

Senator Evan J. Vickers proposes the following substitute bill:

MEDICAL CANNABIS ACT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions related to the production and distribution of medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the distinction between allowable hemp products and medical cannabis products based on tetrahydrocannabinol (THC) and THC analog concentration;
- ▶ requires certain retailers marketing a hemp or cannabinoid product to include a statement that the product is not cannabis or medical cannabis;
- ▶ requires the identification of any cannabinoids above a certain quantity in a cannabis product;
- ▶ identifies an unlawful act of distributing, selling, or marketing an industrial hemp product that contains a certain amount of THC or a THC analog;
- ▶ allows the Utah Department of Agriculture and Food (UDAF) to partner with research universities to provide cannabis testing laboratories;
- ▶ grants rulemaking authority to UDAF to establish performance standards for licensed independent cannabis testing laboratories;



- 26 ▶ provides that certain licenses are non-transferable, and new owners of a licensed
27 business are subject to a modified application process for a new license;
- 28 ▶ prohibits the introduction of industrial hemp waste from outside the state into the
29 medical cannabis production stream;
- 30 ▶ provides rulemaking authority to UDAF to further define standards regarding labels,
31 packaging, and product forms that may appeal to children;
- 32 ▶ amends product labeling requirements;
- 33 ▶ clarifies that a sugar coating on certain cannabis product is not prohibited under
34 certain circumstances;
- 35 ▶ clarifies provisions related to the liquid suspension medicinal dosage form;
- 36 ▶ includes an aerosol as an approved medicinal dosage form;
- 37 ▶ expands medical cannabis pharmacy employee access to the electronic verification
38 system;
- 39 ▶ amends an exception for public employee protections;
- 40 ▶ removes a requirement for medical provider approval of a patient's caregiver
41 designation;
- 42 ▶ allows the Utah Department of Health (UDOH) to issue conditional medical
43 cannabis caregiver cards in relation to designating patients with a terminal illness;
- 44 ▶ amends provisions regarding designated caregivers to contemplate a caregiver being
45 designated by more than one medical cannabis cardholder;
- 46 ▶ allows UDOH to issue a conditional medical cannabis pharmacy license when a
47 license renewal process is not complete before the pharmacy's license expires;
- 48 ▶ requires medical cannabis pharmacy agents to complete certain continuing
49 education in federal health privacy laws;
- 50 ▶ removes a prohibition on medical cannabis pharmacies employing an individual
51 with a felony;
- 52 ▶ allows for the Cannabis Production Establishment Licensing Advisory Board to
53 review certain information in a closed meeting;
- 54 ▶ aligns the concept of unprofessional conduct between the various types of
55 recommending medical providers;
- 56 ▶ removes certain outdated dates; and

57 ▶ makes technical and conforming changes.

58 **Money Appropriated in this Bill:**

59 None

60 **Other Special Clauses:**

61 This bill provides a special effective date.

62 **Utah Code Sections Affected:**

63 AMENDS:

64 **4-41-102**, as last amended by Laws of Utah 2020, Chapters 12 and 14

65 **4-41-103.3**, as enacted by Laws of Utah 2020, Chapter 14

66 **4-41-103.4**, as enacted by Laws of Utah 2020, Chapter 14

67 **4-41-105**, as last amended by Laws of Utah 2020, Chapter 14

68 **4-41-402**, as last amended by Laws of Utah 2020, Chapter 12

69 **4-41a-102**, as last amended by Laws of Utah 2021, Chapters 337 and 350

70 **4-41a-201**, as last amended by Laws of Utah 2021, Chapter 350

71 **4-41a-203**, as last amended by Laws of Utah 2021, Chapter 350

72 **4-41a-501**, as last amended by Laws of Utah 2021, Chapter 350

73 **4-41a-502**, as renumbered and amended by Laws of Utah 2018, Third Special Session,
74 Chapter 1

75 **4-41a-602**, as last amended by Laws of Utah 2021, Chapters 337 and 350

76 **4-41a-603**, as last amended by Laws of Utah 2021, Chapter 350

77 **4-41a-701**, as last amended by Laws of Utah 2021, Chapter 350

78 **26-61a-102**, as last amended by Laws of Utah 2021, Chapters 337 and 350

79 **26-61a-103**, as last amended by Laws of Utah 2021, Chapters 17, 337, 344, and 350

80 **26-61a-111**, as last amended by Laws of Utah 2021, Chapter 344

81 **26-61a-201**, as last amended by Laws of Utah 2021, Chapters 17 and further amended
82 by Revisor Instructions, Laws of Utah 2021, Chapters 337, 337, and 350

83 **26-61a-202**, as last amended by Laws of Utah 2021, Chapters 17, 337, and 350

84 **26-61a-204**, as last amended by Laws of Utah 2021, Chapter 350

85 **26-61a-301**, as last amended by Laws of Utah 2021, Chapter 350

86 **26-61a-303**, as last amended by Laws of Utah 2021, Chapters 84 and 345

87 **26-61a-305**, as last amended by Laws of Utah 2021, Chapter 350

- 88 [26-61a-401](#), as last amended by Laws of Utah 2021, Chapter 337
- 89 [26-61a-501](#), as last amended by Laws of Utah 2021, Chapters 337 and 350
- 90 [26-61a-502](#), as last amended by Laws of Utah 2021, Chapters 337, 350 and last
- 91 amended by Coordination Clause, Laws of Utah 2021, Chapter 350
- 92 [26-61a-604](#), as last amended by Laws of Utah 2020, Chapter 354
- 93 [26-61a-606](#), as last amended by Laws of Utah 2021, Chapter 350
- 94 [52-4-205](#), as last amended by Laws of Utah 2021, Chapters 179 and 231
- 95 [58-5a-102](#), as last amended by Laws of Utah 2021, Chapter 337
- 96 [58-31b-502](#), as last amended by Laws of Utah 2021, Chapters 263 and 337
- 97 [58-70a-503](#), as last amended by Laws of Utah 2021, Chapters 312 and 337

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

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

101 **4-41-102. Definitions.**

102 As used in this chapter:

103 (1) "Cannabinoid product" means a [~~chemical compound extracted from a hemp~~]
104 product that:

105 [~~(a) is processed into a medicinal dosage form; and~~]

106 (a) contains one or more cannabinoids;

107 (b) contains less than [0.3% tetrahydrocannabinol] the cannabinoid product THC level,
108 by dry weight[-]; and

109 (c) contains a combined amount of total THC and any THC analog that does not
110 exceed 10% of the total cannabinoid content.

111 (2) "Cannabinoid product THC level" means a combined concentration of total THC
112 and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a
113 result within a measurement of uncertainty that includes the combined concentration of 0.3%.

114 (3) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the cannabinoid identified
115 as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

116 [~~(2)~~] (4) "Industrial hemp" means any part of a cannabis plant, whether growing or not,
117 with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

118 [~~(3)~~] (5) "Industrial hemp certificate" means a certificate that the department issues to a

119 higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

120 [(4)] (6) "Industrial hemp certificate holder" means a person possessing an industrial
121 hemp certificate that the department issues under this chapter.

122 [(5)] (7) "Industrial hemp laboratory permit" means a permit that the department issues
123 to a laboratory qualified to test industrial hemp under the state hemp production plan.

124 [(6)] (8) "Industrial hemp producer license" means a license that the department issues
125 to a person for the purpose of cultivating or processing industrial hemp or an industrial hemp
126 product.

127 [(7)] (9) "Industrial hemp retailer permit" means a permit that the department issues to
128 a retailer who sells any industrial hemp product.

129 [(8)] (10) "Industrial hemp product" means a product derived from, or made by,
130 processing industrial hemp plants or industrial hemp parts.

131 [(9)] (11) "Laboratory permittee" means a person possessing an industrial hemp
132 laboratory permit that the department issues under this chapter.

133 [(10)] (12) "Licensee" means a person possessing an industrial hemp producer license
134 that the department issues under this chapter.

135 [(11)] (13) "Medicinal dosage form" means:

136 (a) a tablet;

137 (b) a capsule;

138 (c) a concentrated oil;

139 (d) a liquid suspension that does not exceed 30ml;

140 (e) a sublingual preparation;

141 (f) a topical preparation;

142 (g) a transdermal preparation;

143 (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
144 cuboid shape; or

145 (i) other preparations that the department approves.

146 [(12)] (14) "Non-compliant material" means:

147 (a) a hemp plant [~~or hemp product~~] that does not comply with this chapter, including a
148 cannabis plant [~~or product that contains~~] with a concentration of 0.3% tetrahydrocannabinol or
149 greater by dry weight[-]; and

150 (b) a cannabinoid product, chemical, or compound with a concentration that exceeds
151 the cannabinoid product THC level.

152 ~~[(13)]~~ (15) "Permittee" means a person possessing a permit that the department issues
153 under this chapter.

154 ~~[(14)]~~ (16) "Person" means:

155 (a) an individual, partnership, association, firm, trust, limited liability company, or
156 corporation; and

157 (b) an agent or employee of an individual, partnership, association, firm, trust, limited
158 liability company, or corporation.

159 ~~[(15)]~~ (17) "Research pilot program" means a program conducted by the department in
160 collaboration with at least one licensee to study methods of cultivating, processing, or
161 marketing industrial hemp.

162 ~~[(16)]~~ (18) "Retailer permittee" means a person possessing an industrial hemp retailer
163 permit that the department issues under this chapter.

164 ~~[(17)]~~ (19) "State hemp production plan" means a plan submitted by the state to, and
165 approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter
166 990.

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

169 (21) (a) "THC analog" means a substance that is structurally or pharmacologically
170 substantially similar to, or is represented as being similar to, delta-9-THC.

171 (b) "THC analog" does not include the following substances or the naturally occurring
172 acid forms of the following substances:

173 (i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

174 (ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

175 (iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

176 (iv) cannabidivanol (CBDV), the cannabinoid identified as CAS# 24274-48-4;

177 (v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

178 (vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

179 (vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

180 (viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

181 (ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or
 182 (x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS#
 183 31262-37-0.

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

187 Section 2. Section **4-41-103.3** is amended to read:

188 **4-41-103.3. Industrial hemp retailer permit.**

189 (1) ~~[A]~~ Except as provided in Subsection (4), a retailer permittee of the department
 190 may market or sell industrial hemp products.

191 (2) A person seeking an industrial hemp retailer permit shall provide to the department:

- 192 (a) the name of the person that is seeking to market or sell an industrial hemp product;
- 193 (b) the address of each location where the industrial hemp product will be sold; and
- 194 (c) written consent allowing a representative of the department to enter all premises

195 where the person is selling an industrial hemp product for the purpose of:

- 196 (i) conducting a physical inspection; or
- 197 (ii) ensuring compliance with the requirements of this chapter.

198 (3) The department may set a fee in accordance with Subsection **4-2-103(2)** for the
 199 application for an industrial hemp retailer permit.

200 (4) A retailer permittee that markets an industrial hemp product or that sells an
 201 industrial hemp product shall include in any marketing a notice to consumers that the product
 202 is hemp and is not cannabis or medical cannabis, as those terms are defined in Section
 203 [26-61a-102](#).

204 Section 3. Section **4-41-103.4** is amended to read:

205 **4-41-103.4. Industrial hemp laboratory permit.**

206 (1) The department or a laboratory permittee of the department may test industrial
 207 hemp and industrial hemp products.

208 (2) The department or a laboratory permittee of the department may dispose of
 209 non-compliant material.

210 (3) A laboratory seeking an industrial hemp laboratory permit shall:

- 211 (a) demonstrate to the department that:

212 (i) the laboratory and laboratory staff possess the professional certifications required by
213 department rule;

214 (ii) the laboratory has the ability to test industrial hemp and industrial hemp products
215 using the standards, methods, practices, and procedures required by department rule;

216 (iii) the laboratory has the ability to meet the department's minimum standards of
217 performance for detecting [~~delta-9 tetrahydrocannabinol (THC) concentration levels~~]
218 concentration levels of THC and any cannabinoid known to be present; and

219 (iv) the laboratory has a plan that complies with the department's rule for the safe
220 disposal of non-compliant material; and

221 (b) provide to the department written consent allowing a representative of the
222 department and local law enforcement to enter all premises where the laboratory tests,
223 processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the
224 purpose of:

225 (i) conducting a physical inspection; or

226 (ii) ensuring compliance with the requirements of this chapter.

227 (4) An individual who has been convicted of a drug-related felony within the last 10
228 years is not eligible to obtain a license under this chapter.

229 (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the
230 application for an industrial hemp laboratory permit.

231 Section 4. Section 4-41-105 is amended to read:

232 **4-41-105. Unlawful acts.**

233 (1) It is unlawful for a person to cultivate, handle, process, or market living industrial
234 hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp
235 without the appropriate license or permit issued by the department under this chapter.

236 (2) It is unlawful for any person to distribute, sell, or market an industrial hemp
237 product or cannabinoid product:

238 (a) that is not registered with the department [~~pursuant to~~] under Section 4-41-104[?];

239 or

240 (b) with a cannabinoid concentration that exceeds the cannabinoid product THC level.

241 (3) The department may seize and destroy non-compliant material.

242 (4) Nothing in this chapter authorizes any person to violate federal law, regulation, or

243 any provision of this title.

244 Section 5. Section ~~4-41-402~~ is amended to read:

245 **4-41-402. Cannabinoid sales and use authorized.**

246 (1) The sale or use of a cannabinoid product is prohibited:

247 (a) except as provided in this chapter; or

248 (b) unless the United States Food and Drug Administration approves the product.

249 (2) The department shall keep a list of registered cannabinoid products that the

250 department has determined, in accordance with Section ~~4-41-403~~, are safe for human

251 consumption.

252 (3) (a) A person may sell or use a cannabinoid product that is in the list of registered
253 cannabinoid products described in Subsection (2).

254 (b) An individual may use cannabidiol or a cannabidiol product that is not in the list of
255 registered cannabinoid products described in Subsection (2) if:

256 (i) the individual purchased the product outside the state; and

257 (ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled

258 Substances Act.

259 (4) A person marketing a cannabinoid product or selling a cannabinoid product shall
260 include in any marketing a notice to consumers that the product is hemp or CBD and is not
261 cannabis or medical cannabis, as those terms are defined in Section ~~26-61a-102~~.

262 Section 6. Section ~~4-41a-102~~ is amended to read:

263 **4-41a-102. Definitions.**

264 As used in this chapter:

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

267 (a) pesticides;

268 (b) heavy metals;

269 (c) solvents;

270 (d) microbial life;

271 (e) toxins; or

272 (f) foreign matter.

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

274 Section 26-61-201.

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

276 (4) "Cannabis concentrate" means:

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

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

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

283 (6) "Cannabis cultivation facility" means a person that:

284 (a) possesses cannabis;

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

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

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

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

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

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

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

294 (10) "Cannabis processing facility" means a person that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

322 [~~(19)~~] (18) "Department" means the Department of Agriculture and Food.

323 [~~(20)~~] (19) "Derivative cannabinoid" means any cannabinoid that has been intentionally
324 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

325 [~~(21)~~] (20) "Family member" means a parent, step-parent, spouse, child, sibling,
326 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
327 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

328 [~~(22)~~] (21) (a) "Independent cannabis testing laboratory" means a person that:

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

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

332 (b) "Independent cannabis testing laboratory" includes a laboratory that the department
333 or a research university operates in accordance with Subsection [4-41a-201](#)(14).

334 [~~(23)~~] (22) "Independent cannabis testing laboratory agent" means an individual who:

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

336 (b) holds a valid cannabis production establishment agent registration card.
337 ~~[(24)]~~ (23) "Industrial hemp waste" means:
338 (a) a cannabinoid ~~[extract above 0.3% total THC derived from verified industrial hemp~~
339 ~~biomass]~~ concentrate; or
340 (b) ~~[verified]~~ industrial hemp biomass ~~[with a total THC concentration of less than~~
341 ~~0.3% by dry weight]~~.
342 ~~[(25)]~~ (24) "Inventory control system" means a system described in Section [4-41a-103](#).
343 ~~[(26)]~~ (25) "Licensing board" or "board" means the Cannabis Production Establishment
344 Licensing Advisory Board created in Section [4-41a-201.1](#).
345 ~~[(27)]~~ (26) "Medical cannabis" means the same as that term is defined in Section
346 [26-61a-102](#).
347 ~~[(28)]~~ (27) "Medical cannabis card" means the same as that term is defined in Section
348 [26-61a-102](#).
349 ~~[(29)]~~ (28) "Medical cannabis pharmacy" means the same as that term is defined in
350 Section [26-61a-102](#).
351 ~~[(30)]~~ (29) "Medical cannabis pharmacy agent" means the same as that term is defined
352 in Section [26-61a-102](#).
353 ~~[(31)]~~ (30) "Medical cannabis research license" means a license that the department
354 issues to a research university for the purpose of obtaining and possessing medical cannabis for
355 academic research.
356 ~~[(32)]~~ (31) "Medical cannabis research licensee" means a research university that the
357 department licenses to obtain and possess medical cannabis for academic research, in
358 accordance with Section [4-41a-901](#).
359 ~~[(33)]~~ (32) "Medical cannabis treatment" means the same as that term is defined in
360 Section [26-61a-102](#).
361 ~~[(34)]~~ (33) "Medicinal dosage form" means the same as that term is defined in Section
362 [26-61a-102](#).
363 ~~[(35)]~~ (34) "Qualified medical provider" means the same as that term is defined in
364 Section [26-61a-102](#).
365 ~~[(36)]~~ (35) "Qualified Production Enterprise Fund" means the fund created in Section
366 [4-41a-104](#).

367 [(37)] (36) "Recommending medical provider" means the same as that term is defined
368 in Section [26-61a-102](#).

369 [(38)] (37) "Research university" means the same as that term is defined in Section
370 [53B-7-702](#) and a private, nonprofit college or university in the state that:

- 371 (a) is accredited by the Northwest Commission on Colleges and Universities;
- 372 (b) grants doctoral degrees; and
- 373 (c) has a laboratory containing or a program researching a schedule I controlled
374 substance described in Section [58-37-4](#).

375 [(39)] (38) "State electronic verification system" means the system described in Section
376 [26-61a-103](#).

377 [(40)] (39) "Synthetic cannabinoid" means any cannabinoid that:

- 378 (a) was chemically synthesized from starting materials other than a naturally occurring
379 cannabinoid; and
- 380 (b) is not a derivative cannabinoid.

381 [(41)] (40) "Tetrahydrocannabinol" or "THC" means [~~a substance derived from~~
382 ~~cannabis or a synthetic equivalent as described in Subsection [58-37-4](#)(2)(a)(iii)(AA)] the same
383 as that term is defined in Section [4-41-102](#).~~

384 (41) "THC analog" means the same as that term is defined in Section [4-41-102](#).

385 (42) "Total composite tetrahydrocannabinol" means all detectable forms of
386 tetrahydrocannabinol.

387 (43) "Total tetrahydrocannabinol" or "total THC" means the [~~sum of the determined~~
388 ~~amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC =~~
389 ~~delta-9-THC + (THCA x 0.877)."~~] same as that term is defined in Section [4-41-102](#).

390 Section 7. Section **4-41a-201** is amended to read:

391 **4-41a-201. Cannabis production establishment -- License.**

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

394 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section [4-41a-205](#), for a
395 licensing process that the department initiates after [~~the effective date of this bill~~] March 17,
396 2021, the department, through the licensing board, shall issue licenses in accordance with
397 Section [4-41a-201.1](#).

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

- 400 (A) solicit applications for a license under this section;
- 401 (B) allow for comments and questions in the development of applications;
- 402 (C) timely and objectively evaluate applications;
- 403 (D) hold public hearings that the department deems appropriate; and
- 404 (E) select applicants to receive a license.

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

407 (b) An applicant is eligible for a license under this section if the applicant submits to
408 the licensing board:

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

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

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

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

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

420 (iii) an operating plan that:

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

422 (B) includes operating procedures that comply with this chapter and any law the
423 municipality or county in which the person is located adopts that is consistent with Section
424 4-41a-406; and

425 (C) the department or licensing board approves;

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

428 (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or

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

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

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

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

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

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

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

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

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

451 (3) If the licensing board approves an application for a license under this section and
452 Section 4-41a-201.1:

453 (a) the applicant shall pay the department:

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

456 (ii) a fee for a 120-day limited license to operate as a cannabis processing facility
457 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
458 Subsection (3)(a)(i); and

459 (b) the department shall notify the Department of Public Safety of the license approval

460 and the names of each individual described in Subsection (2)(b)(ii).

461 (4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment
462 shall obtain a separate license for each type of cannabis production establishment and each
463 location of a cannabis production establishment.

464 (b) The licensing board may issue a cannabis cultivation facility license and a cannabis
465 processing facility license to a person to operate at the same physical location or at separate
466 physical locations.

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

470 (6) The licensing board may not issue a license to operate an independent cannabis
471 testing laboratory to a person who:

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

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

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

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

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

483 (i) a felony; or

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

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

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

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

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

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

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

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

499 (B) the licensing board finds multiple other factors, in addition to the existing license,
500 that support granting the new license.

501 (9) The licensing board may revoke a license under this part:

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

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

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

508 (i) a felony; or

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

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

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

518 (f) if, after a change of ownership described in Subsection (15)(c), the board
519 determines that the cannabis production establishment no longer meets the minimum standards
520 for licensure and operation of the cannabis production establishment described in this chapter;
521 or

522 (g) for an independent cannabis testing laboratory, if the independent cannabis testing
523 laboratory fails to substantially meet the performance standards described in Subsection
524 (14)(b).

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

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

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

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

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

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

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

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

543 (14) (a) Notwithstanding this section, the department:

544 ~~[(a)]~~ (i) may not issue more than four licenses to operate an independent cannabis
545 testing laboratory;

546 ~~[(b)]~~ (ii) may operate or partner with a research university to operate an independent
547 cannabis testing laboratory;

548 ~~[(c)]~~ (iii) if the department operates or partners with a research university to operate an
549 independent cannabis testing laboratory, may not cease operating or partnering with a research
550 university to operate the independent cannabis testing laboratory unless:

551 ~~[(i)]~~ (A) the department issues at least two licenses to independent cannabis testing
552 laboratories; and

553 [(†)] (B) the department has ensured that the licensed independent cannabis testing
554 laboratories have sufficient capacity to provide the testing necessary to support the state's
555 medical cannabis market; and

556 [(†)] (iv) after ceasing department or research university operations under Subsection
557 ~~[(14)(d)(†)]~~ (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any
558 time if:

559 [(†)] (A) fewer than two licensed independent cannabis testing laboratories are
560 operating; or

561 [(†)] (B) the licensed independent cannabis testing laboratories become, in the
562 department's determination, unable to fully meet the market demand for testing.

563 (b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
564 Administrative Rulemaking Act, to establish performance standards for the operation of an
565 independent cannabis testing laboratory, including deadlines testing completion.

566 (ii) A license that the department issues to an independent cannabis testing laboratory
567 is contingent upon substantial satisfaction of the performance standards described in
568 Subsection (14)(b)(i), as determined by the board.

569 (15) (a) A cannabis production establishment license is not transferrable or assignable.

570 (b) If the ownership of a cannabis production establishment changes by 50% or more:

571 (i) the cannabis production establishment shall submit a new application described in
572 Subsection (2)(b), subject to Subsection (2)(c);

573 (ii) within 30 days of the submission of the application, the board shall:

574 (A) conduct the application review described in Section [4-41a-201.1](#); and

575 (B) award a license to the cannabis production establishment for the remainder of the
576 term of the cannabis production establishment's license before the ownership change if the
577 cannabis production establishment meets the minimum standards for licensure and operation of
578 the cannabis production establishment described in this chapter; and

579 (iii) if the board approves the license application, notwithstanding Subsection (3), the
580 cannabis production establishment shall pay a license fee that the department sets in
581 accordance with Section [63J-1-504](#) in an amount that covers the board's cost of conducting the
582 application review.

583 Section 8. Section **4-41a-203** is amended to read:

584 **4-41a-203. Renewal.**

585 The department shall renew a license issued under Section 4-41a-201 every year if:

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

587 (2) the board does not identify:

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

590 (b) grounds for revocation described in Subsections 4-41a-201(9)(b) through [~~(f)~~] (g);

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

593 (4) if the cannabis production establishment changes the operating plan described in
594 Section 4-41a-204 that the department or licensing board approved under Subsection
595 4-41a-201(2)(b)(iii), the department approves the new operating plan.

596 Section 9. Section 4-41a-501 is amended to read:

597 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

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

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

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

605 (b) each unique harvest of cannabis plants;

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

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

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

612 (4) A cannabis cultivation facility shall either:

613 (a) ensure that a cannabis processing facility chemically or physically processes
614 cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into

615 cannabis derivative products; or

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

617 (5) ~~[(a)-(i)]~~ A cannabis cultivation facility may not purchase or otherwise receive
618 industrial hemp waste ~~[unless the waste meets department cannabis testing standards, as~~
619 ~~determined by an independent cannabis testing laboratory, before the transfer of the waste to~~
620 ~~the cannabis cultivation facility],~~ except under limited circumstances in which the department
621 determines there is a minimal risk of safety or security concern, as the department specifies in
622 rules that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative
623 Rulemaking Act.

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

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

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

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

633 Section 10. Section 4-41a-502 is amended to read:

634 **4-41a-502. Cannabis -- Labeling and child-resistant packaging.**

635 (1) For any cannabis that a cannabis cultivation facility cultivates or otherwise
636 produces and subsequently ships to another cannabis production establishment, the facility
637 shall:

638 ~~[(1)]~~ (a) label the cannabis with a label that has a unique batch identification number
639 that is connected to the inventory control system; and

640 ~~[(2)]~~ (b) package the cannabis in a container that is:

641 ~~[(a)]~~ (i) tamper evident; and

642 ~~[(b)]~~ (ii) not appealing to children.

643 (2) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
644 Administrative Rulemaking Act, to further define standards regarding containers that may
645 appeal to children under Subsection (1)(b)(ii).

646 Section 11. Section **4-41a-602** is amended to read:

647 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

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

653 (ii) clearly displays the amount of total composite tetrahydrocannabinol [~~and~~],
654 cannabidiol, and any known cannabinoid described in Subsection [4-41a-701\(4\)](#) in the labeled
655 container;

656 (iii) has a unique identification number that:

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

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

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

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

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

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

668 (i) is tamper evident and tamper resistant;

669 (ii) does not appeal to children;

670 (iii) does not mimic a candy container;

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

673 (v) includes a warning label that states:

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

677 only as directed by a qualified medical provider."; or

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

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

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

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

689 (3) For any cannabis product that contains any derivative cannabinoid or synthetic
690 cannabinoid, the cannabis processing facility shall ensure that the label clearly:

691 (a) identifies each derivative cannabinoid or synthetic cannabinoid; and

692 (b) identifies that each derivative or synthetic cannabinoid is a derivative or synthetic
693 cannabinoid.

694 (4) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
695 Act, the department:

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

698 ~~[(a)]~~ (i) a standard labeling format that:

699 ~~[(i)]~~ (A) complies with the requirements of this section; and

700 ~~[(ii)]~~ (B) ensures inclusion of a pharmacy label; and

701 ~~[(b)]~~ (ii) additional requirements on packaging for cannabis and cannabis products to
702 ensure safety and product quality~~[-];~~ and

703 (b) may make rules to further define standards regarding images, words, phrases, or
704 containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

705 Section 12. Section ~~4-41a-603~~ is amended to read:

706 **4-41a-603. Cannabis product -- Product quality.**

707 (1) A cannabis processing facility:

708 (a) may not produce a cannabis product in a physical form that:
709 (i) the facility knows or should know appeals to children;
710 (ii) is designed to mimic or could be mistaken for a candy product; or
711 (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another
712 flavor that the facility knows or should know appeals to children; and

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

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

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

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

722 (a) adopt human safety standards for the manufacturing of cannabis products that are
723 consistent with best practices for the use of cannabis[-]; and

724 (b) further define standards regarding products that may appeal to children under
725 Subsection (1)(a).

726 (5) Nothing in this section prohibits a sugar coating on a gelatinous cube, gelatinous
727 rectangular cuboid, lozenge to mask the product's taste, subject to the limitations on form and
728 appearance described in Subsections (1)(a) and (4)(b).

729 Section 13. Section **4-41a-701** is amended to read:

730 **4-41a-701. Cannabis and cannabis product testing.**

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

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

735 (b) determine the amount of any adulterant that is safe for human consumption;

736 (c) establish protocols for a recall of cannabis or a cannabis product by a cannabis
737 production establishment; or

738 (d) allow the propagation of testing results forward to derived product if the processing

739 steps the cannabis production establishment uses to produce the product are unlikely to change
740 the results of the test.

741 (2) The department may require testing for a toxin if:

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

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

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

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

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

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

755 (4) Before the sale of a cannabis product, an independent cannabis testing laboratory
756 shall identify and quantify any cannabinoid known to be present in a cannabis product.

757 [~~4~~] (5) The department shall establish by rule, in accordance with Title 63G, Chapter
758 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
759 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

760 [~~5~~] (6) The department may require an independent cannabis testing laboratory to
761 participate in a proficiency evaluation that the department conducts or that an organization that
762 the department approves conducts.

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

764 **26-61a-102. Definitions.**

765 As used in this chapter:

766 (1) "Active tetrahydrocannabinol" means [~~Delta-8-THC, Delta-9-THC~~] THC, any THC
767 analog, and tetrahydrocannabinolic acid.

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

- 770 (3) "Cannabis" means marijuana.
- 771 (4) "Cannabis cultivation facility" means the same as that term is defined in Section
772 4-41a-102.
- 773 (5) "Cannabis processing facility" means the same as that term is defined in Section
774 4-41a-102.
- 775 (6) "Cannabis product" means a product that:
- 776 (a) is intended for human use; and
- 777 (b) contains cannabis or any tetrahydrocannabinol or THC analog in a total
778 concentration of 0.3% or greater on a dry weight basis.
- 779 (7) "Cannabis production establishment" means the same as that term is defined in
780 Section 4-41a-102.
- 781 (8) "Cannabis production establishment agent" means the same as that term is defined
782 in Section 4-41a-102.
- 783 (9) "Cannabis production establishment agent registration card" means the same as that
784 term is defined in Section 4-41a-102.
- 785 (10) "Community location" means a public or private elementary or secondary school,
786 a church, a public library, a public playground, or a public park.
- 787 (11) "Conditional medical cannabis card" means an electronic medical cannabis card
788 that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an
789 applicant for a medical cannabis card to access medical cannabis during the department's
790 review of the application.
- 791 (12) "Controlled substance database" means the controlled substance database created
792 in Section 58-37f-201.
- 793 [~~(13) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:~~]
794 [~~(a) is similar to Delta-9-THC with a lower psychotropic potency; and~~]
795 [~~(b) interacts with the CB1 receptor of the nervous system.~~]
- 796 [~~(14) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary~~
797 ~~psychotropic cannabinoid in cannabis.~~]
- 798 [~~(15)~~] (13) "Department" means the Department of Health.
- 799 [~~(16)~~] (14) "Designated caregiver" means:
- 800 (a) an individual:

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

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

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

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

807 ~~[(17)]~~ [\(15\)](#) "Directions of use" means recommended routes of administration for a
808 medical cannabis treatment and suggested usage guidelines.

809 ~~[(18)]~~ [\(16\)](#) "Dosing guidelines" means a quantity range and frequency of administration
810 for a recommended treatment of medical cannabis.

811 ~~[(19)]~~ [\(17\)](#) "Financial institution" means a bank, trust company, savings institution, or
812 credit union, chartered and supervised under state or federal law.

813 ~~[(20)]~~ [\(18\)](#) "Home delivery medical cannabis pharmacy" means a medical cannabis
814 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
815 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
816 that the state central patient portal facilitates.

817 ~~[(21)]~~ [\(19\)](#) "Inventory control system" means the system described in Section
818 [4-41a-103](#).

819 ~~[(22)]~~ [\(20\)](#) "Legal dosage limit" means an amount that:

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

823 (b) may not exceed:

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

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

827 ~~[(23)]~~ [\(21\)](#) "Legal use termination date" means a date on the label of a container of
828 unprocessed cannabis flower:

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

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

832 [~~(24)~~] (22) "Limited medical provider" means an individual who:

833 (a) meets the recommending qualifications; and

834 (b) has no more than 15 patients with a valid medical cannabis patient card or

835 provisional patient card as a result of the individual's recommendation, in accordance with

836 Subsection 26-61a-106(1)(b).

837 [~~(25)~~] (23) "Marijuana" means the same as that term is defined in Section 58-37-2.

838 [~~(26)~~] (24) "Medical cannabis" means cannabis in a medicinal dosage form or a

839 cannabis product in a medicinal dosage form.

840 [~~(27)~~] (25) "Medical cannabis card" means a medical cannabis patient card, a medical

841 cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis

842 card.

843 [~~(28)~~] (26) "Medical cannabis cardholder" means:

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

845 (b) a facility or assigned employee, described in Subsection [~~(16)~~](14)(b), only:

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

847 medical cannabis patient cardholder's caregiver designation under Subsection

848 26-61a-202(1)(b); and

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

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

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

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

853 designation.

854 [~~(29)~~] (27) "Medical cannabis caregiver card" means an electronic document that a

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

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

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

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

859 [~~(30)~~] (28) "Medical cannabis courier" means a courier that:

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

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

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

863 [~~(31)~~] (29) "Medical cannabis courier agent" means an individual who:

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

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

866 [~~(32)~~] (30) (a) "Medical cannabis device" means a device that an individual uses to
867 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
868 dosage form.

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

870 (i) facilitates cannabis combustion; or

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

872 [~~(33)~~] (31) "Medical cannabis guardian card" means an electronic document that a
873 cardholder may print or store on an electronic device or a physical card or document that:

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

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

877 [~~(34)~~] (32) "Medical cannabis patient card" means an electronic document that a
878 cardholder may print or store on an electronic device or a physical card or document that:

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

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

881 [~~(35)~~] (33) "Medical cannabis pharmacy" means a person that:

882 (a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a
883 medicinal dosage form from a cannabis processing facility or another medical cannabis
884 pharmacy or a medical cannabis device; or

885 (ii) possesses medical cannabis or a medical cannabis device; and

886 (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical
887 cannabis cardholder.

888 [~~(36)~~] (34) "Medical cannabis pharmacy agent" means an individual who:

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

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

891 [~~(37)~~] (35) "Medical cannabis pharmacy agent registration card" means a registration
892 card issued by the department that authorizes an individual to act as a medical cannabis
893 pharmacy agent.

894 [~~(38)~~] (36) "Medical cannabis shipment" means a shipment of medical cannabis or a
895 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
896 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
897 electronic medical cannabis order that the state central patient portal facilitates.

898 [~~(39)~~] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
899 cannabis product in a medicinal dosage form, or a medical cannabis device.

900 [~~(40)~~] (38) (a) "Medicinal dosage form" means:

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

903 (A) a tablet;

904 (B) a capsule;

905 (C) a concentrated liquid or viscous oil;

906 (D) a liquid suspension that does not exceed 30 ml;

907 (E) a topical preparation;

908 (F) a transdermal preparation;

909 (G) a sublingual preparation;

910 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
911 rectangular cuboid shape; [~~or~~]

912 (I) a resin or wax; or

913 (J) an aerosol; or

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

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

917 (B) at any time the medical cannabis cardholder transports or possesses the container in
918 public, is contained within an opaque bag or box that the medical cannabis pharmacy provides;
919 and

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

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

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

925 (i) the medical cannabis cardholder has recently removed from the container described
926 in Subsection ~~[(40)]~~ (38)(a)(ii) for use; and

927 (ii) does not exceed the quantity described in Subsection ~~[(40)]~~ (38)(a)(ii).

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

929 (i) any unprocessed cannabis flower outside of the container described in Subsection
930 ~~[(40)]~~ (38)(a)(ii), except as provided in Subsection ~~[(40)]~~ (38)(b);

931 (ii) any unprocessed cannabis flower in a container described in Subsection ~~[(40)]~~
932 (38)(a)(ii) after the legal use termination date; ~~[or]~~

933 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
934 on a nail or other metal object that is heated by a flame, including a blowtorch~~[-];~~ or

935 (iv) a liquid suspension that is branded as a beverage.

936 ~~[(41)]~~ (39) "Nonresident patient" means an individual who:

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

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

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

942 ~~[(42)]~~ (40) "Payment provider" means an entity that contracts with a cannabis
943 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
944 the establishment or pharmacy and other businesses or individuals.

945 ~~[(43)]~~ (41) "Pharmacy medical provider" means the medical provider required to be on
946 site at a medical cannabis pharmacy under Section 26-61a-403.

947 ~~[(44)]~~ (42) "Provisional patient card" means a card that:

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

949 (i) a recommending medical provider has recommended a medical cannabis treatment;
950 and

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

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

954 ~~[(45)]~~ (43) "Qualified medical provider" means an individual:

955 (a) who meets the recommending qualifications; and

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

958 [~~(46)~~] (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in
959 Section [26-61a-109](#).

960 [~~(47)~~] (45) "Qualifying condition" means a condition described in Section [26-61a-104](#).

961 [~~(48)~~] (46) "Recommend" or "recommendation" means, for a recommending medical
962 provider, the act of suggesting the use of medical cannabis treatment, which:

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

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

966 [~~(49)~~] (47) "Recommending medical provider" means a qualified medical provider or a
967 limited medical provider.

968 [~~(50)~~] (48) "Recommending qualifications" means that an individual:

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

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

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

974 (b) is licensed as:

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

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

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

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

981 [~~(51)~~] (49) "State central patient portal" means the website the department creates, in
982 accordance with Section [26-61a-601](#), to facilitate patient safety, education, and an electronic
983 medical cannabis order.

984 [~~(52)~~] (50) "State central patient portal medical provider" means a physician or
985 pharmacist that the department employs in relation to the state central patient portal to consult
986 with medical cannabis cardholders in accordance with Section [26-61a-602](#).

987 [~~(53)~~] (51) "State electronic verification system" means the system described in Section
988 [26-61a-103](#).

989 [~~(54)~~] (52) "Tetrahydrocannabinol" or "THC" means a substance derived from
990 cannabis or a synthetic equivalent as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

991 (53) "THC analog" means the same as that term is defined in Section [4-41-102](#).

992 [~~(55)~~] (54) "Valid form of photo identification" means any of the following forms of
993 identification that is either current or has expired within the previous six months:

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

995 (b) a valid United States federal-issued photo identification, including:

996 (i) a United States passport;

997 (ii) a United States passport card;

998 (iii) a United States military identification card; or

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

1000 (c) a passport that another country issued.

1001 Section 15. Section **26-61a-103** is amended to read:

1002 **26-61a-103. Electronic verification system.**

1003 (1) The Department of Agriculture and Food, the department, the Department of Public
1004 Safety, and the Division of Technology Services shall:

1005 (a) enter into a memorandum of understanding in order to determine the function and
1006 operation of the state electronic verification system in accordance with Subsection (2);

1007 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1008 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1009 maintain the state electronic verification system in coordination with the Division of
1010 Technology Services; and

1011 (c) select a third-party provider who:

1012 (i) meets the requirements contained in the request for proposals issued under
1013 Subsection (1)(b); and

1014 (ii) may not have any commercial or ownership interest in a cannabis production
1015 establishment or a medical cannabis pharmacy.

1016 (2) The Department of Agriculture and Food, the department, the Department of Public
1017 Safety, and the Division of Technology Services shall ensure that, on or before March 1, 2020,

1018 the state electronic verification system described in Subsection (1):

1019 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
1020 medical cannabis guardian card, provided that the card may not become active until:

1021 (i) the relevant qualified medical provider completes the associated medical cannabis
1022 recommendation; or

1023 (ii) for a medical cannabis card related to a limited medical provider's
1024 recommendation, the medical cannabis pharmacy completes the recording described in
1025 Subsection (2)(d);

1026 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1027 cannabis guardian card in accordance with Section 26-61a-201;

1028 (c) allows a qualified medical provider, or an employee described in Subsection (3)
1029 acting on behalf of the qualified medical provider, to:

1030 (i) access dispensing and card status information regarding a patient:

1031 (A) with whom the qualified medical provider has a provider-patient relationship; and

1032 (B) for whom the qualified medical provider has recommended or is considering
1033 recommending a medical cannabis card;

1034 (ii) electronically recommend, after an initial face-to-face visit with a patient described
1035 in Subsection 26-61a-201(4)(~~b~~)(a)(iii), treatment with cannabis in a medicinal dosage form or
1036 a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;
1037 and

1038 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1039 medical cannabis guardian cardholder:

1040 (A) using telehealth services, for the qualified medical provider who originally
1041 recommended a medical cannabis treatment during a face-to-face visit with the patient; or

1042 (B) during a face-to-face visit with the patient, for a qualified medical provider who
1043 did not originally recommend the medical cannabis treatment during a face-to-face visit[~~;~~ and].

1044 [~~(iv) notate a determination of physical difficulty or undue hardship, described in
1045 Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;~~]

1046 (d) beginning on the earlier of September 1, 2021, or the date on which the electronic
1047 verification system is functionally capable of facility medical cannabis pharmacy recording,
1048 allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in

1049 accordance with Subsection ~~26-61a-501~~(10)(a), to ~~record~~:

1050 (i) access the electronic verification system to review the history within the system of a
1051 patient with whom the provider or agent is interacting, limited to read-only access for medical
1052 cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge
1053 authorizes add and edit access;

1054 ~~(i)~~ (ii) record a patient's recommendation from a limited medical provider, including
1055 any directions of use, dosing guidelines, or caregiver indications from the limited medical
1056 provider; and

1057 ~~(ii)~~ (iii) record a limited medical provider's renewal of the provider's previous
1058 recommendation;

1059 (e) connects with:

1060 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1061 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1062 medicinal dosage form, or a medical cannabis device, including:

1063 (A) the time and date of each purchase;

1064 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1065 purchased;

1066 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1067 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1068 device; and

1069 (D) the personally identifiable information of the medical cannabis cardholder who
1070 made the purchase; and

1071 (ii) any commercially available inventory control system that a cannabis production
1072 establishment utilizes in accordance with Section ~~4-41a-103~~ to use data that the Department of
1073 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1074 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1075 track and confirm compliance;

1076 (f) provides access to:

1077 (i) the department to the extent necessary to carry out the department's functions and
1078 responsibilities under this chapter;

1079 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

1080 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1081 41a, Cannabis Production Establishments; and

1082 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
1083 carry out the functions and responsibilities related to the participation of the following in the
1084 recommendation and dispensing of medical cannabis:

1085 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1086 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1087 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1088 Practice Act;

1089 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1090 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1091 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1092 Act;

1093 (g) provides access to and interaction with the state central patient portal;

1094 (h) communicates dispensing information from a record that a medical cannabis
1095 pharmacy submits to the state electronic verification system under Subsection

1096 [26-61a-502\(6\)\(a\)\(ii\)](#) to the controlled substance database;

1097 (i) provides access to state or local law enforcement:

1098 (i) during a law enforcement encounter, without a warrant, using the individual's driver
1099 license or state ID, only for the purpose of determining if the individual subject to the law
1100 enforcement encounter has a valid medical cannabis card; or

1101 (ii) after obtaining a warrant; and

1102 (j) creates a record each time a person accesses the system that identifies the person
1103 who accesses the system and the individual whose records the person accesses.

1104 (3) (a) Beginning on the earlier of September 1, 2021, or the date on which the
1105 electronic verification system is functionally capable of allowing employee access under this
1106 Subsection (3), an employee of a qualified medical provider may access the electronic
1107 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified
1108 medical provider if:

1109 (i) the qualified medical provider has designated the employee as an individual
1110 authorized to access the electronic verification system on behalf of the qualified medical

1111 provider;

1112 (ii) the qualified medical provider provides written notice to the department of the
1113 employee's identity and the designation described in Subsection (3)(a)(i); and

1114 (iii) the department grants to the employee access to the electronic verification system.

1115 (b) An employee of a business that employs a qualified medical provider may access
1116 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1117 qualified medical provider if:

1118 (i) the qualified medical provider has designated the employee as an individual
1119 authorized to access the electronic verification system on behalf of the qualified medical
1120 provider;

1121 (ii) the qualified medical provider and the employing business jointly provide written
1122 notice to the department of the employee's identity and the designation described in Subsection
1123 (3)(b)(i); and

1124 (iii) the department grants to the employee access to the electronic verification system.

1125 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1126 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1127 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1128 Practice Act;

1129 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1130 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1131 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1132 Assistant Act.

1133 (b) Beginning on the earlier of September 1, 2021, or the date on which the electronic
1134 verification system is functionally capable of allowing provider access under this Subsection
1135 (4), a prescribing provider may access information in the electronic verification system
1136 regarding a patient the prescribing provider treats.

1137 (5) The department may release limited data that the system collects for the purpose of:

1138 (a) conducting medical and other department approved research;

1139 (b) providing the report required by Section [26-61a-703](#); and

1140 (c) other official department purposes.

1141 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

1142 Administrative Rulemaking Act, to establish:

1143 (a) the limitations on access to the data in the state electronic verification system as
1144 described in this section; and

1145 (b) standards and procedures to ensure accurate identification of an individual
1146 requesting information or receiving information in this section.

1147 (7) (a) Any person who knowingly and intentionally releases any information in the
1148 state electronic verification system in violation of this section is guilty of a third degree felony.

1149 (b) Any person who negligently or recklessly releases any information in the state
1150 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1151 (8) (a) Any person who obtains or attempts to obtain information from the state
1152 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1153 (b) Any person who obtains or attempts to obtain information from the state electronic
1154 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1155 degree felony.

1156 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1157 intentionally use, release, publish, or otherwise make available to any other person information
1158 obtained from the state electronic verification system for any purpose other than a purpose
1159 specified in this section.

1160 (b) Each separate violation of this Subsection (9) is:

1161 (i) a third degree felony; and

1162 (ii) subject to a civil penalty not to exceed \$5,000.

1163 (c) The department shall determine a civil violation of this Subsection (9) in
1164 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1165 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
1166 General Fund.

1167 (e) This Subsection (9) does not prohibit a person who obtains information from the
1168 state electronic verification system under Subsection (2)(a), (c), or (f) from:

1169 (i) including the information in the person's medical chart or file for access by a person
1170 authorized to review the medical chart or file;

1171 (ii) providing the information to a person in accordance with the requirements of the
1172 Health Insurance Portability and Accountability Act of 1996; or

1173 (iii) discussing or sharing that information about the patient with the patient.

1174 Section 16. Section **26-61a-111** is amended to read:

1175 **26-61a-111. Nondiscrimination for medical care or government employment --**
1176 **Notice to prospective and current public employees -- No effect on private employers.**

1177 (1) For purposes of medical care, including an organ or tissue transplant, a patient's
1178 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis
1179 product in a medicinal dosage form:

1180 (a) is considered the equivalent of the authorized use of any other medication used at
1181 the discretion of a physician; and

1182 (b) does not constitute the use of an illicit substance or otherwise disqualify an
1183 individual from needed medical care.

1184 (2) (a) Notwithstanding any other provision of law and except as provided in
1185 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
1186 cannabis in accordance with this chapter or Section [58-37-3.7](#) in the same way the state or
1187 political subdivision treats employee use of any prescribed controlled substance.

1188 (b) A state or political subdivision employee who has a valid medical cannabis card is
1189 not subject to adverse action, as that term is defined in Section [67-21-2](#), for failing a drug test
1190 due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or
1191 otherwise adversely affected in the employee's job performance due to the use of medical
1192 cannabis.

1193 (c) Subsections (2)(a) and (b) do not apply:

1194 (i) where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a
1195 federal security clearance, or any other federal background determination required for the
1196 employee's position~~[-or]~~;

1197 (ii) if the employee's position is dependent on a license or law enforcement
1198 certification that is subject to federal regulations~~[-]~~, including 18 U.S.C. Sec. 922(g)(3); or

1199 (iii) if an employee described in Subsections [34A-2-102\(1\)\(h\)\(ii\)](#) through (vi) uses
1200 medical cannabis during the 12 hours immediately preceding the employee's shift or during the
1201 employee's shift.

1202 (3) (a) (i) A state employer or a political subdivision employer shall take the action
1203 described in Subsection (3)(a)(ii) before:

1204 (A) giving to a current employee an assignment or duty that arises from or directly
1205 relates to an obligation under this chapter; or

1206 (B) hiring a prospective employee whose assignments or duties would include an
1207 assignment or duty that arises from or directly relates to an obligation under this chapter.

1208 (ii) The employer described in Subsection (3)(a)(i) shall give the employee or
1209 prospective employee described in Subsection (3)(a)(i) a written notice that notifies the
1210 employee or prospective employee:

1211 (A) that the employee's or prospective employee's job duties may require the employee
1212 or prospective employee to engage in conduct which is in violation of the criminal laws of the
1213 United States; and

1214 (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i),
1215 although the employee or prospective employee is entitled to the protections of Title 67,
1216 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to
1217 carry out an assignment or duty that may be a violation of the criminal laws of the United
1218 States with respect to the manufacture, sale, or distribution of cannabis.

1219 (b) The Division of Human Resource Management shall create, revise, and publish the
1220 form of the notice described in Subsection (3)(a).

1221 (c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice
1222 described in Subsection (3)(a) may not:

1223 (i) claim in good faith that the employee's actions violate or potentially violate the laws
1224 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

1225 (ii) refuse to carry out a directive that the employee reasonably believes violates the
1226 criminal laws of the United States with respect to the manufacture, sale, or distribution of
1227 cannabis.

1228 (d) An employer may not take retaliatory action as defined in Section 67-19a-101
1229 against a current employee who refuses to sign the notice described in Subsection (3)(a).

1230 (4) Nothing in this section requires a private employer to accommodate the use of
1231 medical cannabis or affects the ability of a private employer to have policies restricting the use
1232 of medical cannabis by applicants or employees.

1233 Section 17. Section 26-61a-201 is amended to read:

1234 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card --**

1235 **Conditional medical cannabis card -- Application -- Fees -- Studies.**

1236 (1) (a) The department shall, within 15 days after the day on which an individual who
1237 satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in
1238 accordance with this section or Section 26-61a-202:

1239 (i) issue a medical cannabis patient card to an individual described in Subsection

1240 (2)(a);

1241 (ii) issue a medical cannabis guardian card to an individual described in Subsection

1242 (2)(b);

1243 (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

1244 (iv) issue a medical cannabis caregiver card to an individual described in Subsection

1245 26-61a-202(4).

1246 (b) (i) Beginning on the earlier of September 1, 2021, or the date on which the
1247 electronic verification system is functionally capable of facilitating a conditional medical
1248 cannabis card under this Subsection (1)(b), upon the entry of a recommending medical
1249 provider's medical cannabis recommendation for a patient in the state electronic verification
1250 system, either by the provider or the provider's employee or by a medical cannabis pharmacy
1251 medical provider or medical cannabis pharmacy in accordance with Subsection
1252 26-61a-501[(+)](10)(a), the department shall issue to the patient an electronic conditional
1253 medical cannabis card, in accordance with this Subsection (1)(b).

1254 (ii) A conditional medical cannabis card is valid for the lesser of:

1255 (A) 60 days; or

1256 (B) the day on which the department completes the department's review and issues a
1257 medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card
1258 application, or revokes the conditional medical cannabis card under Subsection (8).

1259 (iii) The department may issue a conditional medical cannabis card to an individual
1260 applying for a medical cannabis patient card for which approval of the Compassionate Use
1261 Board is not required.

1262 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
1263 obligations under law applicable to a holder of the medical cannabis card for which the
1264 individual applies and for which the department issues the conditional medical cannabis card.

1265 (2) (a) An individual is eligible for a medical cannabis patient card if:

- 1266 (i) (A) the individual is at least 21 years old; or
1267 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate
1268 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends
1269 department approval of the petition;
- 1270 (ii) the individual is a Utah resident;
- 1271 (iii) the individual's recommending medical provider recommends treatment with
1272 medical cannabis in accordance with Subsection (4);
- 1273 (iv) the individual signs an acknowledgment stating that the individual received the
1274 information described in Subsection ~~(8)~~(9); and
- 1275 (v) the individual pays to the department a fee in an amount that, subject to Subsection
1276 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
- 1277 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:
1278 (A) is at least 18 years old;
1279 (B) is a Utah resident;
1280 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
1281 provider recommends a medical cannabis treatment, the individual petitions the Compassionate
1282 Use Board under Section 26-61a-105, and the Compassionate Use Board recommends
1283 department approval of the petition;
- 1284 (D) the individual signs an acknowledgment stating that the individual received the
1285 information described in Subsection (9);
- 1286 (E) pays to the department a fee in an amount that, subject to Subsection
1287 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1288 criminal background check described in Section 26-61a-203; and
- 1289 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
1290 offense under either state or federal law, unless the individual completed any imposed sentence
1291 six months or more before the day on which the individual applies for a medical cannabis
1292 guardian card.
- 1293 (ii) The department shall notify the Department of Public Safety of each individual that
1294 the department registers for a medical cannabis guardian card.
- 1295 (c) (i) A minor is eligible for a provisional patient card if:
1296 (A) the minor has a qualifying condition;

1297 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1298 to address the minor's qualifying condition;

1299 (C) one of the minor's parents or legal guardians petitions the Compassionate Use
1300 Board under Section 26-61a-105, and the Compassionate Use Board recommends department
1301 approval of the petition; and

1302 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1303 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1304 medical cannabis caregiver card under Section 26-61a-202.

1305 (ii) The department shall automatically issue a provisional patient card to the minor
1306 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1307 guardian card to the minor's parent or legal guardian.

1308 (d) Beginning on the earlier of September 1, 2021, or the date on which the electronic
1309 verification system is functionally capable of servicing the designation, if the parent or legal
1310 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a
1311 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1312 designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that
1313 the minor has adequate and safe access to the recommended medical cannabis treatment.

1314 (3) (a) An individual who is eligible for a medical cannabis card described in
1315 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
1316 department:

1317 (i) through an electronic application connected to the state electronic verification
1318 system;

1319 (ii) with the recommending medical provider; and

1320 (iii) with information including:

1321 (A) the applicant's name, gender, age, and address;

1322 (B) the number of the applicant's valid form of photo identification;

1323 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1324 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1325 and

1326 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1327 holds the associated medical cannabis guardian card.

1328 (b) The department shall ensure that a medical cannabis card the department issues
1329 under this section contains the information described in Subsection (3)(a)(iii).

1330 (c) (i) If a recommending medical provider determines that, because of age, illness, or
1331 disability, a medical cannabis patient cardholder requires assistance in administering the
1332 medical cannabis treatment that the recommending medical provider recommends, the
1333 recommending medical provider may indicate the cardholder's need in the state electronic
1334 verification system, either directly or, for a limited medical provider, through the order
1335 described in Subsections 26-61a-106(1)(c) and (d).

1336 (ii) If a recommending medical provider makes the indication described in Subsection
1337 (3)(c)(i):

1338 (A) the department shall add a label to the relevant medical cannabis patient card
1339 indicating the cardholder's need for assistance;

1340 (B) any adult who is 18 years old or older and who is physically present with the
1341 cardholder at the time the cardholder needs to use the recommended medical cannabis
1342 treatment may handle the medical cannabis treatment and any associated medical cannabis
1343 device as needed to assist the cardholder in administering the recommended medical cannabis
1344 treatment; and

1345 (C) an individual of any age who is physically present with the cardholder in the event
1346 of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle
1347 the medical cannabis treatment and any associated medical cannabis device as needed to assist
1348 the cardholder in administering the recommended medical cannabis treatment.

1349 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

1350 (A) ingest or inhale medical cannabis;

1351 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1352 of the immediate area where the cardholder is present or with an intent other than to provide
1353 assistance to the cardholder; or

1354 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1355 the cardholder is not in the process of being dosed with medical cannabis.

1356 (4) To recommend a medical cannabis treatment to a patient or to renew a
1357 recommendation, a recommending medical provider shall:

1358 (a) before recommending or renewing a recommendation for medical cannabis in a

1359 medicinal dosage form or a cannabis product in a medicinal dosage form:

1360 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1361 guardian's valid form of identification described in Subsection (3)(a);

1362 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1363 or legal guardian in:

1364 (A) for a qualified medical provider, the state electronic verification system; and

1365 (B) the controlled substance database created in Section 58-37f-201; and

1366 (iii) consider the recommendation in light of the patient's qualifying condition and
1367 history of medical cannabis and controlled substance use during an initial face-to-face visit
1368 with the patient; and

1369 (b) state in the recommending medical provider's recommendation that the patient:

1370 (i) suffers from a qualifying condition, including the type of qualifying condition; and

1371 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1372 product in a medicinal dosage form.

1373 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1374 department issues under this section is valid for the lesser of:

1375 (i) an amount of time that the recommending medical provider determines; or

1376 (ii) (A) six months for the first issuance, and, except as provided in Subsection
1377 (5)(a)(ii)(B), for a renewal; or

1378 (B) for a renewal, one year if, after at least one year following the issuance of the
1379 original medical cannabis card, the recommending medical provider determines that the patient
1380 has been stabilized on the medical cannabis treatment and a one-year renewal period is
1381 justified.

1382 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1383 illness described in Section 26-61a-104 [~~does not expire~~] expires after one year.

1384 (ii) The recommending medical provider may revoke a recommendation that the
1385 provider made in relation to a terminal illness described in Section 26-61a-104 if the medical
1386 cannabis cardholder no longer has the terminal illness.

1387 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1388 renewable if:

1389 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or

1390 (b); or

1391 (ii) the cardholder received the medical cannabis card through the recommendation of
1392 the Compassionate Use Board under Section 26-61a-105.

1393 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

1394 (i) using the application process described in Subsection (3); or

1395 (ii) through phone or video conference with the recommending medical provider who
1396 made the recommendation underlying the card, at the qualifying medical provider's discretion.

1397 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1398 pay to the department a renewal fee in an amount that:

1399 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1400 63J-1-504; and

1401 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1402 comparison to the original application process.

1403 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1404 patient card renews automatically at the time the minor's parent or legal guardian renews the
1405 parent or legal guardian's associated medical cannabis guardian card.

1406 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1407 cannabis card with the patient's name.

1408 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1409 purchase, in accordance with this chapter and the recommendation underlying the card,
1410 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1411 medical cannabis device.

1412 (ii) A cardholder under this section may possess or transport, in accordance with this
1413 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1414 cannabis product in a medicinal dosage form, or a medical cannabis device.

1415 (iii) To address the qualifying condition underlying the medical cannabis treatment
1416 recommendation:

1417 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1418 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1419 or a medical cannabis device; and

1420 (B) a medical cannabis guardian cardholder may assist the associated provisional

1421 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1422 product in a medicinal dosage form, or a medical cannabis device.

1423 ~~[(c) If a licensed medical cannabis pharmacy is not operating within the state after
1424 January 1, 2021, a cardholder under this section:]~~

1425 ~~[(i) may possess:]~~

1426 ~~[(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;]~~

1427 ~~[(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form;~~

1428 ~~and]~~

1429 ~~[(C) marijuana drug paraphernalia; and]~~

1430 ~~[(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i);]~~

1431 (8) The department may revoke a medical cannabis card that the department issues
1432 under this section if the cardholder:

1433 (a) violates this chapter; or

1434 (b) is convicted under state or federal law of:

1435 (i) a felony; or

1436 (ii) after March 17, 2021, a misdemeanor for drug distribution.

1437 (9) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1438 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1439 to an individual receiving a medical cannabis card:

1440 (a) risks associated with medical cannabis treatment;

1441 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1442 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1443 Subsection [26-61a-104](#)(1); and

1444 (c) other relevant warnings and safety information that the department determines.

1445 (10) The department may establish procedures by rule, in accordance with Title 63G,
1446 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1447 provisions of this section.

1448 (11) (a) On or before September 1, 2021, the department shall establish by rule, in
1449 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1450 an individual from another state to register with the department in order to purchase medical
1451 cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual

1452 is visiting the state.

1453 (b) The department may only provide the registration process described in Subsection
1454 (11)(a):

1455 (i) to a nonresident patient; and

1456 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
1457 per visitation period.

1458 (12) (a) A person may submit to the department a request to conduct a research study
1459 using medical cannabis cardholder data that the state electronic verification system contains.

1460 (b) The department shall review a request described in Subsection (12)(a) to determine
1461 whether an institutional review board, as that term is defined in Section 26-61-102, could
1462 approve the research study.

1463 (c) At the time an individual applies for a medical cannabis card, the department shall
1464 notify the individual:

1465 (i) of how the individual's information will be used as a cardholder;

1466 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1467 consent under Subsection (12)(d), the individual consents to the use of the individual's
1468 information for external research; and

1469 (iii) that the individual may withdraw consent for the use of the individual's
1470 information for external research at any time, including at the time of application.

1471 (d) An applicant may, through the medical cannabis card application, and a medical
1472 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
1473 cardholder's consent to participate in external research at any time.

1474 (e) The department may release, for the purposes of a study described in this
1475 Subsection (12), information about a cardholder under this section who consents to participate
1476 under Subsection (12)(c).

1477 (f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of
1478 consent:

1479 (i) applies to external research that is initiated after the withdrawal of consent; and

1480 (ii) does not apply to research that was initiated before the withdrawal of consent.

1481 (g) The department may establish standards for a medical research study's validity, by
1482 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1483 (13) The department shall record the issuance or revocation of a medical cannabis card
1484 under this section in the controlled substance database.

1485 Section 18. Section **26-61a-202** is amended to read:

1486 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**

1487 **Revocation.**

1488 (1) (a) [(†)] A cardholder described in Section **26-61a-201** may designate, through the
1489 state central patient portal, up to two individuals, or an individual and a facility in accordance
1490 with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

1491 ~~[(ii) The designation described in Subsection (1)(a)(i) takes effect if the state electronic
1492 verification system reflects a recommending medical provider's indication that the provider
1493 determines that, due to physical difficulty or undue hardship, including concerns of distance to
1494 a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis
1495 treatment that the recommending medical provider recommends.]~~

1496 (b) (i) Beginning on the earlier of September 1, 2021, or the date on which the
1497 electronic verification system is functionally capable of servicing the designation, a cardholder
1498 described in Section **26-61a-201** who is a patient in one of the following types of facilities may
1499 designate the facility as one of the caregivers described in Subsection (1)(a):

1500 (A) an assisted living facility, as that term is defined in Section **26-21-2**;

1501 (B) a nursing care facility, as that term is defined in Section **26-21-2**; or

1502 (C) a general acute hospital, as that term is defined in Section **26-21-2**.

1503 (ii) A facility may assign one or more employees to assist patients with medical
1504 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1505 (iii) The department shall make rules to regulate the practice of facilities and facility
1506 employees serving as designated caregivers under this Subsection (1)(b).

1507 (c) A parent or legal guardian described in Subsection **26-61a-201(2)(d)**, in
1508 consultation with the minor and the minor's qualified medical provider, may designate, through
1509 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1510 minor, if the department determines that the parent or legal guardian is not eligible for a
1511 medical cannabis guardian card under Section **26-61a-201**.

1512 (d) (i) Beginning on the earlier of September 1, 2022, or the date on which the
1513 electronic verification system is functionally capable of facilitating a conditional medical

1514 cannabis caregiver card under this Subsection (1)(d), upon the entry of a caregiver designation
1515 under Subsection (1) by a patient with a terminal illness described in Section 26-61a-104, the
1516 department shall issue to the designated caregiver an electronic conditional medical cannabis
1517 caregiver card, in accordance with this Subsection (1)(d).

1518 (ii) A conditional medical cannabis caregiver card is valid for the lesser of:

1519 (A) 60 days; or

1520 (B) the day on which the department completes the department's review and issues a
1521 medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis
1522 caregiver card application, or revokes the conditional medical cannabis caregiver card under
1523 Subsection (8).

1524 (iii) The department may issue a conditional medical cannabis card to an individual
1525 applying for a medical cannabis patient card for which approval of the Compassionate Use
1526 Board is not required.

1527 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
1528 obligations under law applicable to a holder of the medical cannabis card for which the
1529 individual applies and for which the department issues the conditional medical cannabis card.

1530 (2) An individual that the department registers as a designated caregiver under this
1531 section and a facility described in Subsection (1)(b):

1532 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
1533 card;

1534 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1535 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1536 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1537 cardholder;

1538 (c) may not charge a fee to an individual to act as the individual's designated caregiver
1539 or for a service that the designated caregiver provides in relation to the role as a designated
1540 caregiver; and

1541 (d) may accept reimbursement from the designating medical cannabis cardholder for
1542 direct costs the designated caregiver incurs for assisting with the designating cardholder's
1543 medicinal use of cannabis[; and].

1544 [~~(e) if a licensed medical cannabis pharmacy is not operating within the state after~~

1545 January 1, 2021:]

1546 [~~(i) may possess up to the legal dosage limit of:]~~

1547 [~~(A) unprocessed medical cannabis in a medicinal dosage form; and]~~

1548 [~~(B) a cannabis product in a medicinal dosage form;]~~

1549 [~~(ii) may possess marijuana drug paraphernalia; and]~~

1550 [~~(iii) is not subject to prosecution for the possession described in Subsection (2)(c)(i).]~~

1551 (3) (a) The department shall:

1552 (i) within 15 days after the day on which an individual submits an application in
1553 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1554 (A) is designated as a caregiver under Subsection (1);

1555 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1556 (C) complies with this section; and

1557 (ii) notify the Department of Public Safety of each individual that the department
1558 registers as a designated caregiver.

1559 (b) The department shall ensure that a medical cannabis caregiver card contains the
1560 information described in ~~[Subsection]~~ Subsections (5)(b) and (3)(c)(i).

1561 (c) If a cardholder described in Section 26-61a-201 designates an individual as a
1562 caregiver who already holds a medical cannabis caregiver card, the individual with the medical
1563 cannabis caregiver card:

1564 (i) shall report to the department the information required of applicants under
1565 Subsection (5)(b) regarding the new designation;

1566 (ii) if the individual makes the report described in Subsection (3)(c)(i), is not required
1567 to file an application for another medical cannabis caregiver card;

1568 (iii) may receive an additional medical cannabis caregiver card in relation to each
1569 additional medical cannabis patient who designates the caregiver; and

1570 (iv) is not subject to an additional background check.

1571 (4) An individual is eligible for a medical cannabis caregiver card if the individual:

1572 (a) is at least 21 years old;

1573 (b) is a Utah resident;

1574 (c) pays to the department a fee in an amount that, subject to Subsection

1575 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the

1576 criminal background check described in Section 26-61a-203;

1577 (d) signs an acknowledgment stating that the applicant received the information
1578 described in Subsection 26-61a-201(9); and

1579 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
1580 a felony under either state or federal law, unless the individual completes any imposed sentence
1581 two or more years before the day on which the individual submits the application.

1582 (5) An eligible applicant for a medical cannabis caregiver card shall:

1583 (a) submit an application for a medical cannabis caregiver card to the department
1584 through an electronic application connected to the state electronic verification system; and

1585 (b) submit the following information in the application described in Subsection (5)(a):

1586 (i) the applicant's name, gender, age, and address;

1587 (ii) the name, gender, age, and address of the cardholder described in Section

1588 26-61a-201 who designated the applicant; ~~and~~

1589 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
1590 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
1591 cannabis guardian cardholder[-]; and

1592 (iv) any additional information that the department requests to assist in matching the
1593 application with the designating medical cannabis patient.

1594 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1595 department issues under this section is valid for the lesser of:

1596 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1597 designated the caregiver determines; or

1598 (b) the amount of time remaining before the card of the cardholder described in Section
1599 26-61a-201 expires.

1600 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1601 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1602 cardholder described in Section 26-61a-201 who designated the caregiver:

1603 (i) renews the cardholder's card; and

1604 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1605 (b) The department shall provide a method in the card renewal process to allow a
1606 cardholder described in Section 26-61a-201 who has designated a caregiver to:

- 1607 (i) signify that the cardholder renews the caregiver's designation;
- 1608 (ii) remove a caregiver's designation; or
- 1609 (iii) designate a new caregiver.
- 1610 (8) The department may revoke a medical cannabis caregiver card if the designated
- 1611 caregiver:
- 1612 (a) violates this chapter; or
- 1613 (b) is convicted under state or federal law of:
- 1614 (i) a felony drug distribution offense; or
- 1615 (ii) after December 3, 2018, a misdemeanor drug distribution offense.
- 1616 (9) The department shall record the issuance or revocation of a medical cannabis card
- 1617 under this section in the controlled substance database.

1618 Section 19. Section **26-61a-204** is amended to read:

1619 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**
1620 **requirements -- Rebuttable presumption.**

- 1621 (1) (a) A medical cannabis cardholder who possesses medical cannabis that the
- 1622 cardholder purchased under this chapter:
- 1623 (i) shall carry:
- 1624 (A) at all times the cardholder's medical cannabis card; and
- 1625 (B) [~~after the earlier of January 1, 2021, or the day on which the individual purchases~~
- 1626 ~~any medical cannabis from a medical cannabis pharmacy,~~] with the medical cannabis, a label
- 1627 that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy
- 1628 and includes an identification number that links the medical cannabis to the inventory control
- 1629 system; and
- 1630 (ii) may possess up to the legal dosage limit of:
- 1631 (A) unprocessed cannabis in medicinal dosage form; and
- 1632 (B) a cannabis product in medicinal dosage form;
- 1633 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii);
- 1634 (iv) may only possess the medical cannabis in the container in which the cardholder
- 1635 received the medical cannabis from the medical cannabis pharmacy; and
- 1636 (v) may not alter or remove any label described in Section [4-41a-602](#) from the
- 1637 container described in Subsection (1)(a)(iv).

1638 (b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who
1639 possesses medical cannabis in violation of Subsection (1)(a) is:

1640 (i) guilty of an infraction; and

1641 (ii) subject to a \$100 fine.

1642 (c) A medical cannabis cardholder or a nonresident patient who possesses medical
1643 cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice
1644 the legal dosage limit is:

1645 (i) for a first offense:

1646 (A) guilty of an infraction; and

1647 (B) subject to a fine of up to \$100; and

1648 (ii) for a second or subsequent offense:

1649 (A) guilty of a class B misdemeanor; and

1650 (B) subject to a fine of \$1,000.

1651 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
1652 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
1653 conduct underlying the penalty described in Subsection (1)(b) or (c).

1654 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
1655 dosage form is:

1656 (i) for a first offense:

1657 (A) guilty of an infraction; and

1658 (B) subject to a fine of up to \$100; and

1659 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,
1660 Chapter 37, Utah Controlled Substances Act.

1661 (f) A medical cannabis cardholder or a nonresident patient who possesses medical
1662 cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties
1663 described in Title 58, Chapter 37, Utah Controlled Substances Act.

1664 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
1665 as that term is defined in Section [31A-22-627](#).

1666 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a
1667 provisional patient cardholder, or a nonresident patient may not use, in public view, medical
1668 cannabis or a cannabis product.

1669 (c) In the event of an emergency medical condition, an individual described in
1670 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
1671 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
1672 medicinal dosage form or a cannabis product in a medicinal dosage form.

1673 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

1674 (i) for a first offense:

1675 (A) guilty of an infraction; and

1676 (B) subject to a fine of up to \$100; and

1677 (ii) for a second or subsequent offense:

1678 (A) guilty of a class B misdemeanor; and

1679 (B) subject to a fine of \$1,000.

1680 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
1681 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
1682 medical cannabis device that corresponds with the cannabis or cannabis product:

1683 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,
1684 cannabis product, or medical cannabis device legally; and

1685 (b) there is no probable cause, based solely on the cardholder's possession of the
1686 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
1687 cannabis device, to believe that the cardholder is engaging in illegal activity.

1688 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
1689 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
1690 device, and the individual represents to the law enforcement officer that the individual holds a
1691 valid medical cannabis card, but the individual does not have the medical cannabis card in the
1692 individual's possession at the time of the stop by the law enforcement officer, the law
1693 enforcement officer shall attempt to access the state electronic verification system to determine
1694 whether the individual holds a valid medical cannabis card.

1695 (b) If the law enforcement officer is able to verify that the individual described in
1696 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

1697 (i) may not arrest or take the individual into custody for the sole reason that the
1698 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
1699 medicinal dosage form, or a medical cannabis device; and

1700 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1701 Section 20. Section **26-61a-301** is amended to read:

1702 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

1703 (1) A person may not operate as a medical cannabis pharmacy without a license that
1704 the department issues under this part.

1705 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department
1706 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
1707 Chapter 6a, Utah Procurement Code.

1708 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
1709 an applicant who is not eligible for a license under this section.

1710 (b) An applicant is eligible for a license under this section if the applicant submits to
1711 the department:

1712 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
1713 operate the medical cannabis pharmacy;

1714 (ii) the name and address of an individual who:

1715 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in
1716 the proposed medical cannabis pharmacy;

1717 (B) for a privately held company, a financial or voting interest in the proposed medical
1718 cannabis pharmacy; or

1719 (C) has the power to direct or cause the management or control of a proposed medical
1720 cannabis pharmacy;

1721 (iii) a statement that the applicant will obtain and maintain a performance bond that a
1722 surety authorized to transact surety business in the state issues in an amount of at least
1723 \$100,000 for each application that the applicant submits to the department;

1724 (iv) an operating plan that:

1725 (A) complies with Section **26-61a-304**;

1726 (B) includes operating procedures to comply with the operating requirements for a
1727 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
1728 law that is consistent with Section **26-61a-507**; and

1729 (C) the department approves;

1730 (v) an application fee in an amount that, subject to Subsection **26-61a-109(5)**, the

1731 department sets in accordance with Section 63J-1-504; and

1732 (vi) a description of any investigation or adverse action taken by any licensing
1733 jurisdiction, government agency, law enforcement agency, or court in any state for any
1734 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
1735 or businesses.

1736 (c) (i) A person may not locate a medical cannabis pharmacy:

1737 (A) within 200 feet of a community location; or

1738 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
1739 as primarily residential.

1740 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
1741 from the nearest entrance to the medical cannabis pharmacy establishment by following the
1742 shortest route of ordinary pedestrian travel to the property boundary of the community location
1743 or residential area.

1744 (iii) The department may grant a waiver to reduce the proximity requirements in
1745 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
1746 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

1747 (iv) An applicant for a license under this section shall provide evidence of compliance
1748 with the proximity requirements described in Subsection (2)(c)(i).

1749 (d) The department may not issue a license to an eligible applicant that the department
1750 has selected to receive a license until the selected eligible applicant obtains the performance
1751 bond described in Subsection (2)(b)(iii).

1752 (e) If the department receives more than one application for a medical cannabis
1753 pharmacy within the same city or town, the department shall consult with the local land use
1754 authority before approving any of the applications pertaining to that city or town.

1755 (3) If the department selects an applicant for a medical cannabis pharmacy license
1756 under this section, the department shall:

1757 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
1758 26-61a-109(5), the department sets in accordance with Section 63J-1-504;

1759 (b) notify the Department of Public Safety of the license approval and the names of
1760 each individual described in Subsection (2)(b)(ii); and

1761 (c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5),

1762 the department sets in accordance with Section 63J-1-504, for any change in location,
1763 ownership, or company structure.

1764 (4) The department may not issue a license to operate a medical cannabis pharmacy to
1765 an applicant if an individual described in Subsection (2)(b)(ii):

1766 (a) has been convicted under state or federal law of:

1767 (i) a felony; or

1768 (ii) after December 3, 2018, a misdemeanor for drug distribution;

1769 (b) is younger than 21 years old; or

1770 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

1771 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
1772 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give
1773 preference to the applicant based on the applicant's status as a holder of the license.

1774 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
1775 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis
1776 Production Establishments, the department:

1777 (i) shall consult with the Department of Agriculture and Food regarding the applicant;
1778 and

1779 (ii) may give consideration to the applicant based on the applicant's status as a holder
1780 of a license to operate a cannabis cultivation facility if:

1781 (A) the applicant demonstrates that a decrease in costs to patients is more likely to
1782 result from the applicant's vertical integration than from a more competitive marketplace; and

1783 (B) the department finds multiple other factors, in addition to the existing license, that
1784 support granting the new license.

1785 (6) (a) The department may revoke a license under this part:

1786 (i) if the medical cannabis pharmacy does not begin operations within one year after
1787 the day on which the department issues an announcement of the [initial] department's intent to
1788 award a license to the medical cannabis pharmacy;

1789 (ii) after the third the same violation of this chapter in any of the licensee's licensed
1790 cannabis production establishments or medical cannabis pharmacies;

1791 (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is
1792 active, under state or federal law of:

- 1793 (A) a felony; or
- 1794 (B) after December 3, 2018, a misdemeanor for drug distribution;
- 1795 (iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
- 1796 the time of application, or fails to supplement the information described in Subsection
- 1797 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
- 1798 application within 14 calendar days after the licensee receives notice of the investigation or
- 1799 adverse action; [~~or~~]
- 1800 (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for
- 1801 the requirements of this chapter or the rules the department makes in accordance with this
- 1802 chapter[-]; or
- 1803 (vi) if, after a change of ownership described in Subsection (11)(c), the department
- 1804 determines that the medical cannabis pharmacy no longer meets the minimum standards for
- 1805 licensure and operation of the medical cannabis pharmacy described in this chapter.
- 1806 (b) The department shall rescind a notice of an intent to issue a license under this part
- 1807 to an applicant or revoke a license issued under this part if the associated medical cannabis
- 1808 pharmacy does not begin operation on or before June 1, 2021.
- 1809 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
- 1810 if the municipality or county where the licensed medical cannabis pharmacy will be located
- 1811 requires a local land use permit, shall submit to the department a copy of the licensee's
- 1812 approved application for the land use permit within 120 days after the day on which the
- 1813 department issues the license.
- 1814 (b) If a licensee fails to submit to the department a copy the licensee's approved land
- 1815 use permit application in accordance with Subsection (7)(a), the department may revoke the
- 1816 licensee's license.
- 1817 (8) The department shall deposit the proceeds of a fee imposed by this section into the
- 1818 Qualified Patient Enterprise Fund.
- 1819 (9) The department shall begin accepting applications under this part on or before
- 1820 March 1, 2020.
- 1821 (10) (a) The department's authority to issue a license under this section is plenary and is
- 1822 not subject to review.
- 1823 (b) Notwithstanding Subsection (2), the decision of the department to award a license

1824 to an applicant is not subject to:

1825 (i) Title 63G, Chapter 6a, Part 16, Protests; or

1826 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

1827 (11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

1828 (b) A medical cannabis pharmacy shall report in writing to the department no later than

1829 10 business days before the date of any change of ownership of the medical cannabis

1830 pharmacy.

1831 (c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

1832 (i) concurrent with the report described in Subsection (11)(b), the medical cannabis

1833 pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection

1834 (2)(c);

1835 (ii) within 30 days of the submission of the application, the department shall:

1836 (A) conduct an application review; and

1837 (B) award a license to the medical cannabis pharmacy for the remainder of the term of

1838 the medical cannabis pharmacy's license before the ownership change if the medical cannabis

1839 pharmacy meets the minimum standards for licensure and operation of the medical cannabis

1840 pharmacy described in this chapter; and

1841 (iii) if the department approves the license application, notwithstanding Subsection (3),

1842 the medical cannabis pharmacy shall pay a license fee that the department sets in accordance

1843 with Section 63J-1-504 in an amount that covers the board's cost of conducting the application

1844 review.

1845 Section 21. Section **26-61a-303** is amended to read:

1846 **26-61a-303. Renewal.**

1847 (1) The department shall renew a license under this part every year if, at the time of

1848 renewal:

1849 (a) the licensee meets the requirements of Section **26-61a-301**;

1850 (b) the licensee pays the department a license renewal fee in an amount that, subject to

1851 Subsection **26-61a-109**(5), the department sets in accordance with Section **63J-1-504**; and

1852 (c) if the medical cannabis pharmacy changes the operating plan described in Section

1853 **26-61a-304** that the department approved under Subsection **26-61a-301**(2)(b)(iv), the

1854 department approves the new operating plan.

1855 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis
1856 pharmacy's license, the department shall publish notice of an available license:

1857 (i) in a newspaper of general circulation for the geographic area in which the medical
1858 cannabis pharmacy license is available; or

1859 (ii) on the Utah Public Notice Website established in Section [63A-16-601](#).

1860 (b) The department may establish criteria, in collaboration with the Division of
1861 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with
1862 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis
1863 pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

1864 (3) If the department has not completed the necessary processes to make a
1865 determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a
1866 license, the department may issue a conditional medical cannabis pharmacy license to a
1867 licensed medical cannabis pharmacy that has applied for license renewal under this section and
1868 paid the fee described in Subsection (1)(b).

1869 Section 22. Section **26-61a-305** is amended to read:

1870 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**
1871 **pharmacies.**

1872 (1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of
1873 applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in
1874 accordance with this section.

1875 (b) If an insufficient number of qualified applicants apply for the available number of
1876 medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy
1877 license to each qualified applicant.

1878 (c) The department may issue the licenses described in Subsection (1)(a) in accordance
1879 with this Subsection (1)(c).

1880 (i) Using one procurement process, the department may issue eight licenses to an initial
1881 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis
1882 pharmacies.

1883 (ii) If the department issues licenses in two phases in accordance with Subsection
1884 (1)(c)(i), the department shall:

1885 (A) divide the state into no less than four geographic regions;

1886 (B) issue at least one license in each geographic region during each phase of issuing
1887 licenses; and

1888 (C) complete the process of issuing medical cannabis pharmacy licenses no later than
1889 July 1, 2020.

1890 (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the
1891 license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah,
1892 Carbon, Sevier, Emery, Grand, or San Juan County.

1893 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in
1894 addition to the licenses described in Subsection (1)(a) if the department determines, in
1895 consultation with the Department of Agriculture and Food and after an annual or more frequent
1896 analysis of the current and anticipated market for medical cannabis, that each additional license
1897 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical
1898 cannabis cardholders.

1899 (ii) The department shall:

1900 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1901 make rules to establish criteria and processes for the consultation, analysis, and application for
1902 a license described in Subsection (1)(d)(i); and

1903 [~~(B) before November 30, 2020, report on the rules described in Subsection~~
1904 ~~(1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and]~~

1905 [~~(C)~~] (B) report to the Executive Appropriations Committee of the Legislature before
1906 each time the department issues an additional license under Subsection (1)(d)(i) regarding the
1907 results of the consultation and analysis described in Subsection (1)(d)(i) and the application of
1908 the criteria described in Subsection (1)(d)(ii)(A) [~~to the intended licensee~~].

1909 (2) (a) If there are more qualified applicants than there are available licenses for
1910 medical cannabis pharmacies, the department shall:

1911 (i) evaluate each applicant and award the license to the applicant that best
1912 demonstrates:

1913 (A) experience with establishing and successfully operating a business that involves
1914 complying with a regulatory environment, tracking inventory, and training, evaluating, and
1915 monitoring employees;

1916 (B) an operating plan that will best ensure the safety and security of patrons and the

1917 community;

1918 (C) positive connections to the local community;

1919 (D) the suitability of the proposed location and the location's accessibility for

1920 qualifying patients;

1921 (E) the extent to which the applicant can increase efficiency and reduce the cost of

1922 medical cannabis for patients; and

1923 (F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively

1924 high likelihood of success; and

1925 (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably

1926 maximize access to the largest number of medical cannabis cardholders.

1927 (b) In making the evaluation described in Subsection (2)(a), the department may give

1928 increased consideration to applicants who indicate a willingness to:

1929 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic

1930 medical cannabis orders that the state central patient portal facilitates; and

1931 (ii) accept payments through:

1932 (A) a payment provider that the Division of Finance approves, in consultation with the

1933 state treasurer, in accordance with Section 26-61a-603; or

1934 (B) a financial institution in accordance with Subsection 26-61a-603(4).

1935 (3) The department may conduct a face-to-face interview with an applicant for a

1936 license that the department evaluates under Subsection (2).

1937 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery

1938 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's

1939 operating plan demonstrates the functional and technical ability to:

1940 (i) safely conduct transactions for medical cannabis shipments;

1941 (ii) accept electronic medical cannabis orders that the state central patient portal

1942 facilitates; and

1943 (iii) accept payments through:

1944 (A) a payment provider that the Division of Finance approves, in consultation with the

1945 state treasurer, in accordance with Section 26-61a-603; or

1946 (B) a financial institution in accordance with Subsection 26-61a-603(4).

1947 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy

1948 shall identify in the applicant's operating plan any information relevant to the department's
1949 evaluation described in Subsection (4)(a), including:

1950 (i) the name and contact information of the payment provider;

1951 (ii) the nature of the relationship between the prospective licensee and the payment
1952 provider;

1953 (iii) the processes of the following to safely and reliably conduct transactions for
1954 medical cannabis shipments:

1955 (A) the prospective licensee; and

1956 (B) the electronic payment provider or the financial institution described in Subsection
1957 (4)(a)(iii); and

1958 (iv) the ability of the licensee to comply with the department's rules regarding the
1959 secure transportation and delivery of medical cannabis or medical cannabis product to a
1960 medical cannabis cardholder.

1961 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy
1962 that the department designates as a home delivery medical cannabis pharmacy may deliver
1963 medical cannabis shipments in accordance with this chapter.

1964 Section 23. Section **26-61a-401** is amended to read:

1965 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

1966 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical
1967 cannabis pharmacy unless the department registers the individual as a medical cannabis
1968 pharmacy agent.

1969 (2) A recommending medical provider may not act as a medical cannabis pharmacy
1970 agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or
1971 have the power to direct or cause the management or control of a medical cannabis pharmacy.

1972 (3) (a) The department shall, within 15 days after the day on which the department
1973 receives a complete application from a medical cannabis pharmacy on behalf of a prospective
1974 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent
1975 registration card to the prospective agent if the medical cannabis pharmacy:

1976 (i) provides to the department:

1977 (A) the prospective agent's name and address;

1978 (B) the name and location of the licensed medical cannabis pharmacy where the

1979 prospective agent seeks to act as the medical cannabis pharmacy agent; and
1980 (C) the submission required under Subsection (3)(b); and
1981 (ii) pays a fee to the department in an amount that, subject to Subsection
1982 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
1983 (b) Except for an applicant reapplying for a medical cannabis pharmacy agent
1984 registration card within less than one year after the expiration of the applicant's previous
1985 medical cannabis pharmacy agent registration card, each prospective agent described in
1986 Subsection (3)(a) shall:
1987 (i) submit to the department:
1988 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and
1989 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
1990 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1991 Generation Identification System's Rap Back Service; and
1992 (ii) consent to a fingerprint background check by:
1993 (A) the Bureau of Criminal Identification; and
1994 (B) the Federal Bureau of Investigation.
1995 (c) The Bureau of Criminal Identification shall:
1996 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against
1997 the applicable state, regional, and national criminal records databases, including the Federal
1998 Bureau of Investigation Next Generation Identification System;
1999 (ii) report the results of the background check to the department;
2000 (iii) maintain a separate file of fingerprints that prospective agents submit under
2001 Subsection (3)(b) for search by future submissions to the local and regional criminal records
2002 databases, including latent prints;
2003 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2004 Generation Identification System's Rap Back Service for search by future submissions to
2005 national criminal records databases, including the Next Generation Identification System and
2006 latent prints; and
2007 (v) establish a privacy risk mitigation strategy to ensure that the department only
2008 receives notifications for an individual with whom the department maintains an authorizing
2009 relationship.

2010 (d) The department shall:

2011 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an

2012 amount that the department sets in accordance with Section 63J-1-504 for the services that the

2013 Bureau of Criminal Identification or another authorized agency provides under this section; and

2014 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal

2015 Identification.

2016 (4) The department shall designate, on an individual's medical cannabis pharmacy

2017 agent registration card the name of the medical cannabis pharmacy where the individual is

2018 registered as an agent.

2019 (5) A medical cannabis pharmacy agent shall comply with a certification standard that

2020 the department develops in collaboration with the Division of Occupational and Professional

2021 Licensing and the Board of Pharmacy, or a third-party certification standard that the department

2022 designates by rule, in collaboration with the Division of Occupational and Professional

2023 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

2024 Administrative Rulemaking Act.

2025 (6) The department shall ensure that the certification standard described in Subsection

2026 (5) includes training in:

2027 (a) Utah medical cannabis law; and

2028 (b) medical cannabis pharmacy best practices.

2029 (7) The department may revoke the medical cannabis pharmacy agent registration card

2030 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual

2031 who:

2032 (a) violates the requirements of this chapter; or

2033 (b) is convicted under state or federal law of:

2034 (i) a felony within the preceding 10 years; or

2035 (ii) after December 3, 2018, a misdemeanor for drug distribution.

2036 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the

2037 day on which the department issues or renews the card.

2038 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the

2039 agent:

2040 (i) is eligible for a medical cannabis pharmacy agent registration card under this

2041 section;

2042 (ii) certifies to the department in a renewal application that the information in

2043 Subsection (3)(a) is accurate or updates the information; and

2044 (iii) pays to the department a renewal fee in an amount that:

2045 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with

2046 Section 63J-1-504; and

2047 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2048 comparison to the original application process.

2049 (9) (a) As a condition precedent to registration and renewal of a medical cannabis
2050 pharmacy agent registration card, a medical cannabis pharmacy agent shall:

2051 (i) complete at least one hour of continuing education regarding patient privacy and
2052 federal health information privacy laws that is offered by the department under Subsection
2053 (9)(b) or an accredited or approved continuing education provider that the department
2054 recognizes as offering continuing education appropriate for the medical cannabis pharmacy
2055 practice; and

2056 (ii) make a continuing education report to the department in accordance with a process
2057 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
2058 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
2059 Professional Licensing and the Board of Pharmacy.

2060 (b) The department may, in consultation with the Division of Occupational and
2061 Professional Licensing, develop the continuing education described in this Subsection (9).

2062 (c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each
2063 medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to
2064 the state electronic verification system is in compliance with this Subsection (9).

2065 Section 24. Section 26-61a-501 is amended to read:

2066 **26-61a-501. Operating requirements -- General.**

2067 (1) (a) A medical cannabis pharmacy shall operate:

2068 (i) at the physical address provided to the department under Section 26-61a-301; and

2069 (ii) in accordance with the operating plan provided to the department under Section
2070 26-61a-301 and, if applicable, Section 26-61a-304.

2071 (b) A medical cannabis pharmacy shall notify the department before a change in the

2072 medical cannabis pharmacy's physical address or operating plan.

2073 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

2074 (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

2075 (b) except as provided in Subsection ~~[(5)]~~ (4):

2076 (i) possesses a valid:

2077 (A) medical cannabis pharmacy agent registration card;

2078 (B) pharmacy medical provider registration card; or

2079 (C) medical cannabis card;

2080 (ii) is an employee of the department or the Department of Agriculture and Food

2081 performing an inspection under Section 26-61a-504; or

2082 (iii) is another individual as the department provides.

2083 (3) A medical cannabis pharmacy may not employ an individual who is younger than

2084 21 years old.

2085 ~~[(4) A medical cannabis pharmacy may not employ an individual who has been~~
2086 ~~convicted of a felony under state or federal law.]~~

2087 ~~[(5)]~~ (4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may
2088 authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical
2089 provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and
2090 monitors the individual at all times while the individual is at the medical cannabis pharmacy
2091 and maintains a record of the individual's access.

2092 ~~[(6)]~~ (5) A medical cannabis pharmacy shall operate in a facility that has:

2093 (a) a single, secure public entrance;

2094 (b) a security system with a backup power source that:

2095 (i) detects and records entry into the medical cannabis pharmacy; and

2096 (ii) provides notice of an unauthorized entry to law enforcement when the medical
2097 cannabis pharmacy is closed; and

2098 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
2099 cannabis product.

2100 ~~[(7)]~~ (6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
2101 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
2102 26-61a-502(2).

2103 ~~[(8)]~~ (7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a
2104 medical cannabis pharmacy may not allow any individual to consume cannabis on the property
2105 or premises of the medical cannabis pharmacy.

2106 ~~[(9)]~~ (8) A medical cannabis pharmacy may not sell cannabis or a cannabis product
2107 without first indicating on the cannabis or cannabis product label the name of the medical
2108 cannabis pharmacy.

2109 ~~[(10)]~~ (9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records
2110 the following information regarding each recommendation underlying a transaction:

2111 (i) the recommending medical provider's name, address, and telephone number;

2112 (ii) the patient's name and address;

2113 (iii) the date of issuance;

2114 (iv) directions of use and dosing guidelines or an indication that the recommending
2115 medical provider did not recommend specific directions of use or dosing guidelines; and

2116 (v) if the patient did not complete the transaction, the name of the medical cannabis
2117 cardholder who completed the transaction.

2118 (b) (i) Except as provided in Subsection ~~[(10)]~~ (9)(b)(iii), a medical cannabis pharmacy
2119 may not sell medical cannabis unless the medical cannabis has a label securely affixed to the
2120 container indicating the following minimum information:

2121 (A) the name, address, and telephone number of the medical cannabis pharmacy;

2122 (B) the unique identification number that the medical cannabis pharmacy assigns;

2123 (C) the date of the sale;

2124 (D) the name of the patient;

2125 (E) the name of the recommending medical provider who recommended the medical
2126 cannabis treatment;

2127 (F) directions for use and cautionary statements, if any;

2128 (G) the amount dispensed and the cannabinoid content;

2129 (H) the suggested use date;

2130 (I) for unprocessed cannabis flower, the legal use termination date; and

2131 (J) any other requirements that the department determines, in consultation with the
2132 Division of Occupational and Professional Licensing and the Board of Pharmacy.

2133 (ii) A medical cannabis pharmacy is exempt from the ~~[following labeling~~

2134 ~~requirements]~~ requirement to provide the following information under Subsection (9)(b)(i) if
2135 the information is already provided on the product label that a cannabis production
2136 establishment affixes:

- 2137 (A) [~~Subsection (10)(b)(i)(B) regarding~~] a unique identification number;
- 2138 (B) [~~Subsection (10)(b)(i)(F) regarding~~] directions for use and cautionary statements;
- 2139 (C) [~~Subsection (10)(b)(i)(G) regarding~~] amount and cannabinoid content; and
- 2140 (D) [~~Subsection (10)(b)(i)(H) regarding~~] a suggested use date.

2141 (iii) If the size of a medical cannabis container does not allow sufficient space to
2142 include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis
2143 pharmacy may provide the following information described in Subsection (9)(b)(i) on a
2144 supplemental label attached to the container or an informational enclosure that accompanies the
2145 container:

- 2146 (A) the cannabinoid content;
- 2147 (B) the suggested use date; and
- 2148 (C) any other requirements that the department determines.

2149 [~~(iii)] (iv) A medical cannabis pharmacy may sell medical cannabis to another medical~~

2150 cannabis pharmacy without a label described in Subsection [~~(10)] (9)(b)(i).~~

2151 [~~(H)] (10) A pharmacy medical provider or medical cannabis pharmacy agent shall:~~

2152 (a) upon receipt of an order from a limited medical provider in accordance with

2153 Subsections 26-61a-106(1)(b) [~~and (c)] through (d):~~

2154 (i) for a written order or an electronic order under circumstances that the department
2155 determines, contact the limited medical provider or the limited medical provider's office to
2156 verify the validity of the recommendation; and

2157 (ii) for [~~a written~~] an order that the pharmacy medical provider or medical cannabis
2158 pharmacy agent verifies under Subsection [~~(H)] (10)(a)(i) or an electronic order that is not~~

2159 subject to verification under Subsection (10)(a)(i), enter the limited medical provider's
2160 recommendation or renewal, including any associated directions of use, dosing guidelines, or
2161 caregiver indication, in the state electronic verification system;

2162 (b) in processing an order for a holder of a conditional medical cannabis card described
2163 in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the
2164 pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending

2165 medical provider or the recommending medical provider's office to verify the validity of the
2166 recommendation before processing the cardholder's order;

2167 (c) unless the medical cannabis cardholder has had a consultation under Subsection
2168 [26-61a-502](#)(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase
2169 of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the
2170 pharmacy medical provider; and

2171 (d) provide a telephone number or website by which the cardholder may contact a
2172 pharmacy medical provider for counseling.

2173 ~~[(12)]~~ (11) (a) A medical cannabis pharmacy may create a medical cannabis disposal
2174 program that allows an individual to deposit unused or excess medical cannabis, cannabis
2175 residue from a medical cannabis device, or medical cannabis product in a locked box or other
2176 secure receptacle within the medical cannabis pharmacy.

2177 (b) A medical cannabis pharmacy with a disposal program described in Subsection
2178 ~~[(12)]~~ (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical
2179 provider can access deposited medical cannabis or medical cannabis products.

2180 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2181 medical cannabis products by:

2182 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2183 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2184 products from the medical cannabis pharmacy; and

2185 (ii) disposing of the deposited medical cannabis or medical cannabis products in
2186 accordance with:

2187 (A) federal and state law, rules, and regulations related to hazardous waste;

2188 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

2189 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

2190 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2191 3, Utah Administrative Rulemaking Act.

2192 ~~[(13)]~~ (12) The department shall establish by rule, in accordance with Title 63G,
2193 Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and
2194 cannabis products by a medical cannabis pharmacy.

2195 Section 25. Section [26-61a-502](#) is amended to read:

2196 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
2197 **Reporting -- Form of cannabis or cannabis product.**

2198 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
2199 chapter:

2200 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2201 from another medical cannabis pharmacy or a cannabis processing facility that is licensed
2202 under Section 4-41a-201;

2203 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2204 acquired from another medical cannabis pharmacy or a cannabis processing facility that is
2205 licensed under Section 4-41a-201;

2206 (iii) a medical cannabis device; or

2207 (iv) educational material related to the medical use of cannabis.

2208 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2209 an individual with:

2210 (i) (A) a medical cannabis card;

2211 (B) a department registration described in Section 26-61a-201(10); and

2212 (ii) a corresponding valid form of photo identification.

2213 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
2214 cannabis-based drug that the United States Food and Drug Administration has approved.

2215 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
2216 medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a
2217 minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the
2218 approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

2219 (2) A medical cannabis pharmacy:

2220 (a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the
2221 legal dosage limit of:

2222 (i) unprocessed cannabis that:

2223 (A) is in a medicinal dosage form; and

2224 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
2225 cannabidiol in the cannabis; and

2226 (ii) a cannabis product that is in a medicinal dosage form; and

- 2227 (b) may not dispense:
- 2228 (i) more medical cannabis than described in Subsection (2)(a); or
- 2229 (ii) to an individual whose recommending medical provider did not recommend
- 2230 directions of use and dosing guidelines, until the individual consults with the pharmacy
- 2231 medical provider in accordance with Subsection (4), any medical cannabis.
- 2232 (3) An individual with a medical cannabis card:
- 2233 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
- 2234 (i) unprocessed cannabis in a medicinal dosage form; and
- 2235 (ii) a cannabis product in a medicinal dosage form;
- 2236 (b) may not purchase:
- 2237 (i) more medical cannabis than described in Subsection (3)(a); or
- 2238 (ii) if the relevant recommending medical provider did not recommend directions of
- 2239 use and dosing guidelines, until the individual consults with the pharmacy medical provider in
- 2240 accordance with Subsection (4), any medical cannabis; and
- 2241 (c) may not use a route of administration that the relevant recommending medical
- 2242 provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not
- 2243 recommended.
- 2244 (4) If a recommending medical provider recommends treatment with medical cannabis
- 2245 but wishes for the pharmacy medical provider to determine directions of use and dosing
- 2246 guidelines:
- 2247 (a) the recommending medical provider shall provide to the pharmacy medical
- 2248 provider, either through the state electronic verification system or through a medical cannabis
- 2249 pharmacy's recording of a recommendation under the order of a limited medical provider, any
- 2250 of the following information that the recommending medical provider feels would be needed to
- 2251 provide appropriate directions of use and dosing guidelines:
- 2252 (i) information regarding the qualifying condition underlying the recommendation;
- 2253 (ii) information regarding prior treatment attempts with medical cannabis; and
- 2254 (iii) portions of the patient's current medication list; and
- 2255 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the
- 2256 pharmacy medical provider shall:
- 2257 (i) review pertinent medical records, including the recommending medical provider

2258 documentation described in Subsection (4)(a); and
2259 (ii) unless the pertinent medical records show directions of use and dosing guidelines
2260 from a state central patient portal medical provider in accordance with Subsection (5), after
2261 completing the review described in Subsection (4)(b)(i) and consulting with the recommending
2262 medical provider as needed, determine the best course of treatment through consultation with
2263 the cardholder regarding:
2264 (A) the patient's qualifying condition underlying the recommendation from the
2265 recommending medical provider;
2266 (B) indications for available treatments;
2267 (C) directions of use and dosing guidelines; and
2268 (D) potential adverse reactions.
2269 (5) (a) A state central patient portal medical provider may provide the consultation and
2270 make the determination described in Subsection (4)(b) for a medical cannabis patient
2271 cardholder regarding an electronic order that the state central patient portal facilitates.
2272 (b) The state central patient portal medical provider described in Subsection (5)(a)
2273 shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)
2274 in the pertinent medical records.
2275 (6) (a) A medical cannabis pharmacy shall:
2276 (i) (A) access the state electronic verification system before dispensing cannabis or a
2277 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
2278 where applicable, the associated patient has met the maximum amount of medical cannabis
2279 described in Subsection (2); and
2280 (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the
2281 maximum amount described in Subsection (2), decline the sale, and notify the recommending
2282 medical provider who made the underlying recommendation;
2283 (ii) submit a record to the state electronic verification system each time the medical
2284 cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;
2285 (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews
2286 each medical cannabis transaction before dispensing the medical cannabis to the cardholder in
2287 accordance with pharmacy practice standards;
2288 (iv) package any medical cannabis that is in a container that:

2289 (A) complies with Subsection [~~4-41a-602(2)~~] 4-41a-602(1)(b) or, if applicable,
2290 provisions related to a container for unprocessed cannabis flower in the definition of
2291 "medicinal dosage form" in Section 26-61a-102;

2292 (B) is tamper-resistant and tamper-evident; and

2293 (C) provides an opaque bag or box for the medical cannabis cardholder's use in
2294 transporting the container in public; and

2295 (v) for a product that is a cube that is designed for ingestion through chewing or
2296 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2297 of over-consumption.

2298 (b) A medical cannabis cardholder transporting or possessing the container described
2299 in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag or box that the
2300 medical cannabis pharmacist provides.

2301 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2302 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2303 intentionally designed or constructed to resemble a cigarette.

2304 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2305 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2306 individual's respiratory system.

2307 (8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the
2308 medical cannabis pharmacy is allowed to sell under Subsection (1)(a) (i), (ii), or (iii).

2309 (b) A medical cannabis pharmacy may give, at no cost, educational material related to
2310 the medical use of cannabis.

2311 (9) The department may impose a uniform fee on each medical cannabis transaction in
2312 a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the
2313 department sets in accordance with Section 63J-1-504.

2314 (10) A medical cannabis pharmacy may purchase and store medical cannabis devices
2315 regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter
2316 41a, Cannabis Production Establishments.

2317 Section 26. Section **26-61a-604** is amended to read:

2318 **26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis**
2319 **couriers -- License.**

2320 (1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2321 Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home
2322 delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the
2323 state central patient portal facilitates, including rules regarding the safe and controlled delivery
2324 of medical cannabis shipments.

2325 (2) A person may not operate as a medical cannabis courier without a license that the
2326 department issues under this section.

2327 (3) (a) Subject to Subsections (5) and (6), the department shall issue a license to
2328 operate as a medical cannabis courier to an applicant who is eligible for a license under this
2329 section.

2330 (b) An applicant is eligible for a license under this section if the applicant submits to
2331 the department:

2332 (i) the name and address of an individual who:

2333 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis
2334 pharmacy; or

2335 (B) has the power to direct or cause the management or control of a proposed cannabis
2336 production establishment;

2337 (ii) an operating plan that includes operating procedures to comply with the operating
2338 requirements for a medical cannabis courier described in this chapter; and

2339 (iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
2340 department sets in accordance with Section 63J-1-504.

2341 (4) If the department determines that an applicant is eligible for a license under this
2342 section, the department shall:

2343 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2344 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

2345 (b) notify the Department of Public Safety of the license approval and the names of
2346 each individual described in Subsection (3)(b)(ii).

2347 (5) The department may not issue a license to operate as a medical cannabis courier to
2348 an applicant if an individual described in Subsection (3)(b)(ii):

2349 (a) has been convicted under state or federal law of:

2350 (i) a felony; or

- 2351 (ii) after September 23, 2019, a misdemeanor for drug distribution; or
- 2352 (b) is younger than 21 years old.
- 2353 (6) The department may revoke a license under this part if:
- 2354 (a) the medical cannabis courier does not begin operations within one year after the day
- 2355 on which the department issues the initial license;
- 2356 (b) the medical cannabis courier makes the same violation of this chapter three times;
- 2357 [~~or~~]
- 2358 (c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is
- 2359 active, under state or federal law of:
- 2360 (i) a felony; or
- 2361 (ii) after September 23, 2019, a misdemeanor for drug distribution~~[-]; or~~
- 2362 (d) after a change of ownership described in Subsection (15)(c), the department
- 2363 determines that the medical cannabis courier no longer meets the minimum standards for
- 2364 licensure and operation of the medical cannabis courier described in this chapter.
- 2365 (7) The department shall deposit the proceeds of a fee imposed by this section in the
- 2366 Qualified Patient Enterprise Fund.
- 2367 (8) The department shall begin accepting applications under this section on or before
- 2368 July 1, 2020.
- 2369 (9) The department's authority to issue a license under this section is plenary and is not
- 2370 subject to review.
- 2371 (10) Each applicant for a license as a medical cannabis courier shall submit, at the time
- 2372 of application, from each individual who has a financial or voting interest of 2% or greater in
- 2373 the applicant or who has the power to direct or cause the management or control of the
- 2374 applicant:
- 2375 (a) a fingerprint card in a form acceptable to the Department of Public Safety;
- 2376 (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
- 2377 registration of the individual's fingerprints in the Federal Bureau of Investigation Next
- 2378 Generation Identification System's Rap Back Service; and
- 2379 (c) consent to a fingerprint background check by:
- 2380 (i) the Bureau of Criminal Identification; and
- 2381 (ii) the Federal Bureau of Investigation.

2382 (11) The Bureau of Criminal Identification shall:

2383 (a) check the fingerprints the applicant submits under Subsection (10) against the
2384 applicable state, regional, and national criminal records databases, including the Federal
2385 Bureau of Investigation Next Generation Identification System;

2386 (b) report the results of the background check to the department;

2387 (c) maintain a separate file of fingerprints that applicants submit under Subsection (10)
2388 for search by future submissions to the local and regional criminal records databases, including
2389 latent prints;

2390 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2391 Generation Identification System's Rap Back Service for search by future submissions to
2392 national criminal records databases, including the Next Generation Identification System and
2393 latent prints; and

2394 (e) establish a privacy risk mitigation strategy to ensure that the department only
2395 receives notifications for an individual with whom the department maintains an authorizing
2396 relationship.

2397 (12) The department shall:

2398 (a) assess an individual who submits fingerprints under Subsection (10) a fee in an
2399 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the
2400 Bureau of Criminal Identification or another authorized agency provides under this section; and

2401 (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal
2402 Identification.

2403 (13) The department shall renew a license under this section every year if, at the time
2404 of renewal:

2405 (a) the licensee meets the requirements of this section; and

2406 (b) the licensee pays the department a license renewal fee in an amount that, subject to
2407 Subsection [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

2408 (14) A person applying for a medical cannabis courier license shall submit to the
2409 department a proposed operating plan that complies with this section and that includes:

2410 (a) a description of the physical characteristics of any proposed facilities, including a
2411 floor plan and an architectural elevation, and delivery vehicles;

2412 (b) a description of the credentials and experience of each officer, director, or owner of

2413 the proposed medical cannabis courier;

2414 (c) the medical cannabis courier's employee training standards;

2415 (d) a security plan; and

2416 (e) storage and delivery protocols, both short and long term, to ensure that medical
2417 cannabis shipments are stored and delivered in a manner that is sanitary and preserves the
2418 integrity of the cannabis.

2419 (15) (a) A medical cannabis courier license is not transferrable or assignable.

2420 (b) A medical cannabis courier shall report in writing to the department no later than
2421 10 business days before the date of any change of ownership of the medical cannabis courier.

2422 (c) If the ownership of a medical cannabis courier changes by 50% or more:

2423 (i) concurrent with the report described in Subsection (15)(b), the medical cannabis
2424 courier shall submit a new application described in Subsection (3)(b);

2425 (ii) within 30 days of the submission of the application, the department shall:

2426 (A) conduct an application review; and

2427 (B) award a license to the medical cannabis courier for the remainder of the term of the
2428 medical cannabis courier's license before the ownership change if the medical cannabis courier
2429 meets the minimum standards for licensure and operation of the medical cannabis courier
2430 described in this chapter; and

2431 (iii) if the department approves the license application, notwithstanding Subsection (4),
2432 the medical cannabis courier shall pay a license fee that the department sets in accordance with
2433 Section [63J-1-504](#) in an amount that covers the board's cost of conducting the application
2434 review.

2435 Section 27. Section **26-61a-606** is amended to read:

2436 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
2437 **card -- Rebuttable presumption.**

2438 (1) An individual may not serve as a medical cannabis courier agent unless:

2439 (a) the individual is an employee of a licensed medical cannabis courier; and

2440 (b) the department registers the individual as a medical cannabis courier agent.

2441 (2) (a) The department shall, within 15 days after the day on which the department

2442 receives a complete application from a medical cannabis courier on behalf of a medical

2443 cannabis courier agent, register and issue a medical cannabis courier agent registration card to

2444 the prospective agent if the medical cannabis courier:

2445 (i) provides to the department:

2446 (A) the prospective agent's name and address;

2447 (B) the name and address of the medical cannabis courier;

2448 (C) the name and address of each home delivery medical cannabis pharmacy with

2449 which the medical cannabis courier contracts to deliver medical cannabis shipments; and

2450 (D) the submission required under Subsection (2)(b);

2451 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal

2452 law of:

2453 (A) a felony; or

2454 (B) after December 3, 2018, a misdemeanor for drug distribution; and

2455 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),

2456 the department sets in accordance with Section 63J-1-504.

2457 (b) Except for an applicant reapplying for a medical cannabis courier agent registration

2458 card within less than one year after the expiration of the applicant's previous medical cannabis

2459 courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

2460 (i) submit to the department:

2461 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

2462 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

2463 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

2464 Generation Identification System's Rap Back Service; and

2465 (ii) consent to a fingerprint background check by:

2466 (A) the Bureau of Criminal Identification; and

2467 (B) the Federal Bureau of Investigation.

2468 (c) The Bureau of Criminal Identification shall:

2469 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against

2470 the applicable state, regional, and national criminal records databases, including the Federal

2471 Bureau of Investigation Next Generation Identification System;

2472 (ii) report the results of the background check to the department;

2473 (iii) maintain a separate file of fingerprints that prospective agents submit under

2474 Subsection (2)(b) for search by future submissions to the local and regional criminal records

2475 databases, including latent prints;

2476 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2477 Generation Identification System's Rap Back Service for search by future submissions to
2478 national criminal records databases, including the Next Generation Identification System and
2479 latent prints; and

2480 (v) establish a privacy risk mitigation strategy to ensure that the department only
2481 receives notifications for an individual with whom the department maintains an authorizing
2482 relationship.

2483 (d) The department shall:

2484 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
2485 amount that the department sets in accordance with Section 63J-1-504 for the services that the
2486 Bureau of Criminal Identification or another authorized agency provides under this section; and

2487 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
2488 Identification.

2489 (3) The department shall designate on an individual's medical cannabis courier agent
2490 registration card the name of the medical cannabis pharmacy where the individual is registered
2491 as an agent and each home delivery medical cannabis courier for which the medical cannabis
2492 courier delivers medical cannabis shipments.

2493 (4) (a) A medical cannabis courier agent shall comply with a certification standard that
2494 the department develops, in collaboration with the Division of Occupational and Professional
2495 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
2496 designates by rule in collaboration with the Division of Occupational and Professional
2497 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
2498 Administrative Rulemaking Act.

2499 (b) The department shall ensure that the certification standard described in Subsection
2500 (4)(a) includes training in:

- 2501 (i) Utah medical cannabis law;
- 2502 (ii) the medical cannabis shipment process; and
- 2503 (iii) medical cannabis courier agent best practices.

2504 (5) (a) A medical cannabis courier agent registration card expires two years after the
2505 day on which the department issues or renews the card.

- 2506 (b) A medical cannabis courier agent may renew the agent's registration card if the
2507 agent:
- 2508 (i) is eligible for a medical cannabis courier agent registration card under this section;
2509 (ii) certifies to the department in a renewal application that the information in
2510 Subsection (2)(a) is accurate or updates the information; and
2511 (iii) pays to the department a renewal fee in an amount that:
- 2512 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2513 Section 63J-1-504; and
2514 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2515 comparison to the original application process.
- 2516 (6) The department may revoke or refuse to issue or renew the medical cannabis
2517 courier agent registration card of an individual who:
- 2518 (a) violates the requirements of this chapter; or
2519 (b) is convicted under state or federal law of:
2520 (i) a felony within the preceding 10 years; or
2521 (ii) after December 3, 2018, a misdemeanor for drug distribution.
- 2522 (7) A medical cannabis courier agent whom the department has registered under this
2523 section shall carry the agent's medical cannabis courier agent registration card with the agent at
2524 all times when:
- 2525 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
2526 pharmacy, or a medical cannabis cardholder's home address; and
2527 (b) the agent is handling a medical cannabis shipment.
- 2528 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
2529 the shipment in compliance with Subsection (7):
- 2530 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
2531 (b) there is no probable cause, based solely on the agent's possession of the medical
2532 cannabis shipment that the agent is engaging in illegal activity.
- 2533 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:
2534 (i) guilty of an infraction; and
2535 (ii) subject to a \$100 fine.
2536 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not

2537 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2538 underlying the violation described in Subsection (9)(a).

2539 Section 28. Section **52-4-205** is amended to read:

2540 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
2541 **meetings.**

2542 (1) A closed meeting described under Section [52-4-204](#) may only be held for:

2543 (a) except as provided in Subsection (3), discussion of the character, professional
2544 competence, or physical or mental health of an individual;

2545 (b) strategy sessions to discuss collective bargaining;

2546 (c) strategy sessions to discuss pending or reasonably imminent litigation;

2547 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
2548 including any form of a water right or water shares, if public discussion of the transaction
2549 would:

2550 (i) disclose the appraisal or estimated value of the property under consideration; or

2551 (ii) prevent the public body from completing the transaction on the best possible terms;

2552 (e) strategy sessions to discuss the sale of real property, including any form of a water
2553 right or water shares, if:

2554 (i) public discussion of the transaction would:

2555 (A) disclose the appraisal or estimated value of the property under consideration; or

2556 (B) prevent the public body from completing the transaction on the best possible terms;

2557 (ii) the public body previously gave public notice that the property would be offered for
2558 sale; and

2559 (iii) the terms of the sale are publicly disclosed before the public body approves the
2560 sale;

2561 (f) discussion regarding deployment of security personnel, devices, or systems;

2562 (g) investigative proceedings regarding allegations of criminal misconduct;

2563 (h) as relates to the Independent Legislative Ethics Commission, conducting business
2564 relating to the receipt or review of ethics complaints;

2565 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
2566 Subsection [52-4-204](#)(1)(a)(iii)(C);

2567 (j) as relates to the Independent Executive Branch Ethics Commission created in

2568 Section 63A-14-202, conducting business relating to an ethics complaint;

2569 (k) as relates to a county legislative body, discussing commercial information as

2570 defined in Section 59-1-404;

2571 (l) as relates to the Utah Higher Education Assistance Authority and its appointed

2572 board of directors, discussing fiduciary or commercial information as defined in Section

2573 53B-12-102;

2574 (m) deliberations, not including any information gathering activities, of a public body

2575 acting in the capacity of:

2576 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,

2577 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

2578 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a

2579 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

2580 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement

2581 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,

2582 Procurement Appeals Board;

2583 (n) the purpose of considering information that is designated as a trade secret, as

2584 defined in Section 13-24-2, if the public body's consideration of the information is necessary

2585 [~~in order~~] to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement

2586 Code;

2587 (o) the purpose of discussing information provided to the public body during the

2588 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of

2589 the meeting:

2590 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be

2591 disclosed to a member of the public or to a participant in the procurement process; and

2592 (ii) the public body needs to review or discuss the information [~~in order~~] to properly

2593 fulfill its role and responsibilities in the procurement process;

2594 (p) as relates to the governing board of a governmental nonprofit corporation, as that

2595 term is defined in Section 11-13a-102, the purpose of discussing information that is designated

2596 as a trade secret, as that term is defined in Section 13-24-2, if:

2597 (i) public knowledge of the discussion would reasonably be expected to result in injury

2598 to the owner of the trade secret; and

- 2599 (ii) discussion of the information is necessary for the governing board to properly
2600 discharge the board's duties and conduct the board's business; [or]
- 2601 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,
2602 to review confidential information regarding violations and security requirements in relation to
2603 the operation of cannabis production establishments; or
- 2604 [~~(q)~~] (r) a purpose for which a meeting is required to be closed under Subsection (2).
- 2605 (2) The following meetings shall be closed:
- 2606 (a) a meeting of the Health and Human Services Interim Committee to review a report
2607 described in Subsection 62A-16-301(1)(a), and the responses to the report described in
2608 Subsections 62A-16-301(2) and (4);
- 2609 (b) a meeting of the Child Welfare Legislative Oversight Panel to:
- 2610 (i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the
2611 report described in Subsections 62A-16-301(2) and (4); or
- 2612 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);
- 2613 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
2614 Section 26-7-13, to review and discuss an individual case, as described in Subsection
2615 26-7-13(10);
- 2616 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
2617 purpose of advising the Natural Resource Conservation Service of the United States
2618 Department of Agriculture on a farm improvement project if the discussed information is
2619 protected information under federal law;
- 2620 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for
2621 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
2622 26-61a-105; and
- 2623 (f) a meeting of the Colorado River Authority of Utah if:
- 2624 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in
2625 the Colorado River system; and
- 2626 (ii) failing to close the meeting would:
- 2627 (A) reveal the contents of a record classified as protected under Subsection
2628 63G-2-305(82);
- 2629 (B) reveal a legal strategy relating to the state's claim to the use of the water in the

2630 Colorado River system;

2631 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to
2632 negotiate the best terms and conditions regarding the use of water in the Colorado River
2633 system; or

2634 (D) give an advantage to another state or to the federal government in negotiations
2635 regarding the use of water in the Colorado River system.

2636 (3) In a closed meeting, a public body may not:

2637 (a) interview a person applying to fill an elected position;

2638 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
2639 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
2640 or

2641 (c) discuss the character, professional competence, or physical or mental health of the
2642 person whose name was submitted for consideration to fill a midterm vacancy or temporary
2643 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
2644 Temporary Absence in Elected Office.

2645 Section 29. Section **58-5a-102** is amended to read:

2646 **58-5a-102. Definitions.**

2647 In addition to the definitions under Section **58-1-102**, as used in this chapter:

2648 (1) "Board" means the Podiatric Physician Board created in Section **58-5a-201**.

2649 (2) "Indirect supervision" means the same as that term is defined by the division by
2650 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2651 (3) "Medical assistant" means an unlicensed individual working under the indirect
2652 supervision of a licensed podiatric physician and engaging in specific tasks assigned by the
2653 licensed podiatric physician in accordance with the standards and ethics of the podiatry
2654 profession.

2655 (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the
2656 human foot and ankle and their manifestations of systemic conditions by all appropriate and
2657 lawful means, subject to Section **58-5a-103**.

2658 (5) "Unlawful conduct" includes:

2659 (a) the conduct that constitutes unlawful conduct under Section **58-1-501**; and

2660 (b) for an individual who is not licensed under this chapter:

- 2661 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,
2662 foot specialist, or D.P.M.; or
- 2663 (ii) implying or representing that the individual is qualified to practice podiatry.
- 2664 (6) (a) "Unprofessional conduct" includes, for an individual licensed under this
2665 chapter:
- 2666 (i) the conduct that constitutes unprofessional conduct under Section 58-1-501;
2667 (ii) communicating to a third party, without the consent of the patient, information the
2668 individual acquires in treating the patient, except as necessary for professional consultation
2669 regarding treatment of the patient;
- 2670 (iii) allowing the individual's name or license to be used by an individual who is not
2671 licensed to practice podiatry under this chapter;
- 2672 (iv) except as described in Section 58-5a-306, employing, directly or indirectly, any
2673 unlicensed individual to practice podiatry;
- 2674 (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs
2675 the individual's ability to practice podiatry;
- 2676 (vi) unlawfully prescribing, selling, or giving away any prescription drug, including
2677 controlled substances, as defined in Section 58-37-2;
- 2678 (vii) gross incompetency in the practice of podiatry;
- 2679 (viii) willfully and intentionally making a false statement or entry in hospital records,
2680 medical records, or reports;
- 2681 (ix) willfully making a false statement in reports or claim forms to governmental
2682 agencies or insurance companies with the intent to secure payment not rightfully due;
- 2683 (x) willfully using false or fraudulent advertising;
- 2684 (xi) conduct the division defines as unprofessional conduct by rule made in accordance
2685 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [or]
- 2686 (xii) falsely making an entry in, or altering, a medical record with the intent to conceal:
2687 (A) a wrongful or negligent act or omission of an individual licensed under this chapter
2688 or an individual under the direction or control of an individual licensed under this chapter; or
2689 (B) conduct described in Subsections (6)(a)(i) through (xi) or Subsection
2690 58-1-501(1)[-]; or
- 2691 (xiii) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

2692 (b) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
2693 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a
2694 limited medical provider, as those terms are defined in Section [26-61a-102](#), recommending the
2695 use of medical cannabis within the scope of a practice of podiatry.

2696 Section 30. Section **58-31b-502** is amended to read:

2697 **58-31b-502. Unprofessional conduct.**

2698 (1) "Unprofessional conduct" includes:

2699 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,
2700 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
2701 because of the licensee's or person with a certification's position or practice as a nurse or
2702 practice as a medication aide certified;

2703 (b) failure to provide nursing service or service as a medication aide certified in a
2704 manner that demonstrates respect for the patient's human dignity and unique personal character
2705 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
2706 status, age, sex, or the nature of the patient's health problem;

2707 (c) engaging in sexual relations with a patient during any:

2708 (i) period when a generally recognized professional relationship exists between the
2709 person licensed or certified under this chapter and the patient; or

2710 (ii) extended period when a patient has reasonable cause to believe a professional
2711 relationship exists between the person licensed or certified under the provisions of this chapter
2712 and the patient;

2713 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
2714 information about a patient or exploiting the licensee's or the person with a certification's
2715 professional relationship between the licensee or holder of a certification under this chapter and
2716 the patient; or

2717 (ii) exploiting the patient by use of the licensee's or person with a certification's
2718 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

2719 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

2720 (f) unauthorized taking or personal use of nursing supplies from an employer;

2721 (g) unauthorized taking or personal use of a patient's personal property;

2722 (h) unlawful or inappropriate delegation of nursing care;

2723 (i) failure to exercise appropriate supervision of persons providing patient care services
2724 under supervision of the licensed nurse;

2725 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
2726 person to practice as a nurse;

2727 (k) failure to file or record any medical report as required by law, impeding or
2728 obstructing the filing or recording of such a report, or inducing another to fail to file or record
2729 such a report;

2730 (l) breach of a statutory, common law, regulatory, or ethical requirement of
2731 confidentiality with respect to a person who is a patient, unless ordered by a court;

2732 (m) failure to pay a penalty imposed by the division;

2733 (n) prescribing a Schedule II controlled substance without complying with the
2734 requirements in Section 58-31b-803, if applicable;

2735 (o) violating Section 58-31b-801;

2736 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
2737 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
2738 applicable; ~~or~~

2739 (q) falsely making an entry in, or altering, a medical record with the intent to conceal:

2740 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2741 or an individual under the direction or control of an individual licensed under this chapter; or

2742 (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1)[~~]~~;

2743 or

2744 (r) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

2745 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
2746 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
2747 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
2748 the use of medical cannabis.

2749 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
2750 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2751 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

2752 Section 31. Section 58-70a-503 is amended to read:

2753 **58-70a-503. Unprofessional conduct.**

2754 (1) "Unprofessional conduct" includes:
2755 (a) violation of a patient confidence to any person who does not have a legal right and a
2756 professional need to know the information concerning the patient;
2757 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,
2758 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
2759 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
2760 prescribed or provided;
2761 (c) prescribing prescription drugs for oneself or administering prescription drugs to
2762 oneself, except those that have been legally prescribed for the physician assistant by a licensed
2763 practitioner and that are used in accordance with the prescription order for the condition
2764 diagnosed;
2765 (d) in a practice that has physician assistant ownership interests, failure to allow a
2766 physician the independent final decision making authority on treatment decisions for the
2767 physician's patient;
2768 (e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
2769 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [~~and~~]
2770 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:
2771 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2772 or an individual under the direction or control of an individual licensed under this chapter; or
2773 (ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1)[~~;~~];
2774 and
2775 (g) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.
2776 (2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
2777 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a
2778 limited medical provider, as those terms are defined in Section 26-61a-102, recommending the
2779 use of medical cannabis.
2780 (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and
2781 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2782 unprofessional conduct for a physician assistant described in Subsection (2)(a).
2783 Section 32. **Effective date.**
2784 If approved by two-thirds of all the members elected to each house, this bill takes effect

2785 upon approval by the governor, or the day following the constitutional time limit of Utah
2786 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
2787 the date of veto override.