in the electronic
2871 verification system.

2872 (3) The medical cannabis courier shall:

- 2873 (a) (i) store each medical cannabis shipment in a secure manner until the recipient
2874 medical cannabis cardholder receives the shipment or the medical cannabis courier returns the
2875 shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4);
2876 and

2877 (ii) ensure that only a medical cannabis courier agent is able to access the medical

2878 cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

2879 (b) return any undelivered medical cannabis shipment to the home delivery medical
2880 cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has
2881 possessed the shipment for 10 business days; and

2882 (c) return any medical cannabis shipment to the home delivery medical cannabis
2883 pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to
2884 accept the shipment.

2885 (4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy
2886 agent returns an undelivered medical cannabis shipment that remains unopened, the home
2887 delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

2888 (b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent
2889 returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears
2890 to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the
2891 shipment by:

2892 (i) rendering the shipment unusable and unrecognizable before transporting the
2893 shipment from the home delivery medical cannabis pharmacy; and

2894 (ii) disposing of the shipment in accordance with:

2895 (A) federal and state laws, rules, and regulations related to hazardous waste;

2896 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

2897 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

2898 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2899 3, Utah Administrative Rulemaking Act.

2900 Section 31. Section **58-37-3.7** is amended to read:

2901 **58-37-3.7. Medical cannabis decriminalization.**

2902 (1) As used in this section:

2903 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

2904 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

2905 (c) "Legal dosage limit" means the same as that term is defined in Section [26-61a-102](#).

2906 (d) "Medical cannabis card" means the same as that term is defined in Section
2907 [26-61a-102](#).

2908 (e) "Medical cannabis device" means the same as that term is defined in Section

2909 26-61a-102.

2910 (f) "Medicinal dosage form" means the same as that term is defined in Section

2911 26-61a-102.

2912 (g) "Nonresident patient" means the same as that term is defined in Section

2913 26-61a-102.

2914 (h) "Qualifying condition" means the same as that term is defined in Section

2915 26-61a-102.

2916 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section

2917 58-37-3.9.

2918 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
2919 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

2920 (a) at the time of the arrest or citation, the individual:

2921 (i) (A) had been diagnosed with a qualifying condition; and

2922 (B) had a pre-existing provider-patient relationship with an advanced practice

2923 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed

2924 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,

2925 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under

2926 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness

2927 described in Subsection (2)(a)(i)(A) could benefit from the use in question;

2928 (ii) for possession, was:

2929 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
2930 is a minor; or

2931 (B) the spouse of an individual described in Subsection (2)(a)(i); or

2932 (iii) (A) for possession, was a medical cannabis cardholder; or

2933 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying

2934 condition under the supervision of a medical cannabis guardian cardholder; and

2935 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or

2936 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal

2937 dosage limit:

2938 (A) unprocessed cannabis in a medicinal dosage form; or

2939 (B) a cannabis product in a medicinal dosage form; and

2940 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
2941 medical cannabis device.

2942 (3) A nonresident patient is not guilty under this chapter for the use or possession of
2943 marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

2944 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
2945 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
2946 dosage limit:

2947 (i) unprocessed cannabis in a medicinal dosage form; or

2948 (ii) a cannabis product in a medicinal dosage form; and

2949 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
2950 medical cannabis device.

2951 (4) (a) There is a rebuttable presumption against an allegation of use or possession of
2952 marijuana or tetrahydrocannabinol if:

2953 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the
2954 sample; and

2955 (ii) the individual provides evidence that the individual possessed or used cannabidiol
2956 or a cannabidiol product.

2957 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that
2958 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized
2959 under:

2960 (i) Section [4-41-402](#); or

2961 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

2962 (5) (a) An individual is not guilty under this chapter for the use or possession of
2963 marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

2964 (b) Nothing in this section prohibits a person, either within the state or outside the
2965 state, from selling a medical cannabis device within the state.

2966 (c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
2967 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for
2968 the protections of this section to sell a medical cannabis device.

2969 Section 32. Section **58-37-3.9** is amended to read:

2970 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**

2971 **illness.**

2972 (1) As used in this section:

2973 (a) "Cannabis" means marijuana.

2974 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

2975 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

2976 (d) "Medical cannabis cardholder" means the same as that term is defined in Section

2977 26-61a-102.

2978 (e) "Medical cannabis device" means the same as that term is defined in Section

2979 26-61a-102.

2980 (f) " Medicinal dosage form" means the same as that term is defined in Section

2981 26-61a-102.

2982 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic

2983 description as described in Subsection 58-37-4(2)(a)(iii)(AA).

2984 (2) Notwithstanding any other provision of law, except as otherwise provided in this

2985 section:

2986 (a) an individual is not guilty of a violation of this title for the following conduct if the

2987 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis

2988 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

2989 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,
2990 selling, or offering to sell cannabis or a cannabis product; or

2991 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct
2992 described in Subsection (2)(a)(i); and

2993 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if

2994 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,

2995 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

2996 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis

2997 device; or

2998 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct

2999 described in Subsection (2)(b)(i).

3000 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or

3001 heating of medical cannabis.

3002 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical
3003 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking
3004 or combustion of cannabis.

3005 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or
3006 engages in any other conduct described in Subsection (3)(b):

3007 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah
3008 Medical Cannabis Act; and

3009 (ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug
3010 paraphernalia for the conduct described in Subsection (3)(b):

3011 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

3012 (B) for a second or subsequent offense, subject to charges under this chapter.

3013 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,
3014 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
3015 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a
3016 penalty described in this chapter for:

3017 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis
3018 product; or

3019 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3020 (5) (a) Nothing in this section prohibits a person, either within the state or outside the
3021 state, from selling a medical cannabis device within the state.

3022 (b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis
3023 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for
3024 the protections of this section to sell a medical cannabis device.

3025 Section 33. **Effective date.**

3026 If approved by two-thirds of all the members elected to each house, this bill takes effect
3027 upon approval by the governor, or the day following the constitutional time limit of Utah
3028 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
3029 the date of veto override.

3030 Section 34. **Coordinating S.B. 192 with S.B. 170 -- Substantive amendments.**

3031 If this S.B. 192 and S.B. 170, Consumer Protection for Cannabis Patients, both pass and
3032 become law, it is the intent of the Legislature that the Office of Legislative Research and

3033 General Counsel shall prepare the Utah Code database for publication by amending Subsection
3034 26-61a-502(4)(a) to read:

3035 "(4) If a [qualified] recommending medical provider recommends treatment with
3036 medical cannabis but [does not provide] wishes for the pharmacy medical provider to
3037 determine directions of use and dosing guidelines:

3038 (a) the [qualified] recommending medical provider shall [document in the
3039 recommendation] provide to the pharmacy medical provider, either through the state electronic
3040 verification system or through a medical cannabis pharmacy's recording of a recommendation
3041 under the order of a limited medical provider, any of the following information that the
3042 recommending medical provider feels would be needed to provide appropriate directions of use
3043 and dosing guidelines:

- 3044 (i) [[an evaluation of] information regarding the qualifying condition underlying the
3045 recommendation;
- 3046 (ii) information regarding prior treatment attempts with medical cannabis; and
- 3047 (iii) portions of the patient's current medication list; and".