SB0192S03 compared with SB0192S02

~~{deleted text}~~ shows text that was in SB0192S02 but was deleted in SB0192S03.

inserted text shows text that was not in SB0192S02 but was inserted into SB0192S03.

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

Senator 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 of cannabis concentrate from industrial hemp waste in a single license year;
- removes a requirement that a cannabis processing facility package cannabis and cannabis product in a container that is opaque;
- imposes certain labeling requirements regarding derivative and synthetic cannabinoids;
- requires the processing and testing of derivative and synthetic cannabinoids to a certain product quality;
- amends the rulemaking authority of UDAF regarding testing;
- amends the duties of UDAF in the event testing identifies a defective batch of cannabis or cannabis product;
- amends the information required for a university to obtain a research license;
- requires the electronic verification system to communicate dispensing information to the controlled substance database;
- allows the Compassionate Use Board to approve an individual for a medical cannabis card for periods shorter than a standard initial period of validity;
- allows a qualified medical provider to advertise the individual's registration as a qualified medical provider;
- clarifies certain duties of a qualified medical provider before recommending or renewing a recommendation for medical cannabis;
- requires DOH to record the issuance or revocation of a medical cannabis card in the controlled substance database;
- prohibits the removal or alteration of a label from a container that contains medical cannabis;
- authorizes DOH to issue a 15th medical cannabis pharmacy license in a specific geographic region under certain circumstances;

- allows DOH to charge a license fee for any change in location, ownership, or company structure for a medical cannabis pharmacy;
- requires DOH to rescind a notice of an intent to issue a medical cannabis pharmacy license if the medical cannabis pharmacy does not begin operations by a certain date;
- imposes restrictions on medical cannabis pharmacy and pharmacy medical provider advertising;
- allows an emancipated minor to enter a medical cannabis pharmacy and amends other access provisions;
- modifies a medical cannabis pharmacy labeling requirement;
- clarifies information a qualified medical provider must submit if the qualified medical provider intends for a pharmacy medical provider to determine directions of use and dosing guidelines for a medical cannabis recommendation;
- requires a medical cannabis pharmacy to provide an opaque bag in which a medical cannabis cardholder is required to keep a container of medical cannabis while transporting the container in public;
- amends provisions governing what a medical cannabis pharmacy may and may not give at no cost;
- repeals an outdated method for a patient to obtain medical cannabis without a medical cannabis card;
- amends provisions regarding a medical cannabis pharmacy's logo, advertising, and educational events;
- clarifies that a person is not prohibited from selling a medical cannabis device within the state; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

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

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

4-41a-403, as last amended by Laws of Utah 2020, Chapters 12 and 148

4-41a-501, as last amended by Laws of Utah 2020, Chapter 148

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

4-41a-603, as last amended by Laws of Utah 2020, Chapter 12

4-41a-701, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

4-41a-702, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-901, as enacted by Laws of Utah 2019, First Special Session, Chapter 5

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

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

26-61a-105, as last amended by Laws of Utah 2020, Chapter 12

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

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

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

26-61a-204, as last amended by Laws of Utah 2020, Chapter 12

26-61a-301, as last amended by Laws of Utah 2020, Chapters 12, 148, 354 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148

26-61a-305, as last amended by Laws of Utah 2020, Chapter 12

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

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

26-61a-502, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended

by Coordination Clause, Laws of Utah 2020, Chapter 148

26-61a-504, as last amended by Laws of Utah 2020, Chapter 12

26-61a-505, as last amended by Laws of Utah 2020, Chapters 12 and 148

26-61a-605, as last amended by Laws of Utah 2020, Chapter 12

26-61a-606, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

26-61a-607, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

58-37-3.7, as last amended by Laws of Utah 2020, Chapter 12

58-37-3.9, as last amended by Laws of Utah 2020, Chapter 12

ENACTS:

4-41a-201.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

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

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

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

4-41a-102. Definitions.

As used in this chapter:

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

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

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

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

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

(4) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

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

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(8)~~] (13) "Cannabis production establishment" means a cannabis cultivation facility, a

cannabis processing facility, or an independent cannabis testing laboratory.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(24) "Industrial hemp waste" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) grants doctoral degrees; and

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

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

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

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

(b) is not a derivative cannabinoid.

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

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

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

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

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

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

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

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

[~~(B) for a licensing process that the department initiates after September 23, 2019, the~~

~~department shall issue a license to operate a cannabis production establishment in accordance with the procedures described in Subsection (2)(a)(iii).~~]

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

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

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

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

(C) timely and objectively evaluate applications;

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

(E) select applicants to receive a license.

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

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

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

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

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

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

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

(iii) an operating plan that:

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

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

(C) the department or licensing board approves;

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

(A) [~~$250,000~~] $100,000 for each cannabis cultivation facility for which the applicant applies; or

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

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

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

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

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

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

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

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

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

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

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

[~~(A)~~] (i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) has an owner, officer, director, or employee whose family member holds a license

or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the [~~department~~] licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act, the [~~department~~] licensing board:

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

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

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

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

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

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the [~~department~~] licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed

cannabis production establishments or medical cannabis pharmacies;

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

(i) a felony; or

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

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

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

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

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

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

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

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

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

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

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

(14) Notwithstanding this section, the department:

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

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

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

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

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

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

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

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

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

4-41a-201.1. Cannabis Production Establishment Licensing Advisory Board -- Composition -- Duties.

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

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

(2) The commissioner shall:

(a) appoint the members of the board;

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

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

(3) (a) Except as provided in Subsection (3)(c), the board shall consist of the following

six members:

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

(A) one member ~~{whom the speaker }~~of the ~~{House of Representatives nominates}~~public;

(B) one member ~~{whom the president of the Senate nominates}~~with knowledge and experience in the pharmaceutical or nutraceutical manufacturing industry;

(C) one member ~~{whom the governor nominates}~~representing law enforcement;

(D) one member whom an organization representing medical cannabis patients ~~{nominates}~~recommends; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) When a vacancy occurs on the board for any reason other than the expiration of a board member's term, the commissioner shall~~{, in consultation with the nominating individual or entity,}~~ appoint a replacement to the vacant position, in accordance with Subsection (2), for the unexpired term.

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

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

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

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

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

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

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

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

(6) The board shall:

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

(b) review each license application for compliance with:

(i) this chapter; and

(ii) department rules;

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

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

(e) make a determination on each license application.

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

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

(b) changes or adds a location;

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

(d) changes extraction or formulation standard operating procedures;

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

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

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

(b) During the meeting described in Subsection (8)(a):

(i) a representative from each applicant for renewal shall:

(A) attend in person or electronically; or

(B) submit information before the meeting, as the board may require, for the board's consideration; and

(ii) the board shall consider, for each cannabis cultivation facility seeking renewal, information including:

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

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

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

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

(E) the square footage or acres of growing area the licensee projects to use in the following year; and

(iii) the board shall consider, for each cannabis processing facility seeking renewal, information including:

(A) methods and procedures for extraction;

(B) standard operating procedures; and

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

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

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

4-41a-203. Renewal.

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

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

(2) the board does not identify:

(a) a significant failure of compliance with this chapter or department rules in the review described in Section 4-41a-201.1; or

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

[~~(2)~~] (3) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

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

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

4-41a-204. Operating plan.

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

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

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

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

establishment; and

(ii) any highly skilled or experienced prospective employee;

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

(d) a security plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis

cultivation facility's cultivation space; or

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

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

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

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

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

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

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

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

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

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

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

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

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

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

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

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

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

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

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

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

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

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

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

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

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

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

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

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

(i) provides to the department:

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

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

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

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

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

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

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

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records

databases, including latent prints;

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

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

(d) The department shall:

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

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

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

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

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

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

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

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

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

(i) in Utah medical cannabis law;

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

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

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

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

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

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

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

(i) a felony; or

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

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

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

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

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

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

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

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

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

4-41a-403. Advertising.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) a presenter other than the following:

(A) a cannabis production establishment agent;

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

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

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

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

(F) a state employee.

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

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

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

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

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

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

(b) each unique harvest of cannabis plants;

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

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

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

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

(4) A cannabis cultivation facility shall either:

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

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

(5) (a) (i) A cannabis cultivation facility may not purchase or otherwise receive

industrial hemp waste unless the waste meets department cannabis testing standards, as determined by an independent cannabis testing laboratory, before the transfer of the waste to the cannabis cultivation facility.

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

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

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

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

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

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

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

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

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

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

(iii) has a unique identification number that:

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

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

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

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

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

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

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

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

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

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

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

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

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

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

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

(a) a standard labeling format that:

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

(ii) ensures inclusion of a pharmacy label; and

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

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

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

(1) A cannabis processing facility:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the

cannabis or cannabis product in accordance with department rule.

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

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

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

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

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

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

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

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

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

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

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

(ii) make a determination; and

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

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

(3) If an independent cannabis testing laboratory determines that the results of a lab test indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more

than 10% from the amounts the label indicates, the cannabis processing facility may not sell the cannabis or cannabis product batch unless the facility replaces the incorrect label with a label that correctly indicates the cannabinoid content.

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

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

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

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

(a) the location where the research university intends to conduct the research;

(b) the research university's research plan; and

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

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

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

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

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

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

(a) establish requirements for a licensee to:

(i) participate in academic medical cannabis research;

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

(b) set sampling and testing procedures.

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

(a) conducting a physical inspection; or

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

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

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

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

26-61a-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

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

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

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

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

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

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

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

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

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

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

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

(a) an individual:

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

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

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

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

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

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

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

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

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

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

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

(b) may not exceed:

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

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

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

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

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

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

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

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

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

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

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

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

(ii) while in possession of documentation that establishes:

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

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

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

[~~(22)~~] (27) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

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

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

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

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

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

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

[~~(24)~~] (30) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

(i) facilitates cannabis combustion; or

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

[~~(25)~~] (31) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

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

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

(b) is connected to the electronic verification system.

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

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

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

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

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

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

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

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

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

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

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

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

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

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

(I) a resin or wax;

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

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

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

(C) is labeled with the container’s content and weight, the date of purchase, the legal

use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) is connected to the electronic verification system.

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

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

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

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

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

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

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

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

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

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

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

(a) a driver license;

(b) a United States passport;

(c) a United States passport card; or

(d) a United States military identification card.

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

26-61a-103. Electronic verification system.

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

(a) enter into a memorandum of understanding in order to determine the function and

operation of the state electronic verification system in accordance with Subsection (2);

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

(c) select a third-party provider who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) connects with:

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

(A) the time and date of each purchase;

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

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

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

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

(e) provides access to:

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

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

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

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

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

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

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

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

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

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

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

(ii) after obtaining a warrant; and

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

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

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

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

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

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

qualified medical provider if:

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

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

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

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

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

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

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

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

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

(a) conducting medical and other department approved research;

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

(c) other official department purposes.

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

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

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

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

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

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

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

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

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

(i) a third degree felony; and

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

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

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

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

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

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

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

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

26-61a-105. Compassionate Use Board.

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

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

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

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

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

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

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

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

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

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

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

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

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

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

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

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

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

(5) The Compassionate Use Board shall:

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

(i) for an individual who is not otherwise qualified to receive a medical cannabis card,

the individual's qualified medical provider is actively treating the individual for an intractable condition that:

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

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

(ii) the qualified medical provider:

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

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

(iii) the Compassionate Use Board determines that:

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

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

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

(c) unless no petitions are pending:

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

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

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

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

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

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

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

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

(a) time is of the essence;

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

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

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

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

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

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

(A) issue the relevant medical cannabis card; and

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

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

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

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

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend

approval under this section.

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

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

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

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

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

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

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

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

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

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

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

(A) has the authority to write a prescription;

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

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

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

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

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

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

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

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

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

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

(i) a pharmacy medical provider; or

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

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

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

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

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

(i) complete continuing education:

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

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

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

Professional Licensing and:

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

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

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

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

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

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

(i) the provisions of this chapter;

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

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

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

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

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

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

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and

palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

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

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

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

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

(i) a green cross;

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

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

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

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

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

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

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

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

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

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

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

(i) applies for renewal;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the individual is a Utah resident;

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

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

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

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

(A) is at least 18 years old;

(B) is a Utah resident;

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

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

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

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

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

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

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment

to address the minor's qualifying condition;

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

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

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

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

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

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

(ii) with the recommending qualified medical provider; and

(iii) with information including:

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

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

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

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

(b) The department shall ensure that a medical cannabis card the department issues

under this section contains the information described in Subsection (3)(a)(iii).

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

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

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

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

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

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

(A) ingest or inhale medical cannabis;

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

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

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

(a) before recommending <u>or renewing a recommendation for medical</u> cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

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

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

(A) the state electronic verification system; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

product in a medicinal dosage form, or a medical cannabis device.

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

(i) may possess:

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

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

(C) marijuana drug paraphernalia; and

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

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

(a) risks associated with medical cannabis treatment;

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

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

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

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

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

(i) to a nonresident patient; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) may possess marijuana drug paraphernalia; and

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

(3) (a) The department shall:

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

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

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

(C) complies with this section; and

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

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

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

(a) is at least 21 years old;

(b) is a Utah resident;

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

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

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

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

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

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

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony <u>drug distribution offense</u>; or

(ii) after December 3, 2018, a misdemeanor [~~for~~] drug distribution offense.

(9) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 20. Section **26-61a-204** is amended to read:

26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

(1) (a) A medical cannabis cardholder who possesses medical cannabis that the cardholder purchased under this chapter:

(i) shall carry:

(A) at all times the cardholder's medical cannabis card; and

(B) after the earlier of January 1, 2021, or the day on which the individual purchases any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system; and

(ii) may possess up to the legal dosage limit of:

(A) unprocessed cannabis in medicinal dosage form; and

(B) a cannabis product in medicinal dosage form; [~~and~~]

(iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii)[~~.~~];

(iv) may only possess the medical cannabis in the container in which the cardholder received the medical cannabis from the medical cannabis pharmacy; and

(v) may not alter or remove any label described in Section 4-41a-602 from the container described in Subsection (1)(a)(iv).

(b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense, is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

Section 21. Section **26-61a-301** is amended to read:

26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least $125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned

as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; [~~and~~]

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii)[~~.~~]; and

(c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(i) shall consult with the Department of Agriculture and Food regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) (a) The department may revoke a license under this part:

[~~(a)~~] (i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

[~~(b)~~] (ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

[~~(c)~~] (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

[~~(i)~~] (A) a felony; or

[~~(ii)~~] (B) after December 3, 2018, a misdemeanor for drug distribution;

[~~(d)~~] (iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action; or

[~~(e)~~] (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this

chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section [~~in~~] into the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

Section 22. Section **26-61a-305** is amended to read:

26-61a-305. Maximum number of licenses -- Home delivery medical cannabis pharmacies.

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue [~~14~~] up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If [~~fewer than 14~~] an insufficient number of qualified applicants apply [~~for a~~] for the available number of medical cannabis pharmacy [~~license~~] licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) [~~in two phases~~] in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with [~~this~~] Subsection (1)(c)(i), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within ~~{a county of the fourth, fifth, or sixth class, or a county of the third class that does not border a county of the first or second class, in the eastern or southern geographic regions that the department identifies under Subsection (1)(c)(ii)}~~Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i);

(B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

(C) report to the Executive Appropriations Committee of the Legislature before each

time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

Section 23. Section **26-61a-403** is amended to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy

Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a qualified medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the individual dispenses medical cannabis.

(b) For purposes of this Subsection (5), the communication of the following, through a website, by a pharmacy medical provider, does not constitute advertising:

(i) a green cross;

(ii) the individual's registration as a pharmacy medical provider; or

(iii) a scientific study regarding medical cannabis use.

Section 24. Section **26-61a-501** is amended to read:

26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 78A-6-805; and

(b) except as provided in Subsection (5)[~~,~~]:

(i) possesses a valid:

[~~(i)~~] (A) medical cannabis pharmacy agent registration card;

[~~(ii)~~] (B) pharmacy medical provider registration card; or

[~~(iii)~~] (C) medical cannabis card[~~.~~];

(ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section 26-61a-504; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.

(5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(6) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

(8) [~~A~~] Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis

pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the qualified medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection [~~(10)(b)(ii)~~] (10)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the qualified medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the following labeling requirements if the information is already provided on the product label that a cannabis production establishment affixes:

(A) Subsection (10)(b)(i)(B) regarding a unique identification number;

(B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;

(C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and

(D) Subsection (10)(b)(i)(H) regarding a suggested use date.

[~~(ii)~~] (iii) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (10)(b)(i).

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(b) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products

by a medical cannabis pharmacy.

Section 25. Section **26-61a-502** is amended to read:

26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; or

(B) a department registration described in Subsection [~~26-61a-202(10)~~] 26-61a-201(10); [~~or~~] and

[~~(C) until December 31, 2020, a letter from a medical provider in accordance with Subsection (10); and~~]

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder [~~or to an individual described in Subsection (10)(b)~~], in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose qualified medical provider[~~, or for an individual described in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i),~~] did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

(3) An individual with a medical cannabis card [~~or an individual described in Subsection (10)(a)~~]:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

(ii) if the relevant qualified medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and

(c) may not use a route of administration that the relevant qualified medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a qualified medical provider recommends treatment with medical cannabis but [~~does not provide~~] wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the qualified medical provider shall [~~document in the recommendation~~] provide to the pharmacy medical provider any of the following information that the qualified medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) [~~an evaluation of~~] information regarding the qualifying condition underlying the

recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) (a) A medical cannabis pharmacy shall:

[~~(a) (i)~~] (i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

[~~(ii)~~] (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2)[~~: (A)~~], decline the sale[~~;~~] and [~~(B)~~] notify the qualified medical provider who made the underlying recommendation;

[~~(b)~~] (ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

[~~(c)~~] (iv) package any medical cannabis that is in a container that:

[~~(i)~~] (A) complies with Subsection 4-41a-602(2) or, if applicable, 26-61a-102[~~(32)~~](39)(a)(ii);

[~~(ii)~~] (B) is tamper-resistant and tamper-evident; and

[~~(iii) opaque; and~~]

(C) provides an opaque bag for the medical cannabis cardholder's use in transporting the container in public; and

[~~(d)~~] (v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag that the medical cannabis pharmacist provides.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

[~~(10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from a licensed medical cannabis pharmacy if:~~]

[~~(i) the individual presents to the medical cannabis pharmacy a letter from the medical professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical professional's medical cannabis recommendation for the individual;~~]

[~~(ii) the medical cannabis pharmacy receives independent confirmation from the medical professional described in Subsection (10)(a)(i) or an employee of the medical professional that the letter is valid;~~]

[~~(iii) the medical cannabis pharmacy:~~]

[~~(A) scans or photocopies the individual's letter and the individual's valid form of photo identification;~~]

[~~(B) creates a record of the transaction, including the documents described in Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis the individual purchased; and~~]

[~~(C) provides information to the individual about obtaining a medical cannabis card; and~~]

[~~(iv) unless the medical professional recommends specific directions of using and dosing guidelines in the letter, the pharmacy medical provider determines the best course of treatment through consultation with the individual regarding:~~]

[~~(A) the individual's qualifying condition underlying the recommendation from the medical professional;~~]

[~~(B) indications for available treatments;~~]

[~~(C) directions of use and dosing guidelines; and~~]

[~~(D) potential adverse reactions.~~]

[~~(b) (i) An individual who purchases medical cannabis from a medical cannabis pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different medical cannabis pharmacy under Subsection (10)(a).~~]

[~~(ii) If the department notifies a medical cannabis pharmacy, in accordance with Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a) from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an~~

~~item listed in Subsection (1)(a) to the individual under Subsection (10)(a).~~]

[~~(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the individual is a medical cannabis cardholder.~~]

[~~(c) (i) Until December 31, 2020, on or before the first day of each month, each medical cannabis pharmacy shall provide to the department, in a secure manner, information identifying each individual who has purchased medical cannabis from the medical cannabis pharmacy under Subsection (10)(a).~~]

[~~(ii) The department shall review information the department receives under Subsection (10)(c)(i) to identify any individuals who:~~]

[~~(A) have purchased medical cannabis under Subsection (10)(a) from more than one pharmacy; or~~]

[~~(B) hold a medical cannabis card.~~]

[~~(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the department shall notify each medical cannabis pharmacy regarding:~~]

[~~(A) the identification of the individual; and~~]

[~~(B) the individual's ineligibility to purchase medical cannabis for a reason described in Subsection (10)(b).~~]

[~~(11)~~] (10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section 26. Section **26-61a-504** is amended to read:

26-61a-504. Inspections.

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department or the Department of Agriculture and Food may inspect the records, facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4, Chapter 41a, Cannabis Production Establishments.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;

(b) questioning of any relevant individual;

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label;

(d) random sampling of medical cannabis by the Department of Agriculture and Food [~~to make the determinations described in Subsection 4-41a-701(2)~~] in accordance with rules described in Section 4-41a-701; or

(e) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.

(4) In making an inspection under this section, the department or the Department of Agriculture and Food may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department, the Department of Agriculture and Food, or the authorized agents of the department or the Department of Agriculture and Food immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

(6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection (3)(e) until the department:

(a) determines that sufficient compliance justifies the return of the seized items; or

(b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

Section 27. Section **26-61a-505** is amended to read:

26-61a-505. Advertising.

(1) Except as provided in this section, a medical cannabis pharmacy may not advertise in any medium.

(2) A medical cannabis pharmacy may advertise an employment opportunity at the medical cannabis pharmacy.

(3) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

[~~(a)~~] (i) includes only:

[~~(i)~~] (A) in accordance with Subsection (3)(b), the medical cannabis pharmacy's name, logo, and hours of operation; and

[~~(ii)~~] (B) a green cross; and

[~~(b)~~] (ii) complies with local ordinances regulating signage.

(b) The department shall define standards for a medical cannabis pharmacy's name and logo to ensure a medical rather than recreational disposition.

(4) (a) A medical cannabis pharmacy may maintain a website that includes information about:

(i) the location and hours of operation of the medical cannabis pharmacy;

(ii) a product or service available at the medical cannabis pharmacy;

(iii) personnel affiliated with the medical cannabis pharmacy;

(iv) best practices that the medical cannabis pharmacy upholds; and

(v) educational material related to the medical use of cannabis, as defined by the department.

(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection (4)(a).

(5) (a) A medical cannabis pharmacy may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A medical cannabis pharmacy may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis

Production Establishments;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; [~~or~~]

(E) a medical practitioner, similar to the practitioners described in this Subsection (5)(b)(iv), who is licensed in another state or country;

[~~(E)~~] (F) a state employee[~~.~~]; or

(G) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including:

(i) a minimum age of 21 years old for attendees[~~.~~]; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Section 28. Section **26-61a-605** is amended to read:

26-61a-605. Medical cannabis shipment transportation.

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a medical cannabis shipment unless the individual is:

(a) a registered pharmacy medical provider;

(b) a registered medical cannabis pharmacy agent; or

(c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall possess a physical or electronic transportation manifest that:

(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and estimated arrival times and locations of the individual transporting the medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 29. Section **26-61a-606** is amended to read:

26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless:

(a) the individual is an employee of a licensed medical cannabis courier; and

(b) the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the

Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis [~~courier~~] pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis

courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Section 30. Section **26-61a-607** is amended to read:

26-61a-607. Home delivery of medical cannabis shipments.

(1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:

(a) the individual receiving the shipment presents:

(i) a valid form of photo identification; and

(ii) a valid medical cannabis card under the same name that appears on the valid form of photo identification; and

(b) the delivery occurs at the medical cannabis cardholder's home address that is on file in the state electronic verification system.

(2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.

(3) The medical cannabis courier shall:

(a) (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and

(ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and

(c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.

(4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

(b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:

(i) rendering the shipment unusable and unrecognizable before transporting the

shipment from the home delivery medical cannabis pharmacy; and

(ii) disposing of the shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 31. Section **58-37-3.7** is amended to read:

58-37-3.7. Medical cannabis decriminalization.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Legal dosage limit" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Nonresident patient" means the same as that term is defined in Section 26-61a-102.

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed

under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

(B) the spouse of an individual described in Subsection (2)(a)(i); or

(iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(A) unprocessed cannabis in a medicinal dosage form; or

(B) a cannabis product in a medicinal dosage form; and

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(3) A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(i) unprocessed cannabis in a medicinal dosage form; or

(ii) a cannabis product in a medicinal dosage form; and

(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4) (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of tetahyrdrocannabinol in the sample; and

(ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.

(b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized under:

(i) Section 4-41-402; or

(ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

(5) (a) An individual is not guilty under this chapter for the use or possession of marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

(b) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for the protections of this section to sell a medical cannabis device.

Section 32. Section **58-37-3.9** is amended to read:

58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) " Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b):

(A) for the first offense, guilty of an infraction and subject to a fine of up to $100; and

(B) for a second or subsequent offense, subject to charges under this chapter.

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

(5) (a) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for the protections of this section to sell a medical cannabis device.

Section 33. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 34. **Coordinating S.B. 192 with S.B. 170 -- Substantive amendments.**

If this S.B. 192 and S.B. 170, Consumer Protection for Cannabis Patients, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 26-61a-502(4)(a) to read:

"(4) If a [~~qualified~~] recommending medical provider recommends treatment with medical cannabis but [~~does not provide~~] wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the [~~qualified~~] recommending medical provider shall [~~document in the recommendation~~] provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) [~~[an evaluation of~~] information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and".

SB0192S03 compared with SB0192S02